

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20070703

1. ACTION REQUESTED/PURPOSE: Adopt Resolution and approve the seventh extension of the Declaration of a State of Local Emergency and the prohibition of the use of open burning and other outdoor ignition sources.

2. FUNDING SOURCE: N/A

3. WHAT ACTION ACCOMPLISHES: Implements Lee County Ordinance 02-08, prohibiting the use of outdoor ignition sources and extends the State of Local Emergency for an additional seven (7) days.

4. MANAGEMENT RECOMMENDATION: Approve.

5. Departmental Category: 06

NO #2

6. Meeting Date: May 8, 2007

7. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

8. Requirement/Purpose: (specify)

- Statute
- Ordinance 02-08
- Admin. Code
- Other

9. Request Initiated:

Commissioner _____
 Department Public Safety
 Division _____
 By: Chris Hansen
 Deputy Director

10. Background:

On Tuesday, March 20, 2007, the Board approved Lee County Resolution No. 07-03-24 enacting the Declaration of the State of Local Emergency as per Lee County Ordinance No. 02-08, that prohibits outdoor burning and the use of other outdoor ignition sources during certain weather and vegetative conditions.

The Board approved extending the State of Local Emergency, by Resolutions, on the following dates:

Tuesday, March 27, 2007, Lee County Resolution No. 07-03-32; Tuesday, April 3, 2007, Lee County Resolution No. 07-04-09, (second extension); Tuesday, April 10, 2007, Lee County Resolution No. 07-04-16, (third extension); Tuesday, April 17, 2007, Lee County Resolution No. 07-04-23, (fourth extension); Tuesday, April 24, 2007, Lee County Resolution No. 07-04-43, (fifth extension); Tuesday, May 01, 2007, Lee County Resolution No. 07-05-20, (sixth extension); .

State of Local Emergencies are only effective for seven (7) days and must be extended in seven (7) day increments until rescinded. Conditions have not improved and it is recommended that the State of Local Emergency and burn prohibition be extended another seven (7) days.

(Continued to Page 2)

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>Andrea Fraser</i>				<i>Andrea Fraser</i>	Analyst	Risk	Grants	Mgr.	
					<i>DEH</i>	<i>MK</i>	<i>PK</i>	<i>RS</i>	<i>5-4-07</i>

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
 COUNTY ADMIN:
 5/4/07 @ 3:30
 mp.
 COUNTY ADMIN
 FORWARDED TO:
 5/4/07 @ 3:40
 TO PR

Blue Sheet No. 20070703
Walk-On May 8, 2007

10. Background (Continued):

On May 3, 2007, the Governor of the State of Florida executed Executive Order Number 07-86 (Exhibit "A"), declaring a State of Emergency due to the ongoing danger of wildfires and drought conditions that continue to threaten the State of Florida.

ATTACHMENTS:

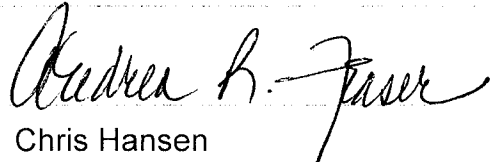
Resolution (seventh extension)
Exhibit "A" – Executive Order Number 07-86

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: May 4, 2007

To: Libby Walker, Director
Public Resources

FROM:



Chris Hansen
Deputy Director, Public Safety

(Signed by Andrea R. Fraser, Acting
Deputy County Attorney, to expedite)

RE: WALK-ON AGENDA ITEM
BOARD OF COUNTY COMMISSIONERS MEETING OF MAY 8, 2007
BLUE SHEET No. 20070703

Attached please find Blue Sheet No. 20070703, which I am requesting as a walk-on for the Tuesday, May 8, 2007, Board meeting. I am requesting it as a walk-on in order to extend the State of Local of Emergency and the Burn Ban Ordinance.

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

CH/awe

Attachment

LEE COUNTY RESOLUTION NO. 07-05-26

A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS EXTENDING THE DECLARATION OF A STATE OF LOCAL EMERGENCY AND THE ENACTMENT OF ORDINANCE 02-08 PROHIBITING THE USE OF OPEN BURNING AND THE USE OF OTHER OUTDOOR IGNITION SOURCES DURING EXTREME DROUGHT CONDITIONS.

WHEREAS, on March 20, 2007, the Board of County Commissioners adopted Lee County Resolution No. 07-03-24 declaring a State of Local Emergency and enacted the Lee County Ordinance No. 02-08 prohibiting the use of outdoor burning ignition sources; and

WHEREAS, on March 27, 2007, the Board of County Commissioners adopted Lee County Resolution No. 07-03-32 and extended the Declaration of a State of Local Emergency; and

WHEREAS, on April 3, 2007, the Board of County Commissioners adopted Lee County Resolution No. 07-04-09 and extended the Declaration of a State of Local Emergency for a second extension; and

WHEREAS, on April 10, 2007, the Board of County Commissioners adopted Lee County Resolution No. 07-04-16 and extended the Declaration of a State of Local Emergency for a third extension; and

WHEREAS, on April 17, 2007, the Board of County Commissioners adopted Lee County Resolution No. 07-04-23 and extended the Declaration of a State of Local Emergency for a fourth extension; and

WO#2
5-8-07

WHEREAS, on April 24, 2007, the Board of County Commissioners adopted Lee County Resolution No. 07-04-43 and extended the Declaration of a State of Local Emergency for a fifth extension; and

WHEREAS, on May 01, 2007, the Board of County Commissioners adopted Lee County Resolution No. 07-05-20 and extended the Declaration of a State of Local Emergency for a sixth extension; and

WHEREAS, the Board of County Commissioners finds that severe drought conditions continue to exist and extension of the declaration is necessary for the public's health, safety and welfare.

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

1. The Recitals as set forth above are incorporated into the terms of this Resolution as if set forth herein at length.
2. The current conditions described above pose a serious threat to the public's health, safety, and welfare.
3. A State of Local Emergency shall be declared, effective immediately for Lee County, Florida.
4. Lee County Ordinance 02-08, prohibiting the use of outdoor burning ignition sources, shall be applicable and effective immediately for all unincorporated and incorporated areas within the local boundaries of Lee County, Florida during the State of Local Emergency.

5. This declaration shall be limited to seven (7) days and may be extended, as necessary, in seven (7) day increments.

Commissioner Hall made a motion to adopt the foregoing Resolution, seconded by Commissioner Mann. The vote was as follows:

ROBERT P. JANES	<u>Aye</u>
BRIAN BIGELOW	<u>Aye</u>
RAY JUDAH	<u>Aye</u>
TAMMARA HALL	<u>Aye</u>
FRANK MANN	<u>Aye</u>

DULY PASSED AND ADOPTED THIS 8th day of May, 2007.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman



APPROVED AS TO FORM:

BY: [Signature]
Office of the County Attorney

EXHIBIT "A"

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 07-86

(Emergency Management/Wildfires)

WHEREAS, the State of Florida has continued to experience extreme dry weather conditions because precipitation statewide has been much lower than normal (according to the National Drought Mitigation Center, over 90 percent of Florida is experiencing drought conditions of varying degrees); and

WHEREAS, the Division of Forestry has advised the State Emergency Response Team that 15 new wildfires, covering 1,400 acres have broken out overnight; and

WHEREAS, on May 2, Flagler County had to evacuate 147 homes and closed State Road 40 due to a wildfire that has already consumed 2,000 acres of timberlands; and

WHEREAS, as of the date of this Executive Order, the Federal Emergency Management Agency has approved the State's Request for Fire Management Assistance Grant for wildfires in Flagler, Lake, and Volusia Counties; and

WHEREAS, dry weather conditions are forecast for the foreseeable future, and the danger of additional wildfires will increase dramatically over the next ninety days; and

WHEREAS, the fact that these conditions cover the entire State creates the added danger that many fires may start up at the same time in different parts of the State, taxing the capability of the Division of Forestry and local firefighting agencies to cope with them; and

WHEREAS, the Governor finds that lives and property statewide are now threatened by the imminent danger of wildfires that may start up at once in many different locations; and

WHEREAS, the Governor further finds that the Division of Forestry, the Florida National Guard, and other agencies responsible for fighting the wildfires stand in need of additional authority and firefighting resources to cope with this ongoing danger; and

NOW, THEREFORE, I, CHARLIE CRIST, 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, promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, I declare that the ongoing danger of wildfires and drought conditions continues to threaten the State of Florida with a major disaster, and that as a consequence of this danger a state of emergency exists in the State of Florida. I further find that to protect lives and property throughout the State it is necessary to give those agencies with operational responsibilities in fighting the wildfires the additional authority to cope with this danger, as well as additional firefighting resources.

Section 2. I designate the Director of the Division of Emergency Management as the State Coordinating Officer and delegate to the Division of Emergency Management the over-all authority to coordinate the assignment of firefighting support missions requested by the Division of Forestry. I place all aviation and other firefighting resources under the operational authority of the Division of Forestry while this Executive Order remains in effect, and I designate the Director of the Division of Forestry as Incident Commander for this emergency. All state, regional and local governmental agencies shall place any and all available resources under the direction of the State Coordinating Officer to support the Division of Forestry and other firefighting agencies in controlling the wildfires.

Section 3. In accordance with sections 252.36(1)(a) through section 252.36(8), Florida Statutes, I 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 (“EMAC”) and other compacts and agreements existing between the

State of Florida and other States, and the further authority to coordinate with the Division of Forestry 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 this emergency;
- E. The authority to stockpile and distribute any and all supplies needed to meet this emergency;
- F. The authority to suspend any statute, rule, ordinance, or order for the duration of this emergency to the extent that such statute, rule, ordinance, or order may be inconsistent with the timely performance of disaster response functions;
- G. The authority to suspend any statute or rule governing the conduct of state business, and the further authority to suspend any order or rule of any governmental entity, to include, without limiting the generality of the foregoing, any and all statutes and rules which affect budgeting, printing, purchasing, leasing, procurement, and the conditions of employment and the compensation of employees; provided, however, that the State Coordinating Officer shall have authority to suspend any statute, rule, or order only to the extent necessary to ensure the timely performance of vital emergency response functions;
- H. The authority to relieve any and all state agencies responsible for processing applications or petitions for any order, rule, or other final action subject to the Administrative Procedure Act, as amended, from the deadlines specified in that Act and in other applicable laws for the duration of this emergency, if the State Coordinating Officer finds that such deadlines cannot be met because of this emergency;
- I. 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;

- J. 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;
- K. The authority to order the evacuation of persons from their homes and workplace, the authority to direct the sequence in which such evacuations shall be carried out, the authority to regulate the movement of persons and traffic to, from, or within the affected counties to the extent needed to cope with this emergency, and the authority to regulate the return of the evacuees to their home communities;
- L. The authority to designate such Deputy State Coordinating Officers as the State Coordinating Officer may deem necessary to cope with the emergency; and
- M. The authority to enter such orders as may be needed to implement any or all of the foregoing powers.

Section 4. I order the Adjutant General to activate the Florida National Guard for the duration of this emergency, including such aviation and ground resources of the Florida National Guard as the Division of Forestry may designate for firefighting activities, and to maintain these resources in a state of immediate operational readiness. I order the Florida National Guard to coordinate the use of its aviation and ground resources with the Division of Forestry in performing firefighting support missions while this Executive Order remains in effect.

Section 5. I delegate to the Division of Forestry the operational authority to coordinate and direct such aviation and ground resources of any and all state, regional and local governmental agencies, including law enforcement agencies, as the Division may desig-

nate for firefighting activities, and I place all such aviation and ground resources under the operational authority of the Division of Forestry while this Executive Order remains in effect.

Section 6. The Florida National Guard, all other state agencies, and all regional and local agencies that propose to operate aircraft in the vicinity of ongoing wildfires will contact the local Field Unit of the Division of Forestry to receive the current Aviation Communications Plan or the current State Aviation Plan (“Plan”), as applicable. All such aircraft will adhere to the applicable Plan to ensure that the specified frequencies are monitored, and will follow all instructions of the Division of Forestry aircraft at the scene.

Section 7. I also find that the special duties and responsibilities resting upon some state, regional and local agencies and other governmental bodies in responding to the emergency may require them to deviate from the statutes, rules, ordinances, and orders they administer, and I give such agencies and other governmental bodies the authority to take formal action by emergency rule or order in accordance with sections 120.54(4) and 252.46(2), Florida Statutes, to the extent that such actions are needed to cope with this emergency. Without limiting the generality of the foregoing, I order the following:

A. I give all agencies whose employees are certified by the American Red Cross, as disaster service volunteers within the meaning of section 110.120(3), Florida Statutes, the authority to release any such employees for such service as requested by the American Red Cross as needed to meet the emergency;

B. At the request of the Director of Emergency Management of any county, I direct the Department of Health to take over the operation of all shelters in that county that are intended for use by displaced persons with special personal, medical or psychological

needs, and to station licensed medical professional and paraprofessional personnel at those shelters as needed to provide appropriate reception and care for such evacuees;

C. I give all agencies of the State, including the collegial bodies within those agencies, the authority to suspend the effect of any statute, rule, ordinance, or order of any state, regional, or local government 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, rules, ordinances, or orders which affect budgeting, leasing, printing, purchasing, travel and the condition of employment and the compensation of employees, but any statute, rule, ordinance, or order *shall be suspended only to the extent necessary to ensure the timely performance of disaster response functions as prescribed in the State Comprehensive Emergency Plan (CEMP), or as directed by the State Coordinating Officer; however, any waiver of statutes, rules, or ordinances governing travel shall expire in fourteen (14) days from the date of this Executive Order unless extended (in increments of no more than fourteen days) by the agency;*

D. I give all agencies of the State responsible for the use of state buildings and facilities the authority to close such buildings and facilities in those portions of the State affected by this emergency, to the extent needed to meet this emergency; and

E. I give all agencies of the State, including the collegial bodies within those agencies, the authority to abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such application are deemed to be approved unless disapproved in writing by specified deadlines, and all such time requirements that have not yet expired as

of the date of this Executive Order are suspended and tolled to the extent needed to meet this emergency.

Section 8. I direct the Department of Transportation to issue temporary permits and to take such other and further action as may be necessary to relieve commercial vehicles transporting harvested burnt timber and emergency equipment and supplies from the normal restrictions on the weight, height, length, and width restrictions for such vehicles. In any event, the weight, height, length, and width for any such commercial vehicle on roadways maintained by the State of Florida shall not exceed the following:

- A. The maximum Gross Vehicle Weight for vehicles equipped with five (5) weight-bearing axles with outer bridge spans of not less than forty (40) feet, but less than fifty-one (51) feet, shall not exceed ninety thousand (90,000) pounds.
- B. The maximum Gross Vehicle Weight for vehicles equipped with five (5) weight-bearing axles with outer bridge spans of not less than fifty-one (51) feet shall not exceed ninety-five thousand (95,000) pounds.
- C. The maximum Gross Vehicle Weight for vehicles equipped with four (4) weight-bearing axles with outer bridge spans of not less than forty-three (43) feet shall not exceed eighty thousand (80,000) pounds.
- D. The total length for any vehicle identified above shall not exceed eighty (80) feet.
- E. The total width for any vehicle identified above shall not exceed eight (8) feet, six (6) inches.

- F. The total height for any vehicle identified above shall not exceed thirteen (13) feet, six (6) inches.
- G. The total maximum Gross Vehicle Weight for straight trucks shall not exceed eighty thousand (80,000) pounds.
- H. The total maximum gross weight of any axle shall not exceed twenty-seven thousand five hundred (27,500) pounds and the total maximum gross weight of any tandem axle shall not exceed fifty-five thousand (55,000) pounds and the maximum weight of any tri-axle shall not exceed seventy thousand (70,000) pounds.

Commercial vehicles allowed to operate outside the normal restrictions for such vehicles under the authority of this Executive Order shall be issued permits by the Department of Transportation, and such vehicles shall be subject to such special conditions as the Department may endorse on any such permits. Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, nor shall anything in this Executive Order be construed to relieve any vehicle or the carrier, owner, or driver of any vehicle from compliance with any restrictions other than those specified in this Executive Order, or from any statute, rule, order or other legal requirement not specifically waived herein.

Section 9. I find that the demands placed upon 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 direct the transfer of sufficient funds from any unappropriated surplus or from the

Budget Stabilization Fund. As directed by the State Coordinating Officer, agencies of the State and local agencies receiving these funds shall timely seek reimbursement for the State as provided under section 252.929, Florida Statutes, the EMAC, and other compacts or agreements, and laws.

Section 10. Any state agency that enters an emergency final order or takes other final actions based on the existence of this emergency shall advise and provide a copy of the final order or action to the State Coordinating Officer as soon as practicable, but in no event later than the expiration of sixty (60) days from the date of this Executive Order.

Section 11. This Executive Order shall be deemed to have taken effect on May 3, 2007, and all actions taken by the Director of the Division of Emergency Management with respect to this emergency before the issuance of this Executive Order are ratified. This Executive Order shall expire sixty (60) days from this date 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 3rd day of May, 2007:

GOVERNOR

ATTEST:

SECRETARY OF STATE