

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

Blue Sheet No. 20040141

1. REQUESTED MOTION:

ACTION REQUESTED: Adopt resolution and cooperative agreement with Charlotte County to support joint phosphate efforts between Lee and Charlotte Counties.

WHY ACTION IS NECESSARY: Provides documentation to proceed with payment to Charlotte County.

WHAT ACTION ACCOMPLISHES: Formalizes joint agreement with Charlotte County.

2. DEPARTMENTAL

CATEGORY:

COMMISSION DISTRICT #

CIB

3. MEETING DATE:

02-17-2004

4. AGENDA:

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:

5. EQUIREMENT/PURPOSE:

(Specify)

STATUTE

ORDINANC

E

ADMIN.

CODE

OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER

B. DEPARTMENT County Administration

C. DIVISION

BY: Donald D. Stilwell, County Manager

7. BACKGROUND:

The attached resolution and supplemental cooperative agreement were originally drafted by Lee County and subsequently adopted by Charlotte County to assist in the documentation of the \$900,000 payment to Charlotte County for their use in administrative challenges, rule-making and legislative action in relation to the effects of mining of phosphate within the Peach River Basin, including Charlotte Harbor.

All reports and analysis done on behalf of this issue by Charlotte County will be made available to Lee County.

The agreement also provides for a proportional refund if the total cost of the administrative challenge is less than the \$1,800,000 estimate. Lee County's contribution was to be half of that estimate. Funds for payment to Charlotte County are available in fund #GC5190300100.508150.

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
<i>HS 2/5/04</i>	<i>[Signature]</i>	<i>WIC</i>	<i>[Signature]</i>	<i>[Signature]</i> <i>2/5/04</i>	<i>OA</i> <i>RKHS</i> <i>OM</i> <i>2/5</i> <i>Risk</i> <i>2/5/04</i> <i>GC</i> <i>2/5</i>	<i>HS 2/5/04</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

REC'D.
by CO. ATT.
2/5/04
11:35 AM
CO. ATT. [Signature]
FORWARDED TO:
Budget
11:35 AM

RECEIVED BY
COUNTY ADMIN: *[Signature]*
2/5/04
11:30
COUNTY ADMIN
FORWARDED TO: *[Signature]*
2/5/04
11:00 AM

RESOLUTION

NUMBER 2004- 010

A JOINT RESOLUTION OF THE BOARDS OF COUNTY COMMISSIONERS OF CHARLOTTE AND LEE COUNTIES, FLORIDA, PLEDGING MUTUAL SUPPORT FOR ACTIONS PROTECTING THE CHARLOTTE HARBOR ESTUARY AND TO COORDINATE LAND AND WATER USE PLANNING EFFORTS TO ENSURE PROTECTION OF THE CHARLOTTE HARBOR ESTUARY.

WHEREAS, Charlotte Harbor and its component bays, sounds, and tributaries are critical to the economy and quality of life enjoyed by residents and visitors of Southwest Florida, and to the ecological integrity of all of Florida; and

WHEREAS, the health and productivity of the Charlotte Harbor estuary depends upon the careful, coordinated management of land uses within the Harbor's watershed which includes over 4,400 square miles in all or part of eleven (11) Florida counties; and

WHEREAS, Charlotte and Lee Counties are the two counties contiguous with the Harbor proper and are the most directly affected by the estuary and, therefore, need to take the lead in ensuring that land and water use activities within the Harbor's watershed are sensitive to the Harbor's needs; and

WHEREAS, it is in the mutual best interests of Charlotte and Lee Counties, their citizens, the general public, and the ecology and economy of Southwest Florida to cooperate and support each other in decisions that may affect the health of the estuary,

including utilization of the administrative appeals process or the court system in order to ensure appropriate actions relative to the Harbor.

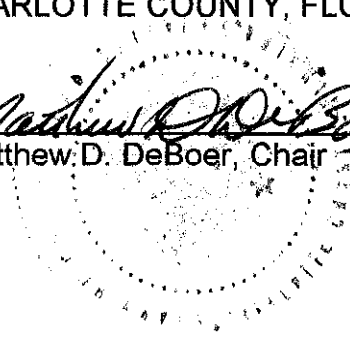
NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida, and the Board of County Commissioners of Lee County, Florida, that:

1. If requested by one another, our two counties pledge to support each other's actions concerning the protection of the Charlotte Harbor estuary to the extent that each Board of County Commissioners determines that it is able; and
2. Our two counties pledge to coordinate land and water use planning to ensure that protection of the Charlotte Harbor estuary system is a primary consideration of all appropriate decisions.

PASSED AND DULY ADOPTED this 13 day of January, 2004.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By Matthew D. DeBoer
Matthew D. DeBoer, Chair



ATTEST:

Barbara T. Scott, Clerk of Circuit
Court and Ex-Officio Clerk to the
Board of County Commissioners

By Anne L. Bahler
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Renée Francis Lee
Renée Francis Lee NB
Charlotte County Attorney

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By _____
John E. Albion, Chair

ATTEST:
Charlie Green of Circuit Court
and Ex-Officio Clerk to the
Board of County Commissioners

By _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Office of the Lee County Attorney

p:\wpdata\public\am\res\lee.harbor.estuary.03
LR03-588/December 18, 2003

SUPPLEMENTAL COOPERATION AND FUNDING AGREEMENT
FOR JOINT PHOSPHATE EFFORTS BETWEEN
CHARLOTTE AND LEE COUNTIES

THIS SUPPLEMENTAL AGREEMENT is made and entered into by and between Charlotte and Lee Counties, each a political subdivision of the State of Florida (collectively "The Parties").

WITNESSETH

WHEREAS, the Parties on or about May 21, 2002 entered into an Interlocal Cooperation and Funding Agreement pertaining to Lee County providing Charlotte County funds to assist Charlotte County in the administrative challenges, rule-making, and legislative action in relation to the effects of mining of phosphate within the Peace River Basin, including Charlotte Harbor; and

WHEREAS, the Parties desire to supplement and/or amend the May 21, 2002 Interlocal Cooperation and Funding Agreement in order for the Parties to fund an additional coordinated joint effort to study and address the direct, secondary, and cumulative impacts of phosphate mining on the Peace River Basin to specifically include impacts on Charlotte Harbor and its estuary systems.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, the Parties hereby agree as follows:

1. Paragraph Two (2) of the May 21, 2002 Cooperation and Funding Agreement is hereby amended to provide that Lee County hereby commits to pay the amount not to exceed \$900,000.00 to Charlotte County with fifteen (15) days of the effective date of this Supplemental Agreement. Said funds to be used by Charlotte County pursuant to the terms of Paragraph Two (2) of the May 21, 2002 agreement, as further detailed in "Exhibit A", attached hereto and incorporated herein.

2. Charlotte County and Lee County will each adopt a Resolution, substantially similar to that as reflected by "Exhibit B", attached hereto and incorporated herein, calling for a general cooperative approach to the management of Charlotte Harbor and related issues.
3. Except as specifically amended hereby, all the terms and conditions of the May 21, 2002 Cooperation and Funding Agreement shall remain in full force and effect.
4. This Agreement shall take effect upon the filing of a fully executed copy with the Clerk of Circuit Court of Charlotte County.

IN WITNESS WHEREOF, the Parties have executed this Agreement for the purpose herein expressed.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By: 
Matthew D. DeBoer, Chair

ATTEST:

Barbara T. Scott, Clerk of Circuit
Court and Ex-Officio Clerk to the
Board of County Commissioners

By: 
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY


Renée Francis Lee,
Charlotte County Attorney MB

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
John E. Albion, Chair

ATTEST:
Charlie Green, Clerk of Circuit
Court and Ex-Officio Clerk to the
Board of County Commissioners

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Office of the Lee County Attorney

EXHIBIT "A"
Direct, Secondary, and Cumulative Impacts
on Charlotte Harbor and Estuary System

Charlotte County will use experts and other related consultants, as necessary, to study, develop and present as evidence, as appropriate, information and data relating to the direct, secondary, and cumulative impacts of proposed phosphate mining in the Peace River Basin on Charlotte Harbor and its estuary system. This analysis and resulting information and data will be available for use as appropriate for presently pending or proposed administrative hearing challenges to the issuance of FDEP environmental resource permits for the mining of phosphate in the Peace River Basin, to include Charlotte Harbor.

Said analysis studies and related evidence shall include, but not be limited to, the following impacts of any such phosphate mining:

- High and Low Water Quantity
- Water Quality
- Grass Beds
- Fishing
- Monitoring Standards and Criteria

Any such related written reports, analysis and studies will be made timely available to Lee County and may be used by Lee County for any public purpose. The development and use of any such information shall also be subject to the Paragraph Three (3), Coordination/Meetings.

The estimated cost to study, prepare, and present the above-referenced analysis and evidence of impacts to Charlotte Harbor and its estuary system, to include the legal fees and related costs necessary to prepare and present the evidence at administrative hearing is estimated to be \$1,800,000.00. Lee County's payment hereunder of an

amount not to exceed \$900,000.00 is expected to help fund one-half of the estimated cost.

Lee County's total funds as provided herein will be used in conjunction with other funds available to Charlotte County and like interested parties to the administrative challenges as the hearing process progresses. Charlotte County and its legal counsel and/or consultants will keep such records of said expenditures and will document to Lee County, as requested by Lee County, the expenditure requirements necessary to prepare and present the information as referenced herein and which support the above-referenced estimated costs. If upon final conclusion of the study effort and pending administrative challenge, the total cost of the stated impact analysis effort as provided herein is less than the estimated \$1,800,000.00 cost, Lee County shall be entitled to a refund of its funds as provided herein in proportion to the final total authorized cost and the amount thereof as paid by the parties hereto to include Lee County's expected 50% contribution thereof.

DRAFTEXHIBIT "B"RESOLUTION
Number 2003-

A JOINT RESOLUTION OF THE BOARDS OF
COUNTY COMMISSIONERS OF
CHARLOTTE COUNTY, FLORIDA AND LEE
COUNTY, FLORIDA PLEDGING MUTUAL
SUPPORT FOR ACTIONS PROTECTING THE
CHARLOTTE HARBOR ESTUARY AND TO
COORDINATE LAND AND WATER USE
PLANNING EFFORTS TO ENSURE
PROTECTION OF THE CHARLOTTE
HARBOR ESTUARY

WHEREAS, Charlotte Harbor and its component bays, sounds, and tributaries is critical to the economy and quality of life enjoyed by residents and visitors of Southwest Florida, and to the ecological integrity of all of Florida; and

WHEREAS, the health and productivity of the Charlotte Harbor estuary depends upon the careful, coordinated management of land uses within the Harbor's watershed which includes over 4,400 square miles and includes all or part of 11 counties; and

WHEREAS, Charlotte and Lee counties are the two counties contiguous with the Harbor proper and are the most directly affected by the estuary and therefore need to take the lead in ensuring that land and water use activities within the Harbor's watershed are sensitive to the Harbor's needs; and

WHEREAS, it is in the mutual best interests of Charlotte and Lee counties, their citizens, the general public, and the ecology and economy of Southwest Florida to cooperate and support each other in decisions that may affect the health of the estuary, including utilization of the administrative appeals process or the court system in order to ensure appropriate actions relative to the Harbor.

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

1. Our two counties pledge to support each other's actions to the extent that each requests if the other and to the extent that each Board of County Commissioners determines that they are able; and
2. Our two counties pledge to coordinate land and water use planning to ensure that protection of the Charlotte Harbor estuary system is a primary consideration of all appropriate decisions.

DRAFT

PASSED AND DULY ADOPTED THIS _____ DAY OF _____, 2003

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By _____
Matthew D. DeBoer

By _____
Ray Judah

ATTEST:

Barbara T. Scott Clerk of
Circuit Court and Ex-Officio
Clerk to the Board of County
Commissioners

Clerk of
Circuit Court and Ex-officio
Clerk to the Board of County
Commissioners

By _____
Deputy Clerk

By _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Renee Francis Lee
Charlotte County Attorney

Lee County Attorney