

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

Blue Sheet No. 20031373

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct public hearing to approve, by Ordinance and Resolution, Toll Structure Revisions for Variable Pricing for three-plus axle vehicles and for integration with the State of Florida SunPass System.

WHY ACTION IS NECESSARY: Revisions to Lee County Toll Rates require a public hearing.

WHAT ACTION ACCOMPLISHES: Adopts Ordinance and Resolution implementing Toll Rates and allows for the integration of Florida SunPass System.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # CW

5:00 #4

3. MEETING DATE:

11-25-2003

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION General Services
- BY: Andrea R. Fraser
Assistant County Attorney

7. BACKGROUND:

Lee County has been pursuing the expansion of the existing variable pricing program, which currently is limited to two axle vehicles to vehicles with three or more axles. This expansion is contemplated under a Value Pricing Grant obtained from FHWA to finance the implementation of the program and study the potential for improved traffic flow. Lee County has also been pursuing the ability to become interoperable with the State of Florida Electronic Toll Collection (ETC) System, SunPass.

To accomplish these objectives, it is necessary for the Ordinance and Resolution governing toll collection in the County to be modified to allow reduced tolls during variable pricing times for three or more axle vehicles, and to allow toll collection using SunPass ETC equipment.

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>Andrea Fraser</i>	<i>OA</i>	<i>OM</i>	<i>RISK</i>	<i>GC</i>	<i>11-13-03</i>
					<i>11/13/03</i>	<i>11/13</i>	<i>11/13</i>	<i>11/13</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY COUNTY ADMIN: <i>RK</i>
<i>11/13/03</i>
COUNTY ADMIN FORWARDED TO:
<i>11/13/03</i>

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE AMENDING AND RESTATING LEE COUNTY ORDINANCE NO. 90-25, AS AMENDED, PROMULGATING, APPROVING AND ADOPTING RULES AND REGULATIONS RELATING TO THE CONDUCT AND USE OF ALL PERSONS AND ANY ACTIVITY RELATING TO THE SANIBEL CAUSEWAY FACILITY, THE CAPE CORAL TOLL FACILITY AND THE MIDPOINT MEMORIAL BRIDGE TOLL FACILITY; PROVIDING FOR ORDINANCE CONSTRUCTION; PENALTIES; CIVIL REMEDIES; REPEALER; CONFLICTS; INCLUSION IN CODE, CODIFICATION; SCRIVENERS' ERRORS; SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County is the governing body in and for Lee County, Florida; and

WHEREAS, Section 1, Chapter 69-234, LAWS OF FLORIDA, provides that in accordance with the provisions of Article VIII, Section 1, of the Florida Constitution, counties shall have powers of local self-governmental, corporate and proprietary powers to enable them to conduct county government, perform county functions and render county services, and may exercise any such powers for county purposes for health, safety or welfare of its citizens not inconsistent with general or special law; and

WHEREAS, Rules and Regulations for the Sanibel Causeway, Midpoint Memorial and Cape Coral Toll Facilities are necessary and essential to the health, welfare and general well-being of the citizens and tourists in Lee County, Florida.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Lee County,

Florida, that

SECTION ONE: ADOPTION

Lee County Rules and Regulations for the Sanibel Causeway and Cape Coral Toll Facilities are attached hereto marked "Appendix A", and are hereby approved, adopted and promulgated and made a part hereof by reference and incorporated herein and shall apply to the Midpoint Memorial, Sanibel Causeway and Cape Coral Toll Facility in Lee County, its lands and uses.

SECTION TWO: ORDINANCE CONSTRUCTION

In construing this Ordinance and each and every work, phrase, or part hereof, where the context will permit, the singular includes the plural and vice versa, the masculine includes the feminine and neuter and vice versa, and the word "person" includes, but not by way of limitation, individuals, children, firms, associations, joint ventures, partnerships, estates trusts, business trusts, syndicates, fiduciaries, or combinations. It is not the intent of this Ordinance and the adopted Rules and Regulations to prohibit or restrict Lee County and its authorized employees and agents from taking all actions necessary to manage, operate, administer or repair said facility.

SECTION THREE: PENALTIES

Any person convicted of a violation of any of the provisions of this Ordinance and its adopted Rules and Regulations shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the County Jail for a period not to exceed sixty (60) days or by both such fine and imprisonment. Each day or fraction thereof that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable according to law.

SECTION FOUR: CIVIL REMEDIES

1. A person may not use any toll facility without payment of tolls, except as provided in Section 338.155, Florida Statutes, for any County Resolution. Failure to pay a

prescribed toll is a noncriminal traffic infraction, punishable as a moving violation under Chapter 318, Florida Statutes.

2. a) The Board of County Commissioners authorizes a Toll Enforcement Officer to issue a uniform traffic citation for a violation of this Ordinance. Toll Enforcement Officer means the designee of Lee County whose sole authority is to enforce the payment of tolls. Lee County designates Toll Enforcement Officers pursuant to Section 316.640(1), Florida Statutes.
- b) A citation issued under this subsection may be issued by mailing the citation by first class mail or certified mail, to the address of the registered owner or driver of the motor vehicle involved in the violation. A citation issued under this paragraph must be mailed to the registered owner or driver of the motor vehicle involved in the violation within fourteen (14) days after the date of the violation. In addition to the citation, notification must be sent to the registered owner of the motor vehicle involved in the violation specifying the remedy available under Subsection ©).
- c) The owner of the motor vehicle involved in the violation is responsible and liable for payment of a citation issued for failure to pay a toll, unless the owner can establish the motor vehicle was, at the time of the violation, in the care custody or control of another person. In order to establish such facts, the owner of the motor vehicle is required within fourteen (14) days after notification of the alleged violation, to furnish to Lee County an affidavit setting forth:
 1. The name, address, and, if known, the driver's license number of the

person who leased, rented, or otherwise had the care, custody, or control of the motor vehicle at the time of the alleged violation; or

2. If stolen, the police report indicating that the vehicle was stolen at the time of the alleged violation.

Upon receipt of an affidavit the person designated as having care custody and control of the motor vehicle at the time of the violation may be issued a citation for failure to pay a required toll. The affidavit shall be admissible in a proceeding pursuant to this Section for the purpose of providing that the person identified in the affidavit was in actual care, custody or control of the motor vehicle.

- d) A written report of a Toll Enforcement Officer or photographic evidence that indicates that a required toll was not paid is admissible in any proceeding to enforce this Section and raises a rebuttable presumption that the motor vehicle named in the report or shown in the photographic evidence was used in violation of this section.

- (3) The submission of a false affidavit is a misdemeanor of the second degree.
- (4) Lee County may supply the Department of Motor Vehicles with data that is machine readable by the department's computer system, listing persons who have one or more outstanding violations of this section. Pursuant to Section 320.03(8), Florida Statutes, those persons may not be issued a license plate or re-validation sticker for any motor vehicle.
- (5) Any person cited for a violation of Section 316.1001, Florida Statutes, may elect to pay the fine of One Hundred Dollars (\$100.00) directly to the governmental entity

(Leeway Service Center) that issued the citation, within thirty (30) days after the date the citation was issued. In such case the citation in question will be voided and nothing will be filed with the courts resulting in no court record of the incident. Any person cited for Section 316.1001, Florida Statutes, who does not elect to pay the fine directly to the Leeway Service Center as described in this Section shall have forty-five (45) days after the date the citation was issued to pay Lee County Clerk of Courts the civil penalty of One Hundred Twenty-Nine Dollars (\$129.00) and any delinquent fees. Failure to pay this citation forty-five (45) days from the time the citation was written will result in driver's license suspension.

- (6) Subsections (2)-(4) supplement the enforcement of this Section by law enforcement officers and this Section does not prohibit a law enforcement officer from issuing a citation for a violation of this Section in accordance with normal traffic enforcement techniques.

SECTION FIVE: **CONFLICT/REPEALER**

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 shall apply. Lee County Ordinance Nos. 90-25, 91-33, 92-21, and 97-19 are hereby expressly repealed.

SECTION SIX: **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 this Ordinance. It is hereby

declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provisions not been included therein.

SECTION SEVEN: **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 re-lettered 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 re-lettered and typographical errors which do not affect the intent may be authorized by the County Manager or the County Manager's designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of Circuit Court.

SECTION EIGHT: **EFFECTIVE DATE**

This Ordinance shall become effective upon receipt of official acknowledgment from the Secretary of State that the Ordinance 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:

BOB JANES _____
DOUGLAS ST. CERNY _____
RAY JUDAH _____
ANDREW COY _____
JOHN ALBION _____

DULY PASSED AND ADOPTED this ____ day of _____, 20__.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

APPENDIX A

RULES AND REGULATIONS OF THE MIDPOINT MEMORIAL,
SANIBEL CAUSEWAY AND CAPE CORAL TOLL FACILITIES
OF
LEE COUNTY, FLORIDA

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SECTION I DEFINITIONS

Unless specifically defined otherwise herein, or unless a different meaning is apparent from the context, the terms used in these Rules and Regulations shall have the following meanings.

- 1.00 County – shall mean the Board of County Commissioners of Lee County, Florida, or its designee.
- 1.01 Person – shall include, but not by way of limitation, individuals, children, firms, associations, joint adventures partnerships, corporations and all other groups or combinations. Lee County and its authorized employees and agents are not defined herein when such actions or functions are taken for the operation and management of the “Facility”.
- 1.02 A) Sanibel Causeway Toll Facility – shall mean and include all toll booths located on, or abutting the Causeway facility, and the bridge, parking areas, road and the lands, parks and beaches abutting the Causeway facility under the jurisdiction, control and administration of Lee County from 600 feet east of the toll booth on McGregor Boulevard

to the city limits of Sanibel, Florida.

B) Cape Coral Toll Facility – shall mean and include all toll booths located on, or abutting the Causeway facility, and the bridge, parking areas, road and the lands abutting the Causeway facility under the jurisdiction, control and administration of Lee County from that portion of the toll facility which begins with the employee parking area to the east of the booth area and administration building extending west over both parallel bridges into Cape Coral ending approximately 100 feet to the east of Harbor South Condominium at an imaginary North-South boundary.

C) Midpoint Memorial Bridge Toll Facility – shall mean and include all toll booths located on, or abutting the Causeway facility, and the bridge, parking areas, road and the lands abutting the Causeway facility under the jurisdiction, control and administration of Lee County from 2,500 feet east of the river to Junction SE 17th Place on the Cape Coral side.

D) LeeWay Service Center Facility – shall mean and include the building and parking areas at 1366 Colonial Boulevard and any future satellite locations throughout Lee County which are clearly identified and marked as a LeeWay Service Center Facility.

- 1.03 Vehicle – Any conveyance used on the ground to transport persons, cargo or equipment.
- 1.04 Toll – shall mean any full monetary requirement for passage regardless of vehicle class or type of AVI device issued. The toll is to be satisfied using US currency, a valid AVI device issued at full face value by the LeeWay Service Center personnel or by another agency with which the County has entered into an agreement to issue such devices and/or an agency with which the County has entered into an agreement to honor that agency's AVI devices for payment, or an AVI device issued by the County or authorized agency with the appropriate payment per passage.
- 1.05 Purchased Toll Discount Program – shall mean any reduced toll rate granted due to payment of a fee to receive such reduced toll rate.
- 1.06 Automatic Vehicle Identification (AVI) Device – shall mean and include Transponders, an electronic device mounted on the vehicle that transmits a radio frequency message that identifies the owner of the vehicle, type of account and correct toll, or any other method instituted by the County, including the use of stickers or bar codes.
- 1.07 LeeWay User Agreement – A signed contract binding the user to all current and future rules, regulations and fees relating to the use of the various toll facilities located in Lee County.

SECTION II GENERAL REGULATIONS

2.01 Solicitation

No person shall solicit for any purpose at any toll facility without first obtaining written permission from the County.

2.02 Advertising, Display and Commercial Activities

It shall be unlawful for any person to advertise, or display any form of printed or written material or signs, or conduct any commercial activities at any toll facility, except for limited special promotions held by the LeeWay Program.

2.03 Sales or Concessions

It shall be unlawful for any person to rent space, peddle, sell goods or wares, novelties or equipment, or operate any sales or concessions located at any toll facility.

2.04 Vandalism and Damage to Toll Facility Property

No person shall willfully damage or maliciously destroy, injure, deface or disturb in any way, property of any nature, to include vegetation, located at any toll facility, nor alter, make additions to, erect any building structure or sign, make any excavations, willfully abandon any personal property on a facility. Any person causing, or being responsible for, any injury, destruction, damage or disturbance shall be required to report same to the County and upon demand, shall reimburse the County for the full amount of such damage.

2.05 Boat Trailers

Boat trailers shall be permitted to cross all toll facilities for traffic purposes. The facilities shall not be used by any person as a launching place for any trailered or untrailered boat. The Sanibel Causeway shall not be used by any person as a launching place for any trailered or untrailered boat or personal watercraft except at the designated boat ramp launching sites located at each end of the Facility. Any person having non-motorized floating recreational equipment that is capable of being transported by personal vehicle and not requiring a trailer function may use each facility, as long as all vehicle use complies with Section 5.00 hereof.

2.06 Vessels/Recreational Uses

All boats and vessels shall comply with the Lee County Vessel Control and Water Safety Ordinance, as amended. Such provisions include, but are not limited to, idle speed regulations adjacent to the toll facility. A boat may be temporarily docked at the Sanibel Causeway Toll Facility provided the operator complies with the applicable water vessel regulations.

2.07 Classes of Instructions

- (a) Wind surfing classes will be limited to restricted areas, designated by signs, and will be ruled by the amount of parking spaces designated in the restricted area.
- (b) Recreational use classes requiring instructional will only be permitted in areas designated by signs.

2.08 Operating Procedures, Emergency Procedures and Directives

- (a) Written operating procedures issued by the County from time to time shall be considered as addenda to these rules and regulations.
- (b) When an emergency exists at or on a Facility, the County Manager or designee shall be empowered to take action which within his or her discretion and judgment is necessary or desirable to protect the health, welfare and safety of persons and property and to facilitate the operation of the Facility.
- (c) During such an emergency, the County Manager or designee may suspend these rules and regulations, or any part thereof, at his or her discretion and judgment and he may in addition issue such oral orders, rules and regulations as may be necessary.
- (d) The County shall at all times have authority to take such reasonable action as may be necessary for the proper handling of the conduct and management of the Facilities.

SECTION III PERSONAL CONDUCT

- 3.01 The public shall observe and obey all posted signs, fence barriers or barricades prohibiting entry upon restricted areas, if any
- 3.02 No person shall dispose of or discard any garbage, paper, refuse, or other forms of trash on a Facility, except in receptacles provided for such purposes.
- 3.03 No person shall sell, serve, permit to be sold or served, or consume any alcoholic beverages of any kind while on a Facility. In addition, any other local, state or federal rules and regulations concerning alcoholic beverages shall be strictly complied with.
- 3.04 Payment of Toll

Passing through a toll booth on the facility without paying the required toll shall be prohibited unless exempted under this Ordinance, Florida Law, or a Resolution adopted by the Board of County Commissioners. This requirement does not apply to vehicles heading

in an easterly direction from Sanibel Island.

3.05 AVI Devices

Passage will be allowed with possession of a current valid AVI device properly affixed to the vehicle in the appropriate location as instructed so as to facilitate the proper functioning of the AVI device. AVI devices associated with a Lee County toll discount program must be permanently affixed to the vehicle. AVI devices must be intact, and whole as sold, or issued when applied to the vehicle. Any attempt to duplicate, or modify an AVI device will be viewed as an attempt to defraud the County of the established toll rates and will be considered in flagrant violation of this Ordinance. Temporarily transferring an AVI device associated with a toll discount program, to another vehicle or temporarily affixing an AVI device associated with a toll discount program to a vehicle will be viewed as an attempt to defraud the County of the established toll rates and will be considered in flagrant violation of this ordinance. If the vehicle class and AVI device dictates that a toll payment is necessary this requirement must be fully satisfied.

SECTION IV PERMITS REQUIRED

4.01 While it is the County's intent to encourage the use of natural beaches for outdoor recreation rather than Causeway facilities, the County does not wish to prohibit use by the public of said facility. However, to orderly manage this facility, organized and scheduled events, whether private or public, shall only use this facility upon receiving written permission from the Lee County Department of Public Works, and upon providing the following:

- (a) Adequate liability insurance coverage.
- (b) Cash bonds for maintenance and cleaning of the permitted area.
- (c) The payment of a fee as established in the Lee County External fees and Charges Manual.
- (d) Compliance with the Adopted facility Rules and Regulations.

4.02 Picketing, Marching and Demonstration

No person may walk in a picket line as a picket or take part in a labor or other demonstration on any part of the facilities, except in or at the place specifically assigned by the County for such picketing or other permitted demonstration. Any such picketing shall be conducted in a peaceful and orderly manner contemplated by law, without physical harm, molestation, threat, or harassment of persons, obscenities, violence, breach of the peace, or other unlawful conduct. Such picketing shall also be without obstructing the use of the facility by others, without hindrance to or interference with the proper, safe, order, and efficient operation of

the facility and the activities conducted thereupon. Such picketing shall be conducted pursuant to conditions outlined in writing by the County in each instance.

SECTION V VEHICLES

5.01 All persons shall comply with applicable ordinances, codes, rules and regulations, inclusive of, but not limited to, Section 316, Florida Statutes, the Florida Uniform Traffic Control Law which are hereby adopted by reference as an aid to make uniform traffic laws apply throughout the County and County-owned property.

5.02 The following categories of traffic are prohibited from using the facilities:

- (a) Pedestrians are prohibited through the toll booths or within 10' of the traveled portion of the roadway (except to cross) or on the bridges. Hitchhiking is prohibited.
- (b) Any and all pedestrian traffic is prohibited from the facility at all times.
- (c) Horses, or any persons riding horseback.
- (d) Non-motorized vehicles, except for two-wheel bicycles or persons riding two wheeled bicycles may use the facilities at any time so long as when passing through the facility as provided herein, the operator shall comply with all of the duties of operation as required by Florida Statutes, Chapter 316, as in existence or as may be amended from time to time.
- (e) Motorized bicycles or mopeds when they are not licensed by the Department of Motor Vehicles.
- (f) Any all terrain vehicle, or all terrain cycle designed and constructed for off road use and not licensed as a motor vehicle, is prohibited from using any facility.

5.03 All persons owning or operating vehicles upon the facilities, when passing through any toll located upon said facilities shall be required to pay a toll unless exemption is provided under this Ordinance or its Rules and Regulations or by Resolution of the County. Said toll is determined by Vehicle Class and said rates shall be accordance with Section VI herein.

5.04 Persons operating vehicles will only be allowed to use parking areas designated by signs.

5.05 Designated Emergency Lane

The extreme right lane serving eastbound traffic on the Cape Coral Toll Bridge Facility, and the extreme right lane serving both directions of traffic on the Midpoint Memorial Toll Bridge Facility, are hereby designated as emergency lanes. Stopping, standing, and/or parking unless in an emergency situation is strictly prohibited. Any motorist using the emergency lane is to remain with his/her disabled vehicle until emergency service personnel

arrive on the scene.

5.06 Unauthorized Use of AVI Device Prohibited

AVI devices are for the purpose of crossing toll bridge facilities within the County road system of Lee County or any other public purpose deemed necessary by the Board of County Commissioners. Prohibited uses of an AVI device shall include the following activities:

- (a) Transferring an AVI device associated with a toll discount program to another vehicle, other than an authorized transfer approved by the County. Use of an AVI device associated with a toll discount program without its being permanently affixed to a vehicle. Use of an AVI device without its being properly affixed to a vehicle in a manner to facilitate its proper functioning.
- (b) Failure to return an AVI device upon termination for any reason of the LeeWay User Agreement.
- (c) Use of an AVI device issued by an authorized agency when the authorized agency has terminated the agreement or program associated with the AVI device.
- (d) An AVI device issued by Lee County may not be privately sold except by authorized agencies.
- (e) Altering or tampering with an AVI device so as to allow it to be used in any way different than its original intended use, including, but not limited to allowing crossing of a toll bridge facility without full payment.

SECTION VI RATE STRUCTURE

6.01 Rates for the payment of tolls shall be determined by Resolution by the Board of County Commissioners of Lee County and said Resolution shall be kept on file with the Clerk to the Board of County Commissioners in the Minutes Department located at the Lee County Courthouse, Fort Myers, Florida. Said Resolution relating to rates may be officially amended from time to time by the Board of County Commissioners of Lee County in public hearing. The rates heretofore set by Resolutions No. 90-09-26, 90-09-27, 94-08-05, 96-12-105, 97-09-53 are hereby further confirmed subject to amendment, by formal Resolution of the Board.

LEE COUNTY RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA; AMENDING LEE COUNTY RESOLUTIONS NOS. 90-09-26, 90-09-27, 94-08-05, 96-12-105, 97-09-53, AND 01-06-58 RELATING TO THE CAPE CORAL, MIDPOINT MEMORIAL AND SANIBEL TOLL FACILITIES; PROVIDING FOR THE EXPANSION OF THE VARIABLE PRICING PROGRAM TO VEHICLES WITH THREE OR MORE AXLES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 16, 1986, the Board of County Commissioners of Lee County, Florida (the "Board"), enacted Lee County Ordinance No. 86-11, providing for the imposition of tolls on certain bridges and causeways and for the issuance of revenue bonds payable therefrom; and,

WHEREAS, the Board has previously adopted Lee County Resolutions Nos. 90-09-26, 90-09-27 and 94-08-05, which established the toll rates and commuter discount programs for the Sanibel Bridge and the Cape Coral Bridge; and,

WHEREAS, the Board, on December 18, 1996, adopted Lee County Resolution No. 96-12-105 which sets forth reduced rates for each one-way trip on the Cape Coral Bridge and the Midpoint Memorial Bridge during off-peak hours when using the automatic vehicle identification system (AVI System) for the duration of the congestion pricing program; and,

WHEREAS, the existing Cape Coral Bridge and the new Midpoint Memorial Bridge were established to function in concert to serve a common transportation corridor between the east and west banks of the Caloosahatchee River (collectively, the "Corridor"); and,

WHEREAS, on September 23, 1997, the Board adopted Lee County Resolution No. 97-

09-53 extending the term for the use of decals for the discount program; and,

WHEREAS, on June 26, 2001, the Board amended the Toll Facilities' Resolutions to discontinue the "coin drop" portion of the Annual Discount Program; and,

WHEREAS, the Board now finds it convenient and appropriate to further amend the Toll Facilities' Resolutions to allow vehicles with three or more axles to participate in the County's Value Pricing Program to better serve the public and increase the efficiency of the operations of the commuter discount programs.

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

Lee County Resolutions Nos. 90-09-26, 90-09-27, 94-08-05, 96-12-105, 97-09-53 and 01-06-58 are hereby amended with additional language being indicated by underlining and deleted language indicated by ~~strike-through~~ type, as follows:

SECTION ONE

Imposition of Tolls. Commencing on November 1, 1997, the following tolls shall be imposed for use of the Bridges.

a. Except as otherwise provided herein, a toll for each one-way trip on the Cape Coral and Midpoint Memorial Bridges shall be paid in accordance with the schedule set forth below.

<u>Vehicle Class</u>	<u>Toll</u>
Motorcycles	\$.50
2 axles, 4 tires	1.00
2 axles, 6 tires	1.00
3 axles	2.00
4 axles	3.00
5 axles	4.00

6 or more axles

1.00 per axle

b. The following commuter discount programs utilizing an AVI device will be available for 2-axle, 4-tire vehicles or 2-axle, 6-tire vehicles only:

i. An annual discount program utilizing an AVI device may be purchased at a cost of \$40.00 per vehicle or \$20.00 for the second, fourth, sixth, etc. non-commercial vehicle registered to or leased by the same natural person, which when properly installed will entitle such vehicle to use the Cape Coral and Midpoint Memorial Bridges for a period of twelve months commencing on November 1, upon payment of \$0.50 toll to be deducted from a prepaid debit account for each one-way trip across the Bridges.

ii. A semi-annual discount program utilizing an AVI device may be purchased at a cost of \$24.00 per vehicle or \$12.00 for the second, fourth, sixth, etc. non-commercial vehicle registered to or leased by the same natural person, which when properly installed will entitle such vehicle to use the Cape Coral and Midpoint Memorial Bridges for a period of six months commencing on November 1, or May 1, upon payment of a \$0.50 toll to be deducted from a prepaid debit account for each one-way trip across the Bridges.

iii. An annual discount program utilizing an AVI device may be purchased at a cost of \$330.00 per vehicle or \$165.00 for the second, fourth, sixth, etc. non-commercial vehicle registered to or leased by the same natural person, which when properly installed will entitle such vehicle to use the Cape Coral and Midpoint Memorial Bridges for a period of twelve months commencing on November 1, without further payment. Prorated annual commuter programs will be sold per the following schedule:

<u>Validity Period</u>	<u>Price</u>	<u>Half-Price</u>
December 1 – April 30	\$168.00	\$84.00
January 1 – April 30	136.00	68.00
February 1 – April 30	104.00	52.00
March 1 – April 30	72.00	36.00
June 1 – October 31	\$168.00	\$84.00
July 1 – October 31	136.00	68.00
August 1 – October 31	104.00	52.00
September 1 – October 31	72.00	36.00

c. Combination commuter discount programs utilizing an AVI device for use on the Cape Coral, Midpoint Memorial and Sanibel Toll Facilities will be available for 2-axle, 4-wheel vehicles or 2-axle, 6-wheel vehicles only:

i. Annual combination discount programs utilizing an AVI device may be purchased at a cost of \$50.00 per vehicle or \$25.00 for the second, fourth, sixth, etc. non-commercial vehicles registered to or leased by the same natural person, which when properly installed will entitle such vehicle to use the Cape Coral, Midpoint Memorial and Sanibel Toll facilities for a period of twelve months commencing on November 1, upon the payment of a \$0.50 toll deducted from a prepaid debit account at the Cape Coral, Midpoint Memorial and Sanibel Toll Facilities.

ii. Semi-annual combination discount programs utilizing an AVI device may be purchased at a cost of \$30.00 per vehicle or \$15.00 for the second, fourth, sixth, etc. non-commercial vehicles registered to or leased by the same natural person, which when properly installed will entitle such vehicle to use the Cape Coral, Midpoint Memorial and Sanibel Toll Facilities for a period of six months commencing on November 1 or May 1 upon payment of a \$0.50 toll deducted from a prepaid debit account at the Cape Coral, Midpoint Memorial and Sanibel Toll Facilities.

iii. Annual combination discount programs utilizing an AVI device may be purchased at a cost of \$380.00 per vehicle or \$190.00 for the second, fourth, sixth, etc. non-commercial vehicle registered to or leased by the same natural person, which when properly installed, will entitle such vehicle to use the Cape Coral, Midpoint Memorial and the Sanibel Toll Facilities for a period of twelve months commencing on November 1, without further payment.

Prorated annual combination commuter programs will be sold per the following schedule:

<u>Validity Period</u>	<u>Price</u>	<u>Half-Price</u>
December 1 – October 31	\$355.00	\$178.00
January 1 – October 31	330.00	165.00
February 1 – October 31	304.00	152.00
March 1 – October 31	279.00	140.00
April 1 – October 31	253.00	127.00

iv. Semi-annual combination discount programs may be purchased at a cost of \$230.00 per vehicle or \$115.00 for the second, fourth, sixth, etc. non-commercial vehicle registered to or leased by the same natural person, which when the AVI device is properly installed will entitle such vehicle to use the Cape Coral, Midpoint Memorial and Sanibel Toll Facilities for a period of six months commencing on November 1 and May 1, without further payment. Prorated semi-annual combination commuter programs will be sold per the following schedule:

<u>Validity Period</u>	<u>Price</u>	<u>Half-Price</u>
December 1 – April 30	\$194.00	\$97.00
January 1 – April 30	158.00	79.00
February 1 – April 30	123.00	62.00
March 1 – April 30	87.00	44.00
June 1 – October 31	194.00	94.00
July 1 – October 31	159.00	79.00
August 1 – October 31	123.00	62.00
September 1 – October 31	87.00	44.00

d. Except as otherwise provided herein, a full paid toll for each Sanibel bound trip on the Causeway shall be paid in accordance with the schedule set forth below.

<u>Vehicle Class</u>	<u>Toll</u>
Motorcycles	\$1.00
2 axles, 4 tires	3.00
2 axles, 6 tires	3.00
3 axles	4.50
4 axles	6.00
5 axles	7.50
6 or more axles	\$1.50 per axle

No toll shall be charged for a mainland-bound trip on the Causeway.

e. The following commuter discount program will be available for 2-axle, 4-tire vehicles or 2-axle, 6-tire vehicles only.

i. An annual discount program utilizing an AVI device may be purchased at a cost of \$25.00 per vehicle or \$12.50 for the second, fourth, sixth, etc. additional non-commercial vehicle registered to or leased by the same natural person which, when properly installed, will entitle such vehicle to use the Causeway for a period of twelve months commencing on November 1, upon payment of a \$0.50 toll deducted from a prepaid debt account for each Sanibel-bound trip on the Causeway.

ii. A semi-annual discount program utilizing an AVI device may be purchased at a cost of \$15.00 per vehicle or \$7.50 for the second, fourth, sixth, etc. additional non-commercial vehicle registered to or leased by the same natural person which, when properly installed, will entitle such vehicle to use the Causeway for a period of six months commencing on November 1, or May 1 upon payment of a \$0.50 toll deducted from a prepaid debit account for each Sanibel-bound trip on the Causeway.

iii. An annual discount program utilizing an AVI device may be purchased at a cost of \$150.00 per vehicle or \$75.00 for the second, fourth, sixth, etc. non-commercial vehicle registered to or leased by the same natural person, which when properly installed will entitle such vehicle to use the Causeway for a period of twelve months commencing on November 1, without further payment. Prorated annual commuter programs will be sold per the following schedule:

<u>Validity Period</u>	<u>Price</u>	<u>Half-Price</u>
December 1 – October 31	\$140.00	\$70.00
January 1 – October 31	130.00	65.00
February 1 – October 31	120.00	60.00
March 1 – October 31	110.00	55.00
April 1 – October 31	100.00	50.00

iv. a semi-annual discount program utilizing an AVI device may be purchased at a cost of \$90.00 per vehicle or \$45.00 for the second, fourth, sixth, etc. non-commercial vehicle registered to or leased by the same natural person, which when properly installed will entitle such vehicle to use the Causeway for a period of six months commencing on November 1 or May 1, without further payment. Prorated semi-annual commuter programs will be sold per the following schedule:

<u>Validity Period</u>	<u>Price</u>	<u>Half-Price</u>
December 1 – April 30	\$76.00	\$38.00
January 1 – April 30	62.00	31.00
February 1 – April 30	48.00	24.00
March 1 – April 30	34.00	17.00
June 1 – October 31	\$76.00	\$38.00
July 1 – October 31	62.00	31.00
August 1 – October 31	48.00	24.00
September 1 – October 31	34.00	17.00

f. During the term of the variable pricing program, a toll for each one-way trip on

the Cape Coral and Midpoint Memorial Bridges during off-peak hours when using the automatic vehicle identification system shall be paid in accordance with the schedule set forth below:

<u>Vehicle Class</u>	<u>Off-Peak Hour Toll Payment Without AVI Device</u>	<u>Off-Peak Hour Toll Payment With AVI Device</u>
Motorcycles	\$.50	\$.25 upon availability
2 axles, 4 tires	\$1.00	\$.50/.25 (<u>\$.25 applies to vehicles with a discount program*</u>) \$.25 coin drop)
2 axles, 6 tires	\$1.00	\$.50/.25 (<u>\$.25 applies to vehicles with a discount program*</u>) \$.25 coin drop)
3 axles	\$2.00	\$1.00, upon availability
4 axles	\$3.00	\$2.00 1.50, upon availability
6 or more axles	\$.50	\$.50 per axle, upon availability

*As defined and authorized by Paragraphs 1.b.i., 1.b.ii., 1.c.1, 1.c.ii., above.

The above rates for off-peak discounted toll travel shall only be available to toll facility travelers who have established a pre-paid account and obtained an officially authorized automatic vehicle identification device. Accommodations for consumers desiring a single payment, annual or semi-annual, discount program, utilizing an AVI device free of a per-trip for either the Cape/Midpoint Corridor or with a combination of the Cape/Midpoint Corridor and Sanibel Bridge, shall be continued at the current pricing, but without any additional discounting.

Off-Peak hours are currently defined as that time between 6:30 a.m. to 7:00 a.m.; 9:00 a.m. to 11:00 a.m.; 2:00 p.m. to 4:00 p.m.; and 6:30 to 7:00 p.m. Monday through Friday, excluding Memorial Day, Fourth of July, Labor Day, Thanksgiving, Christmas and New Year's Days. The Lee County Director of Public Works shall have the ability to modify the off-peak hours if deemed necessary, upon posting at the facilities of the changes in hours in accordance with §338.01, Florida Statutes. In the event the Fourth of July, Christmas or New Year's Day falls on a Saturday or

Sunday, the week-day customarily given as a day off to county employees will be excluded from the definition of off-peak hours and no additional discount in accordance with this schedule will be given.

~~g. From November 1, 1997 should the transponders (AVI devices) not be substantially distributed and operational, any semi-annual and annual decal purchased after April 30, 1997 and October 31, 1996, respectively, will be honored at the toll facilities in Lee County for the various commuter discount programs as outlined in this Resolution, until such time that the transponders (AVI devices) be substantially distributed and operational.~~

~~Upon completion of distributing transponders to all persons taking part in the commuter discount programs, Lee County Division of Transportation will post notice at the facilities that the stickers will no longer be honored at the facilities.~~

SECTION TWO

This Resolution shall be implemented as of ~~October 1, 2001~~ December 1, 2003, however, the effective date that the time-of-day variable tolls as specified in Section One (d) are put into effect at the Cape Coral and Midpoint Memorial Toll Facilities will be determined by the Lee County ~~Division of~~ Department of Transportation, upon posting at the facilities of the change in accordance with Section 338.01, Florida Statutes.

The foregoing Resolution 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:

DOUGLAS ST. CERNY _____

BOB JANES _____

RAY JUDAH _____

ANDREW COY _____

JOHN E. ALBION _____

DULY PASSED AND ADOPTED this ____ day of _____, 20__.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney