

# WALK ON # 1

Lee County Board Of County Commissioners  
Agenda Item Summary

Blue Sheet No. 20070082

1. ACTION REQUESTED/PURPOSE: Direct the County Attorney regarding Lee County v. T. J. Properties, LLC, Lee County Code Enforcement Case No. 2006-1408.

2. WHAT ACTION ACCOMPLISHES: Provides required direction concerning a legal matter.

3. MANAGEMENT RECOMMENDATION: N/A

4. Departmental Category: 12 – County Attorney **WO 1** 5. Meeting Date: January 16, 2007

|   |  |   |  |  |                 |
|---|--|---|--|--|-----------------|
| 6. Agenda:                                  |  | 7. Requirement/Purpose: (specify)         |  | 8. Request Initiated:                                  |                 |
| <input type="checkbox"/> Consent            |  | <input type="checkbox"/> Statute          |  | Commissioner   |                 |
| <input type="checkbox"/> Administrative     |  | <input type="checkbox"/> Ordinance        |  | Department   | County Attorney |
| <input type="checkbox"/> Appeals            |  | <input type="checkbox"/> Admin. Code      |  | Division   | Litigation      |
| <input type="checkbox"/> Public             |  | <input checked="" type="checkbox"/> Other |  | By: John J. Renner, Chief<br>Assistant County Attorney |                 |
| <input checked="" type="checkbox"/> Walk-On |  |   |  |  |                 |

9. Background: At the Board Meeting of 1/9/07, the Board directed the County Attorney to bring this matter before the Board at the 1/16/07 Board Meeting for direction.

See attached for background information.

10. Review for Scheduling:

| Department Director | Purchasing or Contracts | Human Resources | Other | County Attorney    | Budget Services    |      |                   |                 | County Manager/P.W. Director |
|---------------------|-------------------------|-----------------|-------|--------------------|--------------------|------|-------------------|-----------------|------------------------------|
|                     |                         |                 |       |                    | Analyst            | Risk | Grants            | Mgr.            |                              |
|                     |                         |                 |       | <i>[Signature]</i> | Analyst<br>RK 1/12 |      | Grants<br>1/12/07 | Mgr.<br>1/12/07 | 1-12-07                      |

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

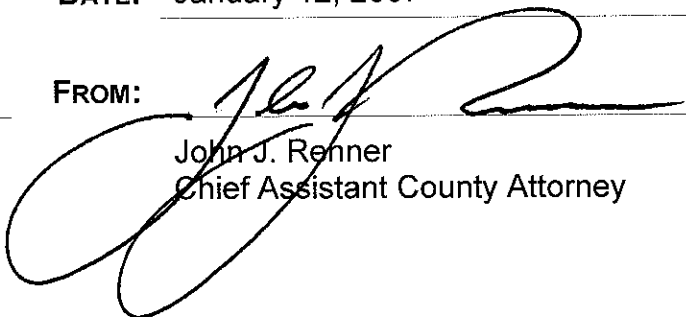
CL. ATTY.  
FORWARDED  
TO CO. ADMIN.  
1/12/07

|               |
|---------------|
| RECEIVED BY   |
| COUNTY ADMIN: |
| 1/12/07 12:30 |
| <i>mlp</i>    |
| COUNTY ADMIN  |
| FORWARDED TO: |
| 1/12/07 2:00  |
| <i>PR</i>     |

**MEMORANDUM  
FROM THE  
OFFICE OF COUNTY ATTORNEY**

**DATE:** January 12, 2007

**To:** Molly Schweers  
Public Resources

**FROM:**   
John J. Renner  
Chief Assistant County Attorney

**RE:** Bluesheet No. 20070082

---

Attached is the referenced Bluesheet which must be walked on for the January 16, 2007 Board meeting due to the specific request of the Board at the January 9, 2007 Board meeting.

JJR/wlw

attachment

---

## **BACKGROUND FOR BLUESHEET NO. 20070082**

TJ Properties, LLC ("TJ") owns property at 16651 Old U.S. 41 on which a recycling business, Waterford Metals, has been operated since early 2006. The property is zoned Light Industrial and the recycling business is being operated outside (not in an enclosed building) and does not have a Certificate of Occupancy. TJ was cited for violations of LDC section 6-111, adopting the Florida Building Code, as amended, section 110.1, certificate of occupancy and LDC sections 34-902, 903, 904, permitted uses - industrial. Code Enforcement Case No. 2006-1408 was filed before the Lee County Hearing Examiner.

A hearing was held on October 2, 2006 and Chief Hearing Examiner Diana M. Parker found the above violations and ordered TJ Properties, LLC to correct or abate the violation prior to December 27, 2006 or a fine of \$100 a day would be imposed.

On about November 17, 2006, Lee County requested a status conference and evidentiary hearing because of concerns regarding the efforts being made on by TJ to abate the violation as well as the conditions that continue to exist upon the subject property. A hearing on that motion was set for December 20, 2006.

On about December 19, 2006, TJ moved for an extension of time to abate the code violation stating that in an effort to abate the violation, TJ had retained counsel to work with Lee County staff to determine the manner in which to proceed to obtain necessary permits and approvals; that it was pursuing a lot split to separate the recycling facility property from the parent tract and seeking rezoning of the recycling facility property. TJ also requested that it be allowed to continue operation of the business, without fines, during the lot split and rezoning processes stating that it "will exercise utmost diligence and care in the operation." If the lot split and rezoning were to be determined to be inappropriate, TJ asked for an additional sixty days (without fines) to wind up and vacate its business. That motion was also heard on December 20, 2006.

On December 20, 2006, the Hearing Examiner heard testimony from Leigh Simmons, Environmental Specialist, Lee County Department of Natural Resources, Don Blackburn, Manager, Development Review, and Nettie Richardson, Principal Planner, both of Department of Community Development. The Hearing Examiner found that TJ's request for "an extension of time was meritorious and justified, given the length of time necessary to rezone the subject property to allow for the steel recycling facility." The Hearing found that TJ "will be pursuing a lot split, a rezoning

to the Industrial Planned Development district for the newly created parcel, and a Development Order allowing the continued use of the property for a steel recycling facility.”

The Hearing Examiner conditioned her order that TJ be given until March 21, 2007 to abate the violation, on the following requirements:

That [TJ] will not expand his recycling operation to include more than steel products during the pendency of the Code Enforcement and rezoning proceedings, so as to maintain the existing impacts on the surrounding area.

That the Respondent will provide the Code Enforcement Office with a detailed time line of the actions taken in regard to the lot split, rezoning and Development Order before the date listed below, which shall form the basis for or justify future extensions of time to abate the violation.