

Lee County Board of County Commissioners
Agenda Item Summary

Blue Sheet No. 20041083

1. **REQUESTED MOTION:**

ACTION REQUESTED: Confirm and accept for both filing and the Clerk's Minutes purposes, Lee County Resolution Nos. 04-08-61 and 04-08-62, relating to the Declaration of Local Emergency and Evacuation Order as adopted by the County on August 11, 2004 and August 12, 2004, respectively, relating to Hurricane Charley.

WHY ACTION IS NECESSARY: Approval of the Emergency Resolutions at a Board meeting facilitates the filing of same with the minutes of the Board.

WHAT ACTION ACCOMPLISHES: Provides both a Board meeting confirmation and scheduling document for the filing of Emergency Resolutions adopted by the Board.

2. **DEPARTMENTAL CATEGORY:**
COMMISSION DISTRICT # CW

3. **MEETING DATE:**

08-24-2004

4. **AGENDA:**

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

5. **REQUIREMENT/PURPOSE:**
(Specify)

- STATUTE §252.38, F.S.
- ORDINANCE 87-01
- ADMIN. CODE
- OTHER State Exec. Order No. 04-182

6. **REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION General Services
- BY: David M. Owen
Chief Assistant County Attorney



7. **BACKGROUND:**

On August 11, 2004 and August 12, 2004, the County enacted two (2) Emergency Resolutions pursuant to County Ordinance and general law as the result of the potential landfall strike from Hurricane Charley. The Resolutions were enacted without action at a Board meeting and now need after-the-fact confirmation by the Board in order to properly file same in the County's Minutes of its Emergency Legislative actions.

8. **MANAGEMENT RECOMMENDATIONS:**

9. **RECOMMENDED APPROVAL:**

Confirm Lee County Resolution Nos. 04-08-61 and 04-08-62 and file in the County's Minutes.

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	8/19/04	OA	OM	RISK	GC	
					RKgin	8/19/04	WPM 8/19	WPM 8/19	

10. **COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY'S
FORWARDED
TO CO. ADMIN.
3:10 PM

RECEIVED BY
COUNTY ADMIN:
3/16/04
FORWARDED TO:
8/19/04

**BOARD OF COUNTY COMMISSIONERS
WALK ON AGENDA ITEMS
MEETING DATE: August 24, 2004**

WO # DESCRIPTION

WO #1 ACTION REQUESTED:
Confirm and accept for both filing and the Clerk's Minutes purposes, Lee County Resolution Nos. 04-08-61 and 04-08-62, relating to the Declaration of Local Emergency and Evacuation Order as adopted by the County on August 11, 2004 and August 12, 2004, respectively, relating to Hurricane Charley.

WHY ACTION IS NECESSARY:
Approval of the Emergency Resolutions at a Board meeting facilitates the filing of same with the minutes of the Board.

WHAT ACTION ACCOMPLISHES:
Provides both a Board meeting confirmation and scheduling document for the filing of Emergency Resolutions adopted by the Board. (#20041083-County Attorney)

REASON FOR WALK ON:
To expedite confirmation and filing of two Emergency Resolutions adopted last week without benefit of Board action at a regular meeting.

**BOARD: ALBION COY JUDAH JANES ST. CERNY
COMMISSION RECEPTION DESK
DONALD STILWELL, COUNTY MANAGER
WILLIAM HAMMOND, DEPUTY COUNTY MANAGER
HOLLY SCHWARTZ, ASSISTANT COUNTY MANAGER**

**ANTONIO MAJUL, BUDGET SERVICES
BOB GRAY, DEPUTY CO ATTORNEY
JAMES LAVENDER, PUBLIC WORKS
PUBLIC RESOURCES OFFICE
LISA PIERCE, MINUTES**

DATE AND TIME DISTRIBUTED: 08-20-04 10:00 AM

**Distributed by: Kathy Geren
Division of Public Resources
Phone: 335-2215**

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: August 19, 2004

TO: Elizabeth Walker, Director

Public Resources

and

Kathy Geren

Public Resources

FROM:



David M. Owen

Chief Assistant County Attorney

**RE: WALK-ON BLUESHEET NO. 20041083 FOR
MEETING OF AUGUST 24, 2004**

Ladies:

The above bluesheet needs to be "walked on" next Tuesday in order to expedite the confirmation and filing of two (2) Emergency Resolutions adopted by the County last week without the benefit of Board action at a regular meeting.

Minutes needs a Board meeting and scheduling document ("bluesheet") to tie the Resolutions to, in order to properly file them as part of the Board's legislative actions concerning Hurricane Charley.

Thanks.

DMO/dm

xc: Robert W. Gray, Deputy County Attorney
Donald D. Stilwell, County Manager
Pete Winton, Assistant to the County Manager
Lisa Pierce, Supervisor, Minutes Department

LEE COUNTY, FLORIDA
EMERGENCY RESOLUTION NO. 04-08-61
DECLARING A STATE OF LOCAL EMERGENCY

WHEREAS, the National Hurricane Center has identified a potential danger to coastal residents of Florida from Tropical Storm/Hurricane Charley, by posting a HURRICANE watch from **August 11, 2004 to August 13, 2004** ; and

WHEREAS, Lee County requires an extensive period of time to evacuate threatened residents from the hazards of a hurricane; and

WHEREAS, the current error of the National Hurricane Center's meteorological forecast does not allow for an accurate prediction of where the track of **Tropical Storm/Hurricane Charley** will be at that point in time coinciding with Lee County's estimated evacuation times; and

WHEREAS, **Tropical Storm/Hurricane Charley** has the potential for causing life threatening conditions and extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings and areas; and

WHEREAS, §252.38 (3)(2)(5), Florida Statutes, provides authority for political subdivisions, such as Lee County, to declare a State of Local Emergency and to waive the procedures and formalities otherwise required of political subdivisions in order to take whatever action is necessary to ensure the health, safety, and welfare of the community; and

WHEREAS, Lee County Ordinance Number 87-01, states that when a quorum of the board of County Commissioners is unable to meet, the Chairperson of the Board of County Commissioners, or the Vice-Chairperson in his/her absence, or the County Administrator or his/her designee in the absence of the Chairperson, or Vice-Chairperson is authorized to declare a State of Local Emergency.

NOW THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA:

1. That Tropical Storm/Hurricane Charley poses a serious threat to the lives and property of the residents of Lee County and that a State of Local Emergency shall be declared, effective immediately for all unincorporated and incorporated areas within the boundary of Lee County, Florida.
2. That the Board of County Commissioners hereby exercises its authority and waives the procedures and formalities required by law for political subdivision, as provided in §252.38 (3)(2)(5), Florida Statutes.
3. The duration of this State of Local Emergency is limited to seven (7) days; however, it may be extended, as deemed necessary by the Board of County Commissioners for additional terms in seven (7) day increments.

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF
LEE COUNTY, FLORIDA, this 11th day of August, 2004.



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: [Signature]
Chairman

ATTEST:
CHARLIE GREEN, CLERK

By: [Signature]
Deputy Clerk

APPROVED AS TO FORM:

By: [Signature]
Office of the County Attorney

3 : 35 P.M.
(Time)

LEE COUNTY, FLORIDA
EMERGENCY RESOLUTION NO. 04-08-62
DECLARING AN EVACUATION ORDER

WHEREAS, the Board of County Commissioners has declared a State of Local Emergency because of the serious health and safety threat to the lives and property of residents of Lee County, Florida from Hurricane Charley, Attachment A.

WHEREAS, Lee County has been placed under a hurricane warning by the National Hurricane Center.

NOW THEREFORE, as the designated official of Lee County and with the powers conferred by the Governor pursuant to §252.36(5), F.S., and by the Governor's Executive Order - 14-182 Attachment B, I hereby order the Evacuation according to the most current Southwest Florida Regional Hurricane Evacuation Study, to protect the citizens of Lee County, effective at 8:00 A.M., this 12 day of August, 2004

All persons residing in the area(s) identified in Attachment C must evacuate their residence immediately and proceed to a designated emergency public shelter or other safe areas in and out of Lee County over primary evacuation routes.

It is further ordered that the Toll Facilities, Sanibel, Midpoint, Cape Coral suspend all collection of tolls immediately.

It is further ordered that all persons residing in mobile homes, recreational vehicles or manufactured homes, in any part of Lee County, evacuate immediately. Any person not abiding to this Evacuation Order is guilty of a second degree misdemeanor, Florida Statutes §252.50.

Done this 12 day of August, 2004.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Jan A. Wilson
Director, Lee County Public Safety

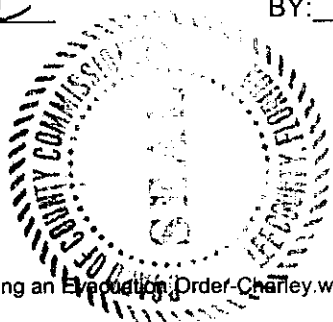
ATTEST:
CHARLIE GREEN, CLERK

BY: Charlie Green
Deputy Clerk

APPROVED AS TO FORM:

BY: Andrea B. Jasser
Office of the County Attorney

8:00 A.M.
(time)



COPY

**LEE COUNTY, FLORIDA
EMERGENCY RESOLUTION NO. 04-08-61
DECLARING A STATE OF LOCAL EMERGENCY**

WHEREAS, the National Hurricane Center has identified a potential danger to coastal residents of Florida from Tropical Storm/Hurricane Charley, by posting a HURRICANE watch from **August 11, 2004 to August 13, 2004** ; and

WHEREAS, Lee County requires an extensive period of time to evacuate threatened residents from the hazards of a hurricane; and

WHEREAS, the current error of the National Hurricane Center's meteorological forecast does not allow for an accurate prediction of where the track of **Tropical Storm/Hurricane Charley** will be at that point in time coinciding with Lee County's estimated evacuation times; and

WHEREAS, **Tropical Storm/Hurricane Charley** has the potential for causing life threatening conditions and extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings and areas; and

WHEREAS, §252.38 (3)(2)(5), Florida Statutes, provides authority for political subdivisions, such as Lee County, to declare a State of Local Emergency and to waive the procedures and formalities otherwise required of political subdivisions in order to take whatever action is necessary to ensure the health, safety, and welfare of the community; and

WHEREAS, Lee County Ordinance Number 87-01, states that when a quorum of the board of County Commissioners is unable to meet, the Chairperson of the Board of County Commissioners, or the Vice-Chairperson in his/her absence, or the County Administrator or his/her designee in the absence of the Chairperson, or Vice-Chairperson is authorized to declare a State of Local Emergency.

NOW THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA:

1. That Tropical Storm/Hurricane Charley poses a serious threat to the lives and property of the residents of Lee County and that a State of Local Emergency shall be declared, effective immediately for all unincorporated and incorporated areas within the boundary of Lee County, Florida.
2. That the Board of County Commissioners hereby exercises its authority and waives the procedures and formalities required by law for political subdivision, as provided in §252.38 (3)(2)(5), Florida Statutes.
3. The duration of this State of Local Emergency is limited to seven (7) days; however, it may be extended, as deemed necessary by the Board of County Commissioners for additional terms in seven (7) day increments.

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF
LEE COUNTY, FLORIDA, this 11th day of August, 2004.



ATTACHMENT "B"

STATE OF FLORIDA
OFFICE OF THE GOVERNOR
EXECUTIVE ORDER NUMBER 04-182
(Emergency Management)

WHEREAS, on August 10, 2004, the National Hurricane Center advised that Tropical Storm Bonnie may strengthen into a Category 1 hurricane with sustained surface winds exceeding 65 knots; and

WHEREAS, at present Tropical Storm Bonnie threatens a number of communities in the northwestern portion of the State of Florida with extreme weather conditions which pose an immediate danger to the lives and property of persons in those communities; and

WHEREAS, on August 10, 2004, the National Hurricane Center further advised that Tropical Storm Charley is likely to strengthen into a Category 1 hurricane with sustained surface winds exceeding 70 knots; and

WHEREAS, at present Tropical Storm Charley likewise threatens a number of communities in the southern and southwestern portions of the State of Florida with extreme weather conditions which also pose an immediate danger to the lives and property of persons in those communities; and

WHEREAS, it is likely that within a matter of hours Tropical Storm Bonnie and Tropical Storm Charley will strike a number of communities in different sections of the State at the same time, so that the immediate evacuation of persons from those communities to safe locations is vital to their safety; and

WHEREAS, the difficulties inherent in coordinating the timely evacuation of persons from threatened communities in different sections of the State require immediate action; and

WHEREAS, special equipment, personnel and other resources may be needed in order to ensure the timely evacuation of persons from the threatened communities and the safe movement of the evacuees to other communities in the State acting as destinations for the evacuees; and

WHEREAS, central coordination and direction of the use of such resources for the local evacuation measures are needed to ensure the timely evacuation of the threatened communities; and

WHEREAS, yet other emergency measures may be needed to protect the lives and property of the people in the threatened communities, and the general welfare of the State of Florida;

NOW, THEREFORE, I, JEB BUSH, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, do hereby promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, I hereby find that Tropical Storm Bonnie and Tropical Storm Charley threaten the State of Florida with a major disaster. I

therefore declare that a state of emergency exists in the State of Florida, and that the evacuation of multiple counties in the State may be necessary because of the impending landfall of both Tropical Storms. I further find that central authority over the evacuation of these counties is needed to coordinate these evacuations, that these evacuations exceed the capability of the local governments in these communities, and that shelters in other counties are needed to accommodate the evacuees. I, therefore, declare that a state of emergency also exists in all destination counties that open shelters to accommodate evacuees from the communities threatened by these Tropical Storms.

Section 2. I hereby designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency and as my Authorized Representative. In exercising the powers delegated by this Executive Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. In accordance with Sections 252.36(1)(a) and 252.36(5), Florida Statutes, I hereby delegate to the State Coordinating Officer the following powers, which he shall exercise as needed to meet this emergency:

- A. The authority to activate the Comprehensive Emergency Management Plan;
- B. The authority to invoke and administer the Statewide Mutual Aid Agreement, and the further authority to coordinate the allocation of resources under that Agreement so as best to meet this emergency;
- C. The authority to invoke and administer the Emergency Management Assistance Compact and other Compacts and Agreements existing between the State of Florida and other States, and the further authority to coordinate the allocation of resources from such other States

that are made available to the State of Florida under such Compacts and Agreements so as best to meet this emergency;

D. The authority to seek direct assistance from any and all agencies of the United States Government as may be needed to meet the emergency;

E. The authority to distribute any and all supplies stockpiled to meet the emergency;

F. The authority to suspend the effect of any statute or rule governing the conduct of state business and the further authority to suspend the effect of any statute, rule, ordinance, or order of any state, regional, or local governmental entity, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources, to include, without limiting the generality of the foregoing, any and all statutes and rules which affect budgeting, printing, purchasing, leasing, and the conditions of employment and the compensation of employees; provided, that the State Coordinating Officer shall have authority to suspend the effect of any statute, rule, ordinance, or order only to the extent necessary to ensure the timely performance of vital emergency response functions;

G. The authority to direct all state, regional and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the needs created by this emergency, and to place all such personnel under the direct command of the State Coordinating Officer to meet this emergency;

H. The authority to activate the Continuity of Operations Plans of all state, regional and local governmental agencies;

✓ I. The authority to seize and utilize any and all real or personal property as needed to meet this emergency, subject always to the duty of the State to compensate the owner;

J. The authority to order the evacuation of all persons from any or all of the communities referred to in Section 1 of this Executive Order, the authority to direct the sequence in which such evacuations shall be carried out, and the further authority to regulate the movement of persons and traffic to, from, or within any location in the State to the extent needed to cope with this emergency;

K. The authority to reverse the flow of traffic on any and all highways or portions of highways of the State Highway System as needed to facilitate the evacuation of the affected communities;

L. The authority to regulate the return of the evacuees to their home communities;
and

M. The authority to designate such Deputy State Coordinating Officers as the State Coordinating Officer may deem necessary to cope with the emergency.

Section 3. I hereby order the Adjutant General to activate the Florida National Guard for the duration of this emergency, and I hereby place the National Guard under the authority of the State Coordinating Officer for the duration of this emergency.

Section 4. I hereby direct all state, regional and local agencies to place any and all available resources under the authority of the State Coordinating Officer as needed to meet this emergency.

Section 5. I hereby designate all state, regional and local governmental facilities including, without limiting the generality of the foregoing, all public elementary and secondary schools, all Community Colleges, and all State Universities, for use as shelters to ensure the proper reception and care of all evacuees.

Section 6. I hereby find that the demands placed upon the funds appropriated to the agencies of the State of Florida and to local agencies may be inadequate to pay the costs of this disaster. In accordance with Section 252.37(2), Florida Statutes, to the extent that funds appropriated to the agencies of the State and to local agencies may be inadequate to defray the costs of this disaster, I hereby direct the transfer of sufficient funds from unappropriated surplus, from the Budget Stabilization Fund, and from the Working Capital Fund, in that order of priority.

Section 7. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by States other than the State of Florida shall be allowed to render such services in the State of Florida during this emergency for persons affected by this emergency, with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross.

Section 8. In accordance with Sections 501.160(2) and 501.160(3), Florida Statutes, I hereby place all persons on notice that it is unlawful for any person to rent or sell, or offer to rent or sell at an unconscionable price, any essential equipment, services, or supplies whose consumption or use is necessary because of the emergency. Such services shall include, without limiting the generality of the foregoing, any rental of hotel, motel, or other transient lodging facilities, and any rental of storage facilities. In accordance with Sections 501.160(1)(b), Florida Statutes, any price exceeding the average price for such essential equipment, services, or supplies for the thirty (30) days immediately preceding the date of this Executive Order shall create a presumption that the price is unconscionable unless such increase is caused by actual costs incurred in connection with such essential equipment, services, or supplies, or is caused by national or international economic trends.

Section 9. This Executive Order shall be deemed to have taken effect on August 10, 2004, and all actions taken by the Director of the Division of Emergency Management with respect to Tropical Storm Bonnie or Tropical Storm Charley before the issuance of this Executive Order are hereby ratified. This Executive Order shall expire sixty (60) days from the date hereof unless extended.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, the Capitol, this 10th day of August, 2004.



Jeb Bush

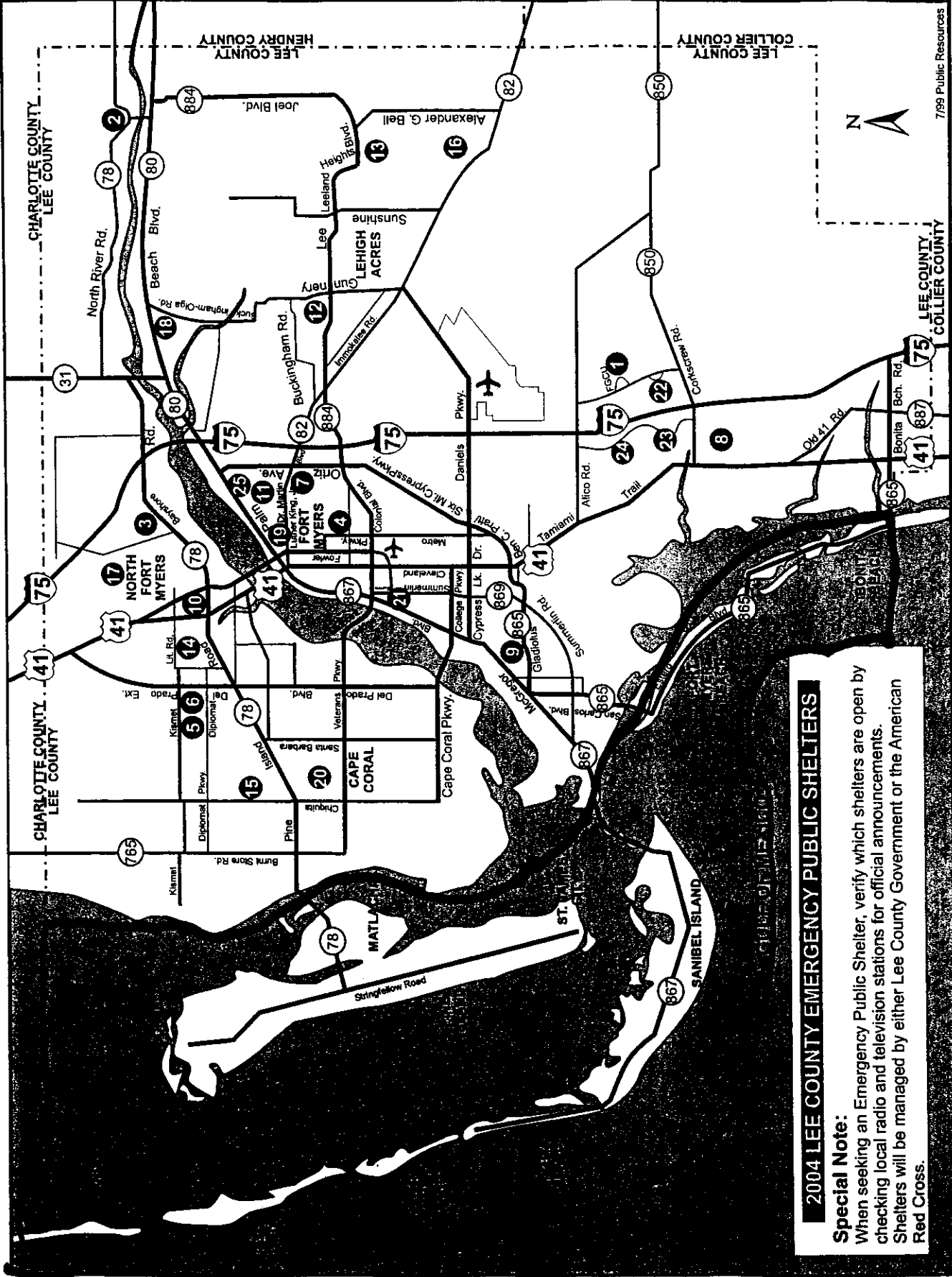
 GOVERNOR

ATTEST:

Glenda E. Hood

 SECRETARY OF STATE

FILED
 2004 AUG 11 AM 10:39
 DEPARTMENT OF STATE
 TALLAHASSEE, FLORIDA



2004 LEE COUNTY EMERGENCY PUBLIC SHELTERS

Special Note:
 When seeking an Emergency Public Shelter, verify which shelters are open by checking local radio and television stations for official announcements. Shelters will be managed by either Lee County Government or the American Red Cross.

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: August 19, 2004

TO: Elizabeth Walker, Director


Public Resources

and

Kathy Geren

Public Resources

FROM:



David M. Owen

Chief Assistant County Attorney

**RE: WALK-ON BLUESHEET NO. 20041083 FOR
MEETING OF AUGUST 24, 2004**

Ladies:

The above bluesheet needs to be "walked on" next Tuesday in order to expedite the confirmation and filing of two (2) Emergency Resolutions adopted by the County last week without the benefit of Board action at a regular meeting.

Minutes needs a Board meeting and scheduling document ("bluesheet") to tie the Resolutions to, in order to properly file them as part of the Board's legislative actions concerning Hurricane Charley.

Thanks.

DMO/dm

xc: Robert W. Gray, Deputy County Attorney
Donald D. Stilwell, County Manager
Pete Winton, Assistant to the County Manager
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