

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

**Blue Sheet No. 20051000**

**1. ACTION REQUESTED/PURPOSE:** Conduct a Public Hearing and consider the adoption of an Ordinance amending Lee County Ordinance Nos. 88-11 and 96-24, relating to the commercial use of rights-of-way, allowing soliciting in the right-of-way for charitable contributions.

**2. WHAT ACTION ACCOMPLISHES:** Organized charities may apply for a permit to solicit charitable contributions within the County rights-of-way provided such charitable solicitations are conducted by sworn and/or certified law enforcement officers or firefighters, and meet all of the permit requirements of Administrative Code AC 8-1 and any other supplemental Administrative Code provisions hereinafter adopted.

**3. MANAGEMENT RECOMMENDATION:** Deny.

**4. Departmental Category:** 5:00 # 5 **5. Meeting Date:** 08-09-2005

<b>6. Agenda:</b> <input type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input checked="" type="checkbox"/> Public <input type="checkbox"/> Walk-On	<b>7. Requirement/Purpose: (specify)</b>		<b>8. Request Initiated:</b>	
	<input type="checkbox"/> Statute		<b>Commissioner</b>	
	<input checked="" type="checkbox"/> Ordinance	88-11, 96-24	<b>Department</b>	County Attorney
	<input type="checkbox"/> Admin. Code		<b>Division</b>	General Services
	<input type="checkbox"/> Other		<b>By:</b> <u>Andrea R. Fraser, Acting Chief</u> Assistant County Attorney	

**9. Background:**

On June 21, 2005, the Board of County Commissioners directed the County Attorney's Office to amend Lee County Ordinance Nos. 88-11 & 96-24, Commercial Use of Rights-of-Way, relating to prohibiting charitable solicitation.

**ATTACHMENTS:** Proposed Ordinance amending 88-11 & 96-24 Rights-of-Way  
Financial & Administrative Impacts Statement (FAIS)  
Notice of Intent

**10. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				<i>Andrea Fraser</i>	Analyst	Risk	Grants	Mgr.	
					<i>8/11/05</i>	<i>8/11/05</i>	<i>8/11/05</i>	<i>8/11/05</i>	<i>8/11/05</i>

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
COUNTY ADMIN: <i>7</i>
<i>7-19-05</i>
<i>10:30</i>
COUNTY ADMIN: <i>7</i>
FORWARDED TO: <i>7/21/05</i>
<i>9:30 AM</i>

CO. ATTY.
FORWARDED TO:
<i>Adrain</i>
<i>7-18-05</i>

LEE COUNTY ORDINANCE NO. \_\_

**AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NOS. 88-11 AND 96-24; RELATING TO THE COMMERCIAL USE OF RIGHTS-OF-WAY; AMENDING SECTION 3 OF THE LEE COUNTY COMMERCIAL USE OF RIGHTS-OF-WAY ORDINANCE PERTAINING TO CHARITABLE SOLICITATION OF FUNDS; AMENDING SECTION 5 OF LEE COUNTY ORDINANCE 92-29, BY INCORPORATING AN EXEMPTION FOR ORGANIZED CHARITIES TO OBTAIN PERMITS TO SOLICIT FOR CHARITABLE CONTRIBUTIONS WITHIN COUNTY RIGHTS-OF-WAY PROVIDED SUCH CHARITABLE SOLICITATIONS ARE CONDUCTED BY SWORN AND/OR CERTIFIED LAW ENFORCEMENT OFFICERS OF FIREFIGHTERS; PROVIDING FOR INTENT, SEVERABILITY, CONFLICT, PENALTY AND AN EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners desire to regulate the commercial use of the rights-of-way of all roads, streets and highways under its protection of public safety; and

WHEREAS, Lee County Ordinance 88-11, the Lee County Commercial Use of Rights-of-Way Ordinance, was amended by Lee County Ordinances 92-29 and 96-24; and

WHEREAS, permit exceptions allowing the solicitation of funds in County rights-of-way for limited purposes serves a public purpose while protecting the public's health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: The intent of this Ordinance is to amend Lee County Ordinance No. 88-11, as further amended by Lee County Ordinances No. 92-29 and 96-24, by authorizing the issuance of permits for charitable organizations soliciting in County rights-

of-way, provided such charitable solicitations are conducted by sworn and/or certified law enforcement officers/firefighters.

SECTION TWO: The Lee County Commercial Use of Rights-of-Way Ordinance, Ordinance No. 88-11, as amended, is hereby further amended as follows with underlined language being an addition to the previously adopted text and deleted and/or repealed language being shown by struck-through type.

SECTION THREE: Section Four of Lee County Ordinance No. 88-11, as amended, is further amended as follows:

COMMERCIAL USE OF RIGHTS-OF-WAY

It is unlawful to make any commercial use of the rights-of-way of any road, street, or highway within the County road system of Lee County. County-owned roads lying within the municipal boundaries of the City of Sanibel shall not be subject to the provisions of this Ordinance but shall be regulated by that municipality. Prohibited commercial use shall include but is not limited to:

- E. The solicitation of funds or donations for ~~charitable~~, educational, religious or political purposes; and

SECTION FOUR: Section Five of Lee County Ordinance No. 88-11, as amended, is hereby further amended by amending Section Five (A) as follows:

EXCEPTIONS:

The Commercial Use of the Rights-of-Way of any road, street or highway within the County road system is expressly prohibited, except that the Commercial Use as listed below may occur in the public rights-of-way, but only in compliance with the requirements and conditions set forth herein.

- A. County Permitted or Sponsored Special Events.

Any portions of a road, street, or highway, including the rights-of-way, within the County road system may be used for an art festival, parade, fair, or other similar special event which is either properly permitted by the County pursuant to Administrative Code AC-8-1, as may be amended, or under control of the County as a County sponsored function. The special events exception is not intended to apply to events for which the primary purpose is: solicitation of funds; or, solicitation for sale of goods, property, or services for charitable, educational, religious or political purposes. However, such activities may be permitted if they are clearly adjuncts of a properly permitted special event.

SECTION FIVE: Section Five of Lee County Ordinance No. 88-11, as amended, is hereby further amended by amending Section Five (G) as follows:

G. Annual Charitable Solicitation Drives conducted by sworn and/or certified law enforcement officers or firefighters.

Organized charities may apply for a permit to solicit charitable contributions within the County Rights-of-Way provided such charitable solicitations are conducted by sworn and/or certified law enforcement officers or firefighters, and meet all of the permit requirements of Administrative Code AC 8-1 and any other supplemental Administrative Code provisions hereinafter adopted.

SECTION SIX: PENALTY

Any person who violates this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted. Upon conviction, a violator shall be punished by a fine not to exceed \$500 or by imprisonment in the county jail not to exceed 60 days, or by both such fine and imprisonment. This enforcement procedure and penalty for violations of this

ordinance is adopted under the express authority of §125.69(1), Florida Statutes.

SECTION SEVEN: SEVERABILITY

The provisions of this Ordinance are severable and it is the legislative intention to confer upon the whole or any part of the ordinance the powers herein provided for. If any of the provisions of this ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of the ordinance. It is hereby declared to be the legislative intent that this ordinance would have been adopted had such unconstitutional provision not been included herein.

SECTION EIGHT: CONFLICTS OF LAW

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted Lee County ordinance or Florida Statute, the more restrictive will apply.

SECTION NINE: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Lee County Code; and that sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the County Administrator, or his designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of Circuit Court.

SECTION TEN: EFFECTIVE DATE

This ordinance shall take effect immediately upon receipt of official acknowledgment from the Secretary of State of Florida that it has been duly filed with that office.

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:

ROBERT P. JANES	_____
DOUGLAS R. ST. CERNY	_____
RAY JUDAH	_____
TAMMY HALL	_____
JOHN E. ALBION	_____

DULY PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

CHARLIE GREEN, CLERK  
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chair

LEE COUNTY ATTORNEY'S OFFICE  
APPROVED AS TO FORM:

By: \_\_\_\_\_  
County Attorney

**LEE COUNTY, FLORIDA**

**FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT**

**PROPOSED COUNTY ORDINANCE:**

**NAME OF ORDINANCE:** Amending Ordinance Nos. 88-11& 96-24  
Commercial Use of Rights-of-Way

A. Allowing annual charitable solicitation drives by sworn and/or certified Law Enforcement/Firefighters within the County Rights-of-Way.

B. Narrative Summary of Ordinance (Several Sentence Summary)

Certified Law Enforcement/Firefighters may apply for a permit to solicit for charitable organizations within the County Rights-of-Way.

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

Department of Transportation  
Public Resources

**LEE COUNTY, FLORIDA  
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT  
PROPOSED COUNTY ORDINANCE:**

**AMENDMENT REGARDING COMMERCIAL USES OF RIGHTS OF WAY**

II. Fiscal Impact on County Agencies/County Funds.

A. What is estimated Demand? (Develop Indicators)      N/A

B. What is estimated Workload? (Develop Indicators)      N/A

C. What are estimated costs?

	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:

1. What is the basis (rationale) for the fee?      N/A

2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered?

N/A

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

The amendment lifts the prohibition of charitable organizations soliciting for funds or donations on County rights of way as long as the solicitors are sworn and/or certified law enforcement/firefighters.



**LEE COUNTY**  
**NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE**

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on Tuesday, the 9th day of August, 2005, 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. 88-11 AND 96-24; RELATING TO THE COMMERCIAL USE OF RIGHTS-OF-WAY; AMENDING SECTION 3 OF THE LEE COUNTY COMMERCIAL USE OF RIGHTS-OF-WAY ORDINANCE PERTAINING TO CHARITABLE SOLICITATION OF FUNDS; AMENDING SECTION 5 OF LEE COUNTY ORDINANCE 92-29, BY INCORPORATING AN EXEMPTION FOR ORGANIZED CHARITIES TO OBTAIN PERMITS TO SOLICIT FOR CHARITABLE CONTRIBUTIONS WITHIN COUNTY RIGHTS-OF-WAY PROVIDED SUCH CHARITABLE SOLICITATIONS ARE CONDUCTED BY SWORN AND/OR CERTIFIED LAW ENFORCEMENT OFFICERS OF FIREFIGHTERS; PROVIDING FOR INTENT, SEVERABILITY, CONFLICT, PENALTY AND 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 Division of Public Resources. The Minutes Office is located on the second floor and Public Resources are located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. Public Resources is located on the first floor of the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida.

2. Interested parties may appear at the meeting in person or through a representative, 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. Generally, a verbatim record, including all testimony and evidence upon which the appeal is to be based, will be necessary.

4. The Ordinance, if adopted by the Board at this meeting, will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

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 pursuant to and in conformance with Section 125.66, Florida Statutes (2004).

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: Andrew B. Jensen  
Office of the County Attorney

Ad Size: 2x5

Publishing Date: August 1, 2005