

Lee County Board of County Commissioners
Agenda Item Summary

Blue Sheet No. 20041713

1. **REQUESTED MOTION:**

ACTION REQUESTED: Consider temporary compensatory pay for Deputy County Attorney Robert W. Gray for performing the duties of the County Attorney during the hiring process.

WHY ACTION IS NECESSARY: For Board's consideration and approval.

WHAT ACTION ACCOMPLISHES: To compensate Deputy County Attorney Robert W. Gray for the temporary additional duties performed as County Attorney.

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

3. **MEETING DATE:**

01-04-2005

4. **AGENDA:**

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

6. **REQUESTOR OF INFORMATION:**

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

- _____ STATUTE
- _____ ORDINANCE
- _____ ADMIN. CODE
- _____ OTHER

- A. COMMISSIONER Douglas R. St. Cerny, Chairman
- B. DEPARTMENT Board of County Commissioners
- C. DIVISION _____
- BY: _____

7. **BACKGROUND:** At the Board of County Commissioners' meeting on September 28, 2004, Commissioner Judah requested that Deputy County Attorney Robert W. Gray receive compensatory pay for performing the duties of County Attorney during the hiring process for the County Attorney position. Request a 15% temporary salary increase retroactive to July 1, 2004 and continuing until such time as the new County Attorney begins employment.

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>[Signature]</i>	OA	OM	RISK	GC	<i>[Signature]</i>
					<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	12-22-04

10. **COMMISSION ACTION:**

- X _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

CO. ATTY.
FORWARDED
TO CO. ADMIN.
12-21-04

RECEIVED BY
COUNTY ADMIN.
12/21/04
11:55am
COUNTY ADMIN
FORWARDED TO:
12/22/04

BOARD OF COUNTY COMMISSIONERS
WALK ON AGENDA ITEMS
MEETING DATE: January 4, 2005

WO # DESCRIPTION

WO #1 ACTION REQUESTED:
Approve the proposed contract for employment of the County Attorney. Approve and authorize Chairman to execute agreement between Lee County and James E. Messer for employment as the County Attorney.
WHY ACTION IS NECESSARY:
The Board of County Commissioners hires the County Attorney through an employment agreement.
WHAT ACTION ACCOMPLISHES:
Establishes the terms and conditions of employment for the County Attorney. (#20041722-County Commission)
REASON FOR WALK ON:
Board direction.

WO #2 ACTION REQUESTED:
Consider temporary compensatory pay for Deputy County Attorney Robert W. Gray for performing the duties of the County Attorney during the hiring process.
WHY ACTION IS NECESSARY:
For Board's consideration and approval.
WHAT ACTION ACCOMPLISHES:
To compensate Deputy County Attorney Robert W. Gray for the temporary additional duties performed as County Attorney. (#20041713-County Commission)
REASON FOR WALK ON:
Per the Chairman's direction.

BOARD: ALBION HALL JUDAH JANES ST.CERNY
COMMISSION RECEPTION DESK
DONALD STILWELL, COUNTY MANAGER
WILLIAM HAMMOND, DEPUTY COUNTY MANAGER
HOLLY SCHWARTZ, ASSISTANT COUNTY MANAGER
PETE WINTON, 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: 12-28-04 9:30 AM

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: December 21, 2004

To: Libby Walker
Public Resources Director

FROM:


Robert W. Gray
Deputy County Attorney

RE: WALK-ON AGENDA ITEM #20041713

Attached please find Agenda Item No. 20041713 which is being requested as a walk-on for the Tuesday, January 4, 2005 Board meeting. I am requesting it as a walk-on for the following reason:

- Per the Chairman's direction to be placed as a walk-on.

After approval, please add to the agenda and distribute as required. Thank you for your assistance in this matter.

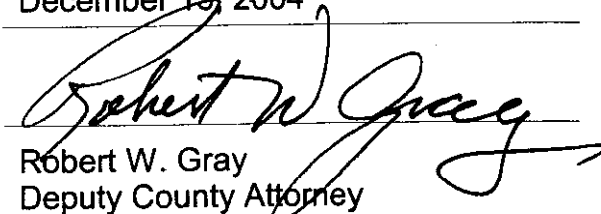
RWG/cdd

Attachment

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: December 15, 2004

To: Douglas R. St. Cerny, Chairman
Board of County Commissioners

FROM: 
Robert W. Gray
Deputy County Attorney

RE: **COMPENSATORY PAY**

Attached is the excerpt of the Minutes of the Board of County Commissioners meeting of September 28, 2004. You will note that Commissioner Judah requested compensatory pay for me for performing the work of the County Attorney. Commissioner Albion suggested it be paid upon the hiring of the County Attorney. In light of the Board's action of yesterday, I would request a 15% temporary salary increase retroactive to July 1, 2004 and continuing until such time as Mr. Messer begins his employment. With a 15% temporary compensation adjustment my salary would be \$6,000.00 less than what James G. Yaeger would be earning. Further, since this would only cover an approximate 6½ month period, it would not have a significant impact on the County Attorney budget. Finally, I have been receiving monthly printouts on county employees working out of class. For upper management the salary adjustment ranges between 10% and 20%. Should you approve this request, I will prepare the appropriate Request for Personnel Action.

Thank you for your consideration.

RWG/cdd

Attachment

report. Hanson Real Estate Advisors, Inc. Consultant Woodward S. Hanson clarified his report. Discussion ensued, between the Board and the County Attorneys, on the 810/910 rule and GPICPU; on how the county is subjected to legal liability; and on the processes involved if Bert Harris claims are filed. In response to Commissioner Albion's inquiry regarding Community Development's satisfaction with Option 1, Community Development Director Mary Gibbs suggested that the Board first decide in favor of Option 1, then enter discussions with the community to modify the plan amendment. Commissioner Albion spoke in favor of Mr. Hanson's experience, skill and credibility; stated that neither immediate action nor a court decision would resolve the problems; and recommended the suggestion provided by Ms. Gibbs. The Board directed Ms. Gibbs to begin discussions with the Pine Island community to establish compromises, decide on a proper use of language, and provide monthly reports to the Board. Commissioner St. Cerny moved for Option No. 1, for the Board to take no action on the plan, continue to litigate and support the entire plan, while waiting to see if any Bert Harris claims ever arise; and reviewed that this followed suit with Administrative hearing on November 29, 2004, and gave Ms. Gibbs ample opportunity to help the people of Pine Island resolve the issues. Commissioner Albion suggested adding to the motion that an update be given to the Board at the November Management and Planning Meeting. Commissioner Judah seconded the motion, including the update. The motion was called and carried.

COMMISSIONER ITEMS

NATIONS FUNDING - Commissioner Janes addressed an article in the September 28, 2004 edition of the *News-Press*, which misinterpreted his request for the \$20,000.00 allotted to the Nations Association for damages and losses from Hurricanes Charley, Frances, Ivan, and Jeanne, to be contingent on an audit of the actual damages and losses from those storms, at the Budget Hearing on September 22, 2004. Commissioner Albion clarified that the motion was contingent upon the audit and proof of loss due to not having been provided with an itemized list at the time of the hearing. Assistant County Manager William Hammond confirmed that the information, when it is received from Nations Association, will be verified and reported to the Board.

OVER-TIME PAY - Commissioner Coy conveyed a concern, on behalf of Emergency Management Director David Saniter, that a declaration of a Local State of Emergency may be needed to assist in paying over-time to employees. Assistant County Manager Holly Schwartz stated that, on report from Mr. Saniter, the roads are clear; and informed the Board that, according to Assistant County Attorney Andrea R. Fraser, employees could continue to work over-time while the State's Declaration is active.

AT THIS TIME, PUBLIC PRESENTATIONS OF MATTERS BY CITIZENS WAS HEARD. PLEASE SEE THAT PORTION OF THE MEETING.

SAVE OUR BAY - Commissioner Janes thanked Assistant County Attorney John J. Renner and all of the County Attorney's Office for the success in the Save Our Bay lawsuit. Deputy County Attorney Robert W. Gray informed the Board that sanctions would be filed against the attorney and plaintiffs. Commissioner Albion noted that the victims of the lawsuit were the bridge users, not the plaintiffs.

COMMISSIONER COY LEFT THE MEETING AND WAS ABSENT FOR THE REMAINDER OF THE MEETING.

COMPENSATORY PAY - Commissioner Judah requested that Deputy County Attorney Robert W. Gray receive compensatory pay for performing the work of the County Attorney in the interim. Commissioner Albion recommended that Attorney Gray receive a bonus, at the time the County Attorney is hired, which will be guaranteed to him, exclusive of the outcome of the County Attorney hiring process.

CAPTIVA BIKE PATHS - Commissioner Judah suggested that bicycle paths be implemented on Captiva Island; and stressed the importance of promoting alternative modes of transportation on the islands. Commissioner Janes responded positively to the suggestion, and stated that it would receive consideration, after the present issues, regarding disaster relief and clean-up, are resolved.

KEEP LEE COUNTY BEAUTIFUL - Commissioner Albion congratulated Commissioner Judah on his participation in the Keep Lee County Beautiful awards ceremony on Monday, September 27, 2004.

BOSTON RED SOX - Commissioner Albion congratulated the Boston Red Sox for clinching a play-off spot, and noted that both professional baseball teams that train in the county are in the play-offs this year.

COMMITTEE APPOINTMENTS

Commissioner Janes moved to appoint Debbie Hughes to the **ROADWAY LANDSCAPING ADVISORY BOARD**; and reappoint Anne Edwards of the **COMMUNITY ACTION AGENCY/NEIGHBORHOOD DISTRICT**; seconded by Commissioner St. Cerny, called and carried.