

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

**Blue Sheet No. 20040386**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Request authorization to advertise for and conduct a Public Hearing on May 11, 2004 at 5:00 p.m., in Chambers to enact a Reviser's Ordinance Repealing Lee County Ordinance 96-10 Court filing fees for Legal Aid for the reason that it is obsolete.

**WHY ACTION IS NECESSARY:** Board must formally adopt Ordinance at a Public Hearing.

**WHAT ACTION ACCOMPLISHES:** Sets May 11, 2004 at 5:00 p.m. for the Public Hearing date and time allows the process to go forward.

**2. DEPARTMENTAL CATEGORY:**  
**COMMISSION DISTRICT #**

*C12A*

**3. MEETING DATE:**

*04-20-2004*

**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:** Kristie Kroslack  
Assistant County Attorney

**7. BACKGROUND:** On June 19, 1996, the Board of County Commissioners (BOCC) enacted Lee County Ordinance No. 96-10 providing for the collection of an additional filing fee on civil actions to fund indigent legal aid services.

In 2003, the legislature amended Fla. Stat. 34.041 (Constitutional Revision 7 to Article V), making the collection of the service charge in Lee County unauthorized. Effective July 1, 2004, Lee County can not impose a filing fee to cover the cost of legal aid.

Exhibits - Memo dated 11/23/03 from County Attorney to Public Resources  
Copy of Lee Co. Ord. 96-10  
Copy of Reviser's Ordinance Repealing Lee County Ordinance 96-10

**8. MANAGEMENT RECOMMENDATIONS:**

**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>R/K</i> <i>4/20/04</i>	<i>OA</i> <i>4/20/04</i>	<i>OM</i> <i>4/20/04</i>	<i>RISK</i> <i>4/20/04</i>	<i>GC</i> <i>4/20/04</i>	<i>OK</i> <i>4-5-4</i>

**10. COMMISSION ACTION:**

- ☐ **APPROVED**
- ☐ **DENIED**
- ☐ **DEFERRED**
- ☐ **OTHER**

RECEIVED BY COUNTY ADMIN: <i>RK</i>
<i>4/20/04</i>
<i>11:35 AM 2004</i>
COUNTY ADMIN FORWARDED TO: <i>RK</i>
<i>4-5-04</i>
<i>11 AM</i>

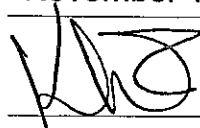
**MEMORANDUM  
FROM THE  
OFFICE OF COUNTY ATTORNEY**

**FILE COPY**

DATE: November 12, 2003

TO: Georgia Sekulski  
Public Resources

FROM:



Kristie Kroslack  
Assistant County Attorney

RE: **Repeal of Lee County Ordinance 96-10  
Legal Assistance for the Indigent in Lee County**

Per your request dated November 6, 2003, I have reviewed the memorandum to you dated October 20, 2003 from Clerk of the Court, Donna G. Harn, that requested deletion of External Fee Number: EX6-2.

I concur with Ms. Harn that effective July 1, 2004, the \$5.00 and \$10.00 service charges imposed pursuant to Lee County Ordinance 96-10 and expended for legal aid to the poor and indigent people of Lee County [Lee County Legal Aid Society, Inc. and Florida Rural Legal Services, Inc.] is no longer legally authorized, due to Constitutional Revision 7 to Article V. [Attached HB0113-A Staff Analysis].

Specifically, Fla. Stat. § 34.205 states "service charges and fees imposed by the governing authority of counties by ordinance and special law pursuant to authority granted in § 28.242-34.041 prior to June 30, 2004 are repealed and abolished effective July 1, 2004."

Prior to this amendment, Fla. Stat. § 34.041 allowed "service charges in excess of those herein fixed may be imposed by the governing authority of the county by ordinance or special law, and such excess shall be expended as provided by such ordinance or any special or local law...to provide and maintain facilities, including a law library...or a legal aid program."

As a result, effective July 1, 2004, Lee County can not impose a filing fee to cover the cost of legal aid. Local governments will be required to fund the cost of legal aid as a state imposed local requirement.

Lee County may continue to collect the \$5.00 and \$10.00 service charges until July 1, 2004. After that date, Lee County Ordinance 96-10 must be repealed by Resolution of the Board of County Commissioners, after public hearing. For your convenience, I have attached a copy of Lee

Georgia Sekulski  
November 12, 2003  
Page 2

Re: Repeal of Lee County Ordinance 96-10 Legal Assistance for the Indigent in Lee County

County Ordinance 96-10 and draft Resolution to be scheduled for Board of County Commissioner approval in April, 2004.

Should you require anything further, please do not hesitate to contact me.

xc: James G. Yaeger, County Attorney  
Robert W. Gray, Deputy County Attorney  
David M. Owen, Chief Assistant County Attorney  
Donna Harn, Clerk of Court

LEE COUNTY ORDINANCE NO. \_\_\_\_\_

**A REVISER'S ORDINANCE REPEALING LEE COUNTY  
ORDINANCE 96-10, RELATING TO THE COLLECTION OF  
FILING FEES IMPOSED ON CIVIL ACTIONS TO FUND  
INDIGENT LEGAL SERVICES, PROVIDING FOR FINDINGS,  
INTENT, CODIFICATION AND SCRIVENER'S ERRORS AND  
AN EFFECTIVE DATE OF JULY 1, 2004.**

WHEREAS, Lee County Ordinance 96-10, adopted on June 19, 1996, is obsolete, after the legislature amended Fla. Stat. § 34.041 (Chapter 2003-402, Laws of Florida); and

WHEREAS, the Board of Lee County Commissioners directed that Ordinances not needed or enforceable be repealed; and

WHEREAS, a repeal of Lee County Ordinance 96-10 serves a public purpose and is to the public's benefit.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS of Lee County, Florida, that:

**SECTION ONE: FINDINGS**

The above referenced statements in the preamble are hereby confirmed and incorporated herein as if set out in this Section at length. There is a need to repeal Lee County Ordinance 96-10 identified herein as being unenforceable, out-dated, and/or not needed at this time as local law.

**SECTION TWO: INTENT**

It is the intent of the Lee County Board of County Commissioners to repeal such Ordinance and a favorable vote to adopt this Ordinance will be considered a favorable vote to repeal Lee County Ordinance 96-10 stated hereafter, and such Ordinance shall be

deemed repealed and of no further force or effect.

**SECTION THREE:**

Lee County Ordinance Number 96-10 relating to imposing an excess service charge for the filing of probate and civil proceedings to fund legal aid in Lee County is hereby repealed. (A copy of which is attached as "Exhibit A").

**SECTION FOUR:**                   **CODIFICATION 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 FIVE:**                   **EFFECTIVE DATE**

This Ordinance shall take effect immediately upon receipt of official acknowledgment from the Secretary of State of Florida that it has been 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 vote, the vote was as follows:

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

DULY PASSED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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

THE BOARD OF COUNTY COMMISSIONERS,  
LEE COUNTY, FLORIDA

ORDINANCE NO. 96-10

AN ORDINANCE RELATING TO CIVIL LEGAL ASSISTANCE FOR THE INDIGENT IN LEE COUNTY; INCREASING THE FILING FEE IN CIVIL ACTIONS FILED IN THE COUNTY AND CIRCUIT COURTS OF LEE COUNTY AND REQUIRING THAT SUCH INCREASE BE USED FOR THE PURPOSE OF PROVIDING FOR FUNDING TO FURNISH LEGAL ASSISTANCE TO INDIGENT PERSONS; PROVIDING FOR ADDITIONAL APPROPRIATIONS FOR SUCH PURPOSE; DECLARING SAID EXPENDITURES A COUNTY PURPOSE; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR CODIFICATION.

WHEREAS, Section 125.01, Florida Statutes, provides that the Board of County Commissioners may provide for the poor and indigent people of Lee County; and

WHEREAS, it is found and determined to be necessary and proper that poor and indigent persons in Lee County receive competent legal advice and representation; and

WHEREAS, Lee County has previously recognized this need and partially addressed the same through Lee County Ordinance 81-28 §1- §3; and

WHEREAS, there has been no adjustment for the funding of indigent legal services since 1981 even though Lee County has experienced significant population growth; and

WHEREAS, Sections 28.241, 28.2401, and 34.041, Florida Statutes, provide that authorities may impose excess service charges for the filing of probate proceedings and civil actions in both Circuit and County Courts for the purpose of operating a legal aid program; and

WHEREAS, the proper and expeditious administration of justice in the courts of Lee County make it necessary and desirable that legal counsel be made available to litigants regardless of ability to pay for such service; and

WHEREAS, the increase in the amount of legal aid funding will be of benefit to the people of Lee County, will aid in expediting matters before its courts and is deemed a public need; and

WHEREAS, the fee collected pursuant hereto shall be expended only for the purpose of continuing legal aid programs in Lee County.

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

SECTION 1. The Lee County Board of County Commissioners finds, determines and declares that additional funding for Lee County Legal Aid Society, Inc. ("Lee Legal Aid"), and Florida Rural Legal Services, Inc. ("Florida Rural"), for civil legal services to indigent persons in Lee County promotes proper administration of justice in civil actions in the Courts of Lee County.



SECTION 2. In addition to all other amounts provided by law, as set forth in Lee County Ordinance 81-28, there shall be an increase in the filing fees pursuant to the schedule below in any civil action filed in the County and Circuit Courts of Lee County:

- |     |   |         |
|-----|---|---------|
| (a) | For all claims filed in County Court                                | \$ 5.00 |
| (b) | For all claims filed in Circuit Court<br>except probate proceedings | \$10.00 |
| (c) | For all probate proceedings   | \$ 5.00 |

SECTION 3. All additional funds received by the Clerk of Court pursuant to Section 2 (a), (b), and (c) shall be paid by the Clerk to Florida Rural and Lee Legal Aid within ten (10) days after the end of each calendar month. On an annual basis, beginning the date this Ordinance becomes effective, Florida Rural will receive the first \$30,000.00 of the additional fees collected pursuant to Section 2 (a), (b), and (c) and thereafter the amount will be divided equally between Florida Rural and Lee Legal Aid. Such money shall be used exclusively for the operation of programs making civil legal services available to the poor and indigent people of Lee County.

SECTION 4. All monies raised pursuant to Section 2 shall be earmarked for Lee Legal and Florida Rural to provide free legal aid services to indigent residents of Lee County. This expenditure of said funds is declared to be a proper public and County purpose in and for Lee County.

SECTION 5. The legal assistance to be funded and provided pursuant to this Ordinance shall include, but not be limited to, consultations, advice, litigation and representation before courts in civil matters, and before federal, state and local administrative agencies.

SECTION 6. Florida Rural and Lee Legal Aid shall submit annual reports to the Board of County Commissioners. The report shall include the nature of the legal assistance provided, a summary of the funds collected and disbursed pursuant to this Ordinance, and an identification based on residency of the service recipients. Florida Rural and Lee Legal Aid shall permit audits conducted by the Lee County Clerk of Courts.

SECTION 7. Nothing contained herein shall supersede Lee County Ordinance 81-28 and said Ordinance and the allocations provided therein shall remain unchanged and in full force and effect. In the event either Lee Legal Aid or Florida Rural shall cease to provide legal services in Lee County, the funds allocated to said organization under this ordinance shall be redistributed by the Board of County Commissioners to a non-profit organization providing civil legal services to the indigent residents of Lee County.

SECTION 8. SEVERABILITY. If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall

not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

SECTION 9. APPLICABILITY OF ORDINANCE. This ordinance shall be applicable throughout Lee County's jurisdiction.

SECTION 10. FILING WITH DEPARTMENT OF STATE. The Clerk is directed forthwith to send a certified copy of this ordinance to the Bureau of Laws, Department of State, The Capitol, Tallahassee, Florida 32304.

SECTION 11. EFFECTIVE DATE. This ordinance shall take effect February 1, 1996 or upon notice from the Secretary of State of Florida that this ordinance has been duly filed in that office.

SECTION 12. CODIFICATION. Provisions of this ordinance shall be incorporated in the County Code and the word "ordinance" may be changed to "section," "article" or other word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that Sections 7 to 12 shall not be codified.

THE FOREGOING ORDINANCE was offered by Commissioner Judah who moved its adoption. Commissioner Coy offered a second and, upon being put to a vote, the vote was as follows:

Douglas St. Cerny Aye

John E. Albion Aye


Ray Judah Aye

John E. Manning Aye

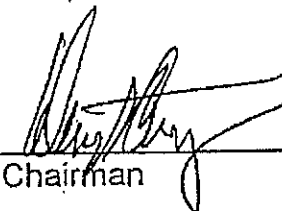
Andrew W. Coy Aye

DULY PASSED AND ADOPTED this 19th day of June, 1996.

ATTEST:  
CHARLIE GREEN, CLERK

By:   
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By:   
Chairman

APPROVED AS TO FORM:

By:   
Lee County Attorney's Office

DIVISIONS OF FLORIDA DEPARTMENT OF STATE

Office of the Secretary  
Division of Administrative Services  
Division of Corporations  
Division of Cultural Affairs  
Division of Elections  
Division of Historical Resources  
Division of Library and Information Services  
Division of Licensing

MEMBER OF THE FLORIDA CABINET



FLORIDA DEPARTMENT OF STATE

Sandra B. Mortham

Secretary of State

DIVISION OF ELECTIONS

HISTORIC PRESERVATION BOARDS

Historic Florida Keys Preservation Board  
Historic Palm Beach County Preservation Board  
Historic Pensacola Preservation Board  
Historic St. Augustine Preservation Board  
Historic Tallahassee Preservation Board  
Historic Tampa/Hillsborough County  
Preservation Board

RINGLING MUSEUM OF ART

June 26, 1996

Honorable Charlie Green  
Clerk of Circuit Court  
Lee County  
Post Office Box 2469  
Fort Myers, Florida 33902

Attention: Shirley E. Rost, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter of June 25, 1996 and certified copy of Lee County Ordinance Nos. 96-10, which was filed in this office on June 26, 1996.

Sincerely,

Liz Cloud, Chief  
Bureau of Administrative Code

LC/vm

RECEIVED

JUL 1 1996

CHARLIE GREEN  
CLERK CIRCUIT COURT

BY  D.A.

EXHIBIT "A"

BUREAU OF ADMINISTRATIVE CODE

The Elliot Building • 401 South Monroe Street • Tallahassee, Florida 32399-0250 • (904) 488-8427