

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20021251

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct public hearing to consider and adopt a County Ordinance amending Lee County Ordinance Nos. 93-07 and 98-16 relating to the Lee County Public Guardianship Program.

WHY ACTION IS NECESSARY: A public hearing is necessary for the Board of County Commissioners to adopt and/or amend County Ordinances.

WHAT ACTION ACCOMPLISHES: Complies with changes to Florida Statutes.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # CW

5:00 # 5

3. MEETING DATE: November 12, 2002

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER _____
- B. DEPARTMENT County Attorney
- C. DIVISION General Services
- BY: Andrea R. Fraser
Assistant County Attorney

7. BACKGROUND:

In 1993, the Board of County Commissioners adopted the Lee County Public Guardianship Program Ordinance No. 93-07, which imposed a fee for each civil action filed for the establishment, maintenance or supplementation of costs associated with public guardianship. Thereafter, the Ordinance was amended in 1998 (Lee County Ordinance No. 98-16).

With the State of Florida no longer requiring the County to contribute matching funds; changes to Section 744, Part IX, Florida Statutes, and the local Public Guardianship Program requesting additional funding, Lee County Ordinance No. 98-16 should be amended to reflect these changes and issues.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>Andrea Fraser</i>	OA	OM	RISK	GC	<i>[Signature]</i>
					<i>RK 10/31</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY
COUNTY ADMIN. *RK*
10/29 12:30
COUNTY ADMIN.
FORWARDED TO:
10/31 500

CO. ATT. 10/29/02
FORWARDED TO CO. ADMIN.
[Signature]

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NOS. 93-07 AND 98-16, THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; AMENDING SECTION ONE SETTING FORTH THE AUTHORITY; PROVIDING FOR THE PURPOSE AND INTENT; AMENDING SECTION FOUR SETTING FORTH THE APPOINTMENT TO THE LEE COUNTY PUBLIC GUARDIAN PROGRAM; AMENDING SECTION FIVE SETTING FORTH THE DUTIES AND RESPONSIBILITIES OF THE LEE COUNTY PUBLIC GUARDIAN; AMENDING SECTION SIX SETTING FORTH THE FUNDING OF THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; PROVIDING FOR THE COLLECTION AND EXPENDITURE OF FUNDS FOR THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 28.241, Florida Statutes, provides that Lee County may impose, by Ordinance, a fee for each civil action filed for the establishment, maintenance, or supplementation of costs associated with public guardianship; and,

WHEREAS, Chapter 744, Part IX, Florida Statutes, the "Public Guardianship Act", sets forth the Office of Public Guardian, preparation of budget, procedures and rules, reports and standards, and surety bond; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, having previously found it to be in the best interest of the citizens of Lee County, Florida, to establish a Public Guardianship Program, in accordance with Chapter 744, Part IX, Florida Statutes, and Section 28.241, Florida Statutes; and,

WHEREAS, the Board of County Commissioners of Lee County now desires to increase the service charge fee upon each civil action filed in Lee County, excluding small claim cases established in Lee County Ordinance No. 93-07, duly passed and adopted on March 3, 1993, and thereafter amended by Lee County Ordinance No. 98-16, duly passed and adopted on August 25, 1998.

PART ONE:

The amendments and revisions of Lee County Ordinance No. 93-07 set forth in Section Six, and thereafter amended and revised by Lee County Ordinance No. 98-16, set forth in Part One, are hereby adopted. Additions are illustrated by underlined words and deletions are illustrated by ~~struck-through type~~, as follows:

Section One Authority

This Ordinance is created pursuant to the provisions of Section 28.241, Florida Statutes, wherein the County is authorized to impose by Ordinance, a fee of up to ~~\$10.00~~ \$15.00 for each civil action filed, ~~contingent upon the County matching these funds from the County's general revenue~~, for payment of the costs associated with public guardianship. Further, this Ordinance is enacted to incorporate the provisions of Chapter 744, Part IX, Florida Statutes.

Section Two Purpose and Intent

It shall be the purpose of this Ordinance to establish a Public Guardianship Program in accordance with Chapter 744, Part IX, Florida Statutes, to fund the Office of Public Guardian for the purpose of providing guardianship services for incapacitated persons when no private guardian is available for those persons whose needs cannot be met through less drastic means of intervention, and to

create a Lee County Assistant Public Guardian.

Section Three Lee County Public Guardianship Program

There is hereby created the Lee County Public Guardianship program. ~~under the authority and supervision of the Twentieth Judicial Circuit.~~ Lee County authorizes the Twentieth Judicial Circuit and its administration to supervise and oversee the program.

Section Four Appointments to the Lee County Public Guardian Program

The Chief Judge of the Twentieth Judicial Circuit shall appoint the Public Guardian ~~and an Assistant Public Guardian~~ for Lee County. ~~by Administrative Order.~~ The Assistant Public Guardian may be an individual, a non-profit organization, or any other legal entity.

Section Five Duties and Responsibilities of the Lee County Assistant Public Guardian

The duties and responsibilities of the Lee County ~~Assistant~~ Public Guardian shall include, but shall not be limited to:

- 1) Identifying the recipients of the services for public guardianship,
- 2) Reviewing eligibility of recipients and determining if the recipients are eligible for the Public Guardianship Program,
- 3) Procuring and providing necessary guardianship services and legal services,
- 4) Preparing and administering the budget for the Public Guardianship Program under supervision of the Chief Judge or his representatives,
- 5) Receiving references and referrals regarding recipients for services

of the Public Guardianship Program through the Court system;

- 6) Compiling all data for the Lee County Public Guardianship Program as required by Chapter 744, Part IX, Florida Statutes, and providing all required data to the ~~Office of the~~ Statewide Public Guardianship Office and the Chief Judge; and

All placements of service recipients under the Lee County Public Guardianship Program shall be by court order.

Section Six

Section Six, Funding for the Lee County Public Guardianship Program is hereby amended as follows.

- A. The Lee County Public Guardianship Program shall be funded by imposing a service charge fee of ~~\$3.00~~ \$5.00 of up to \$15.00 upon each civil action filed in Lee County as of March 1, 2003, excluding small claim cases. Adjustments to this fee shall be by Resolution and shall be made only after an advertised public hearing held by the Board of County Commissioners. Advertised notice of such public hearing shall be published in a newspaper of general circulation in Lee County at least fifteen (15) days prior to the public hearing date, and conform to the requirements under Section 125.66(2), Florida Statutes. The Board of County Commissioners each fiscal year ~~shall~~ may budget ~~matching~~ additional funds from the county general revenue account for the Lee County Public Guardianship Program. An account to be known as the "Lee County Public Guardianship

Program Account" shall be established. Said account shall be administered by the Chief Judge and shall be used to pay for public guardian-related services.

- B. The Clerk of Court of Lee County, Florida, is hereby directed to collect a service charge fee of ~~\$3.00~~ ~~\$5.00~~ of \$5.00 on each civil case filed, excluding small claim cases, in Lee County, Florida, until February 28, 2003. As of March 1, 2003, the Clerk of Court of Lee County, Florida, is hereby directed to collect a service charge of up to \$15.00 on each civil case filed, excluding small claim cases. beginning upon the effective date of this Ordinance pursuant to Section Eight herein. Said additional service charges shall be deposited in the Lee County Public Guardianship Program Account.
- C. All unexpended funds in the Lee County Public Guardianship Program Account at the end of each fiscal year shall be carried forward in the Lee County Public Guardianship Program Account to the next fiscal year and shall be expended exclusively for public guardianship-related services.

PART TWO: EFFECTS OF AMENDMENTS

The amendments hereto shall supersede the provisions as originally construed in Lee County Ordinance No. 93-07 and Lee County Ordinance No. 98-16.

PART THREE:

1. Section Seven, Conflicts and Severability

In the event this Ordinance conflicts with any other Ordinance of Lee County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

PART FOUR:

1. Section Eight, Effective Date

This Ordinance shall take effect upon receipt of notice from the Secretary of State that this Ordinance has been filed with the Secretary of State.

The foregoing Ordinance was offered by Commissioner _____ who moved its adoption. The motion was seconded by Commissioner _____ and being put to a vote, the vote was as follows:

BOB JANES _____
DOUGLAS ST. CERNY _____
RAY JUDAH _____
ANDREW COY _____
JOHN ALBION _____

DULY PASSED AND ADOPTED this ____ day of _____, 20__.

ATTEST: CHARLIE GREEN
CLERK OF THE COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

LEE COUNTY
NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE



TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on Tuesday, the 12th day of November, 2002, at 5:00 o'clock p.m., in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider the enactment of a County Ordinance pursuant to Article VIII, Section 1, of the Florida Constitution and Chapter 125, Florida Statutes. The title of the proposed County Ordinance is as follows:

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NOS. 93-07 AND 98-16, THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; AMENDING SECTION ONE SETTING FORTH THE AUTHORITY; PROVIDING FOR THE PURPOSE AND INTENT; AMENDING SECTION FOUR SETTING FORTH THE APPOINTMENT TO THE LEE COUNTY PUBLIC GUARDIAN PROGRAM; AMENDING SECTION FIVE SETTING FORTH THE DUTIES AND RESPONSIBILITIES OF THE LEE COUNTY PUBLIC GUARDIAN; AMENDING SECTION SIX SETTING FORTH THE FUNDING OF THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; PROVIDING FOR THE COLLECTION AND EXPENDITURE OF FUNDS FOR THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

1. Copies of this Notice and the proposed Ordinance are on file in the Minutes Office of the Clerk of Courts of Lee County. The public may inspect or copy the proposed Ordinance during regular business hours at the Office of Public Resources. The Minutes Office and Public Resources are located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. Public Resources is located on the first floor and the Minutes Office is located on the second floor of the Courthouse Administration Building.

2. Interested parties may appear at the meeting in person or through counsel, and be heard with respect to the adoption of the proposed Ordinance.

3. Anyone wishing to appeal the decision(s) made by the Board with respect to any matter considered at this meeting, will need a record of the proceedings for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

4. The Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State, or as may be otherwise prescribed in the Ordinance.

5. If you have a disability that will require special assistance or accommodations for your attendance at the public hearing, please call the Lee County Division of Public Resources at 335-2269 for information.

PLEASE GOVERN YOURSELF ACCORDINGLY.

The text of this Notice is in conformance with Section 125.66, Florida Statutes (2001), and other relevant sections of Florida law.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Charlie Green, Ex-Officio Clerk
to the Board of County Commissioners
of Lee County, Florida

APPROVED AS TO FORM:

By: Andrea R. Staser
Office of the County Attorney

Ad Size: 2 x 5

Publishing Dates: 11/1/02

Public Guardianship Position Paper

Lee County Human Services
October 3, 2002
Ann M. Arnall

Background:

In 1993, Lee County adopted Ordinance 93-07, which created an Office of Public Guardianship and provided funding for such based on Florida Statutes 744.701 and 28.241. The Office of Public Guardianship is under the authority and supervision of the Twentieth Judicial Circuit.

At that time, the statute allowed for a fee up to a set amount to be attached to civil actions filed to fund the Office of Public Guardianship. Such fees required a dollar for dollar match from the County that established the Ordinance.

Since that time, both Florida Statute 744.701 and 28.241 have been amended. Florida Statute 744.701 was revised to allow for the creation of a Statewide Public Guardianship Office and 28.241 was amended to no longer require the County match of fees collected.

Issue:

Determine the financing of the Office of Public Guardianship based on the current statutory requirement and increased costs to run the program.

For the past several years, Court Administration has contracted with a private attorney to serve as the public guardian. The fee structure was that the public guardian was paid \$250 for the first three months a client was served and then \$40 per month thereafter. The average annual expenditure for fiscal years 1999, 2000, and 2001 was \$92,629. This represents services provided to approximately 100 individuals/month.

The average amount of total program revenues for fiscal years 1999, 2000, and 2001 was \$110,940 (this includes fees collected and county match). The excess revenues produced a fund balance that is to be used for the purposes of the program based on the existing Ordinance.

The *draft* Ordinance provides a mechanism to increase the fee to the amount necessary to cover an increase in the projected program expenses and removes the wording that requires the County to match the revenues collected.

The Public Guardian has requested that the payment structure for services provided be modified to a flat rate of \$150 per ward per month. This change would increase the program expenses to \$180,000 - \$216,000 based on the number of wards managed (100-120). Based on research conducted by the Statewide Office of Public Guardianship, several states reported budgetary amounts ranging from \$1,020 per ward per year to \$3,846 per ward per year. The Lee County proposed cost per ward is \$1,800.

Public Guardianship Position Paper

Lee County Human Services
 October 3, 2002
 Ann M. Arnall
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The proposed rate is comparable with what is being paid by the Twentieth Judicial Circuit in both Charlotte and Collier Counties. Dade County estimated the cost per ward per year is \$2,100 while Brevard County is anticipating their cost to be \$2,500 per ward per year.

Staff Recommendation:

Amend the Ordinance to provide for the fee to be increased to \$12 on each civil case filed excluding small claim cases effective March 1, 2003. The estimated annual amount of fees collected would be \$159,804. This action would require the County to contribute the difference between the revenues collected and the actual contractual expenses for the Public Guardian. This amount is anticipated to be \$57,000 for FY2003.

Although the County match is no longer mandated, the Public Guardian provides a valuable service to the citizens of Lee County. This arrangement would provide for a financial partnership (fees collected and county contribution) and would provide for an incremental fee increase (\$5 to \$12) rather than increasing the fee to the maximum (\$15) allowed by law.

Modify the means of remitting County funds to Court Administration for Public Guardianship services. Historically the required "match" was automatically transferred to Court Administration throughout the year. County staff would request semi-annual reports from Court Administration that detail the revenues collected and the guardianship expenses. A budget transfer to provide for the difference would be processed twice a year.

	Current year estimate	Proposed \$10 fee	Proposed \$12 fee *	Proposed \$15 (maximum)
Fees Collected	\$ 62,664	\$133,170	\$159,804	\$199,755
County Contribution	\$ 59,590	\$ 82,830	\$ 56,196	\$ 16,245
Program Expenses	\$ 92,629	\$216,000 (max)	\$216,000 (max)	\$216,000 (max)

* Recommended option. County Contribution budgeted for FY2002-2003 is \$75,000. This option does not exceed the amount budgeted.

**LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE:
Amendment to Public Guardianship Program Ordinance**

II. Fiscal Impact on County Agencies/County Funds.

- A. What is estimated Demand?
N/A
- B. What is estimated Workload?
N/A
- C. What are estimated costs? See Section E.

	1st Year \$=s		2nd Year \$=s	
	<u>Existing</u>	<u>New</u>	<u>Existing</u>	<u>New</u>
Personnel	N/A		N/A	
Fringe	N/A		N/A	
Operating	N/A		N/A	
Capital Outlay	N/A		N/A	
Total	N/A		N/A	

D. List the anticipated revenues to cover costs identified in II, C, above. If a fee is to be charged, answer the following: Depends on fee charged and amount of county contribution, if any.

- 1. What is the basis (rationale) for the fee?
Provide funding for Public Guardianship Program
- 2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered?
Not entirely--will vary from year to year based on the fee charged per civil action and guardianship caseload.

E. Give a brief narrative analysis of the information contained in II, A-D, above.

The amended ordinance proposes to increase the service charge fee from a maximum of \$10.00 to a maximum of \$15.00 per civil action filed, excluding small claims, for the purpose of providing funding for guardianship services for incapacitated persons when no private guardian is available. Furthermore, the amended ordinance authorizes the Board of County Commissioners to elect to provide additional funding for the Guardianship Program from the General Fund (as opposed to previously being required to do so by Florida Statutes which is no longer mandated.) Additional funds are needed due to an increasing caseload and the fact that Court Administration's contracted fee for Public Guardian services has not been adjusted for several years.

It is suggested the fee per civil action increase to \$12.00 effective March 1, 2003. The difference between what this fee would generate in revenues versus anticipated contractual expenses for the Public Guardian would require a \$57,000 contribution from the General Fund for FY 02-03. Budgeted for FY 02-03 is \$75,0000.

LEE COUNTY, FLORIDA

FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT

PROPOSED COUNTY ORDINANCE:

NAME OF ORDINANCE:

A. Statement of Purpose

Increase the service charge fee on civil actions filed to better fund the Public Guardianship Program, by amending Lee County Ordinances Nos. 93-07 and 98-16.

B. Narrative Summary of Ordinance (Several Sentence Summary)

Section 28.241, Florida Statutes, provides that the County may impose, by Ordinance, a fee for each civil action filed for the establishment, maintenance, or supplementation of costs associated with the Public Guardianship Program.

C. Principal Division(s) or Department(s) Affected (List)

Human Services
Court Administration

REC'D
... 9/12