

WALK ON #3

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No 20050064

1. REQUESTED MOTION:

ACTION REQUESTED: Consider City of Sanibel proposed Resolution #05-024 outlining the points (see background below) to settle the Sanibel Causeway litigation. Direct staff to incorporate the points into a formal settlement agreement for the Board's consideration at its February 1, 2005 meeting or as soon thereafter as possible.

WHY ACTION IS NECESSARY: Board approval is required to settle the City of Sanibel's lawsuit and the county's counterclaim.

WHAT ACTION ACCOMPLISHES: Furthers the process to settle the litigation.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

3. MEETING DATE:

01-18-2005

4. AGENDA:

5. REQUIREMENT/PURPOSE:
(Specify)

6. REQUESTOR OF INFORMATION:
County Administration

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

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

- A. COMMISSIONER
- B. DEPARTMENT County Administration
- C. DIVISION *for DDS*

BY: Donald D. Stilwell
County Manager

7. BACKGROUND:

Points of settlement agreement:

1. The City of Sanibel will contribute its pro-rata share of the Surplus Sanibel Toll Revenues provided to it by the County under the terms of that certain 1987 Interlocal Agreement, as amended, for the sole purpose of reducing discount program fees and discount tolls for users of the Sanibel Causeway with a Sanibel option transponder.
2. The County agrees to utilize all other revenues generated by the Sanibel Causeway tolls exclusively for construction and maintenance of the Sanibel Causeway. Furthermore, any surplus revenues generated by the County's pro-rata share of the Surplus Toll Revenues will be utilized to reduce discount program fees, discount tolls, and tolls for users of the Sanibel Causeway.

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> 1-14-05
					<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

After discussion

BOARD OF COUNTY COMMISSIONERS
WALK ON AGENDA ITEMS
MEETING DATE: January 18, 2005

WO # DESCRIPTION

WO #1 **ACTION REQUESTED:**
Approve resolution of necessity to initiate eminent domain action to acquire all outstanding shares of stock of The Babcock Florida Company.
WHY ACTION IS NECESSARY:
Resolution of necessity is condition precedent to filing eminent domain action.
WHAT ACTION ACCOMPLISHES:
Authorizes filing of eminent domain action. (#20050044-County Attorney)
REASON FOR WALK ON:
Requested by Commissioner Janes.

WO #2 **ACTION REQUESTED:**
Discuss future action regarding County Attorney search with pending action to be determined.
WHY ACTION IS NECESSARY:
WHAT ACTION ACCOMPLISHES:
Allows Board of County Commissioners to discuss County Attorney search and take potential action. (#20050053-County Commission)
REASON FOR WALK ON:
Requested by Commissioner Hall.

WO #3 **ACTION REQUESTED:**
Consider City of Sanibel proposed Resolution #05-024 outlining the points (see background below) to settle the Sanibel Causeway litigation. Direct staff to incorporate the points into a formal settlement agreement for the Board's consideration at its February 1, 2005 meeting or as soon thereafter as possible.
WHY ACTION IS NECESSARY:
Board approval is required to settle the City of Sanibel's lawsuit and the county's counterclaim.
WHAT ACTION ACCOMPLISHES:
Furtheres the process to settle the litigation. (#20050064-County Manager)
REASON FOR WALK ON:
Directed by County Administration.

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: 01-14-05 4:30 PM

From: Pete Winton
To: Geren, Patricia
Date: 1/14/05 3:55PM
Subject: Walk-On Bluesheet, Causeway Settlement

Kathy,

Attached are bluesheet and proposed resolution for scheduling.....thanks

Reason: Directed by County Administration

Pete Winton
Assistant County Manager
Lee County Administration
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Phone: (239) 335-2777
FAX: (239) 335-2262

CC: Davies, Amy; J.Zimomra@mysanibel.com; Owen, David

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**CITY OF SANIBEL
RESOLUTION NO. 05-024**

A RESOLUTION OF THE SANIBEL CITY COUNCIL ACKNOWLEDGING THE SETTLEMENT TERMS OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS AND PROPOSING CERTAIN REVISED TERMS OF SETTLEMENT IN THE CASE OF CITY OF SANIBEL, A MUNICIPAL CORPORATION V. LEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, ITS GOVERNING BODY, CASE NO. 04-134 CA-H; SETTING FORTH A REVISED PROPOSAL FOR SETTLEMENT; PROVIDING FOR THE LENGTH OF SAID REVISED OFFER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Sanibel City Council adopted Resolution 05-010 on January 4, 2005, setting forth an offer of settlement in the above styled litigation; and

WHEREAS, the Lee Board of County Commissioners adopted Resolution 04-12-28 on December 21, 2004;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sanibel, Florida.

Section 1. The City Council hereby reaffirms its interest in immediately resolving the pending litigation between the City of Sanibel and Lee County, and acknowledges the Lee Board of County Commissioners interest in also immediately resolving such litigation.

Section 2. The Sanibel City Council is willing to enter into a stipulated settlement agreement with Lee County on Case No. 04-CA-134-H under the following circumstances:

- a.) The City of Sanibel will dismiss all of its claims and its lawsuit as named above with prejudice, along with any rights to appeal, with the City of Sanibel bearing its own costs.
- b.) The City of Sanibel will contribute its pro-rata share of the Surplus Sanibel Toll Revenues provided to it by the County under the terms of that certain 1987 Interlocal Agreement, as amended, for the sole purpose of reducing discount program fees and discount tolls for users of the Sanibel Causeway with a Sanibel option transponder.
- c.) The County agrees to utilize all other revenues generated by the Sanibel Causeway tolls exclusively for construction and

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maintenance of the Sanibel Causeway. Furthermore, any surplus revenues generated by the County's pro-rata share of the Surplus Toll Revenues will be utilized to reduce discount program fees, discount tolls, and tolls for users of the Sanibel Causeway.

- d.) Details for the above will be articulated in the Settlement Agreement between the Parties.

Section 3. This Proposal of Settlement is being offered from the date of the adoption of the Resolution by the Sanibel City Council, until Noon (12:00 p.m. EST), Tuesday, February 1, 2005, after which it will expire, and be of no further force or effect.

Section 4. Effective date. This resolution shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Lee County, Florida, this _____ day of _____, 2005.

AUTHENTICATION;

Mayor

City Clerk

APPROVED AS TO FORM:

City Attorney

Date

Vote of Council members:

- Harrity _____
- Walsh _____
- Brown _____
- Jennings _____
- Workman _____

Date filed with City Clerk: _____

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