

WALK ON #1

Lee County Board Of County Commissioners

Blue Sheet No. 20050426

Agenda Item Summary

1. ACTION REQUESTED/PURPOSE: Consider approval and authorize the Chairman's signature on the "Letter of Agreement" with the Florida Department of Transportation ("FDOT") that authorizes Lee County to conduct educational classes and recreational activities (sailing) at the North Shore overlook (State DOT right-of-way). Board approval is contingent upon receiving the executed "Letter of Agreement" from FDOT. Authorize staff to negotiate with independent contractor(s) for the conducting or teaching of future classes and activities at such location.

2. WHAT ACTION ACCOMPLISHES: Board of County Commissioner approval and execution is required to finalize the agreement with FDOT. Allows Lee County expanded use of the North Shore overlook. Increases educational and recreational opportunities to be provided to the public.

3. MANAGEMENT RECOMMENDATION: Expanded use of the North Shore Area will allow the public enhanced educational opportunities.

4. Departmental Category:

5. Meeting Date: 03-29-2005

6. Agenda:
Consent
Administrative
Appeals
Public
X Walk-On

7. Requirement/Purpose: (specify)
Statute
Ordinance
Admin. Code
X Other

8. Request Initiated:
Commissioner
Department Parks & Recreation
Division
By: John Yarbrough

9. Background:

Lee County and the Florida Department of Transportation entered into a twenty-five (25) year lease agreement for the North Shore Overlook (right of way on U.S. 41) on October 1, 1999. Presently, Lee County maintains the area and built a pier and pavilion to improve the park-like setting. This improved site makes a wonderful location for Lee County parks and recreation staff to offer the public enhanced educational opportunities (beginner's fishing, kayaking, sailing, etc.).

The "Letter of Agreement" provides Lee County with the required FDOT approval to offer outdoor recreational activities and classes to the general public on the FDOT's North Shore site.

The Royal Palm Sailing Club ("Edison Sailing Center") is in need of a temporary site for their community sailing program. With the expanded use of such location, Lee County may contract with independent contractors (i.e. Edison Sailing Center) for the providing of sailing classes to the public.

Attachment: Copy of letter to FDOT
Faxed Copy of Letter of Agreement

10. Review for Scheduling:

Table with columns: Department Director, Purchasing or Contracts, Human Resources, Other, County Attorney, Budget Services (Grant, Risk, Grants, Mgr.), County Manager/P.W. Director. Includes handwritten initials and dates like '3/25/05', '3/28/05', '3/28/05'.

11. Commission Action:

- Approved
Deferred
Denied
Other

Rec. by CoAtty
Date: 3/25/05
Time: 11:00
Forwarded To: Co. Admin 3/25/05

RECEIVED BY COUNTY ADMIN
3-25-05 mp
11:20
COUNTY ADMIN
FORWARDED TO: 3/28/05 3pm

Patricia Geren - Walk on Blue sheet # 20050426

From: John Yarbrough
To: Geren, Patricia
Date: 3/25/05 10:11 AM
Subject: Walk on Blue sheet # 20050426

Kathy, I am requesting that the above referenced blue sheet be a Walk-On for the March 29th BOCC meeting. The purpose of the walk-on is that the sailing school must move out of their current location the first week of April. The State DOT has approved this use, and Commissioner Hall has asked that it be a Walk-on.

Thanks for your help, and let me know if I can help in any way.....Jy



Florida Department of Transportation

JEB BUSH
GOVERNOR

JOSÉ ABREU
SECRETARY

March 24, 2005

Kristie L. Kroslack
Assistant County Attorney
Lee County, Southwest Florida
Board of County Commissioners
P.O. Box 398
Fort Myers, FL 33902-0398

2005 MAR 28 AM 9:00
RECEIVED BY
LEE CO. ATTORNEY

Subject: North Shore Overlook

Dear Ms. Kroslack:

Attached please find the original Letter of Agreement for Public Recreational Activities at North Shore Overlook which has been duly executed by Stanley M. Cann P.E., District Secretary. Upon execution by the Chairman of the Board of County Commissioners of Lee County, Florida, please return this original to our office at the above address.

We are pleased to be able to resolve this issue and wish you success with your program. Please contact me if you have further questions at (863) 519-2403.

Sincerely,

Corey D. Kintner
District Deputy
Right of Way Manager

cc: John Yarbrough, Director, Parks & Recreation
Bruce Cury, General Counsel
Gerald Strouse, Property Management Administrator
File, Daily File
Attachment

CDK/jps



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 335-2236
Facsimile: (239) 335-2606

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Tammy Hall
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing Examiner

March 15, 2005

Mr. Bruce Cury, General Counsel
District 1 Office, FDOT
P. O. Box 1249
801 N. Broadway Avenue
Bartow, Florida 33831-1249

Re: **LETTER OF AGREEMENT FOR PUBLIC RECREATIONAL
ACTIVITIES AT NORTH SHORE OVERLOOK**

Dear Mr. Cury:

Lee County and the Florida Department of Transportation ("Department") entered into a twenty-five (25) year lease agreement for the North Shore Overlook (right of way on U.S. 41, Fort Myers) on October 1, 1999, and amended by Addendum on October 17, 2000 for the developing and using of an FDOT owned right of way, known as "North Shore Overlook", located at 12901 Cleveland Avenue, Fort Myers, Lee County, Florida 33903, for park and recreation purposes by Lee County.

Over the years, Lee County has beautified the area by planting and maintaining trees and shrubs and building a pier and pavilion for the public to enjoy.

Presently, Lee County desires to offer outdoor recreational classes and activities to the general public at the North Shore location, and is requesting the Department's approval.

Should you find the above request to be within the scope contemplated by the original lease (and the addendum) then no further amendment to the lease is needed to effectuate this intent.

- (1) Lee County may offer outdoor recreational activities and classes to the general public at the North Shore location.
- (2) No permanent structures will be erected nor shall the leased area be modified or changed in any way.

Cury-Letter of Agreement-North Shore Overlook

Re: Letter of Agreement for Public Recreational Activities at North Shore Overlook

- (3) Lee County shall be liable for its own actions and negligence and, to the extent permitted by law, Lee County shall indemnify, defend and hold harmless the Department against any actions, claims or damages arising out of County's negligence in connection with the lease agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in the Florida Statutes, §768.28.
- (4) Lee County will ensure that any person participating in the County's recreational classes or activities will sign an appropriate waiver (hold harmless) form.

By execution of this document on _____, 2005, we find the above conditions and request acceptable.


STATE OF FLORIDA
D E P A R T M E N T O F
TRANSPORTATION

B O A R D O F C O U N T Y
COMMISSIONERS OF LEE COUNTY,
FLORIDA

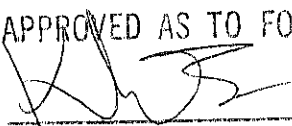
By: 
District Secretary

By: _____
Chairman

DATE: 3/23/05

ATTEST: 
Executive Secretary

(SEAL)

APPROVED AS TO FORM
By: 
OFFICE OF THE COUNTY ATTORNEY



LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 335-2236
Facsimile: (239) 335-2118

Bob Janes
District One

Douglas R. St. Cerny
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District Three

Tammy Hall
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District Five

Donald D. Stilwell
County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing
Examiner

March 15, 2005

Mr. Bruce P. Cury, District General Counsel
Florida Department of Transportation
P. O. Box 1249
801 N. Broadway Avenue
Bartow, Florida 33831-1249

Via U. S. Mail and Fax 863-534-7129

Re: Request for Authorization to Offer County Recreational
Opportunities at North Shore Overlook Lease Dated
October 1, 1999, Project Number 12010

Dear Mr. Cury:

Thank you for the opportunity to speak with you by telephone on March 14, 2005 regarding the Department's procedures, the requirements of Florida Statute §337.25, and the competitive bid process.

As an alternative to a modification of the lease agreement, I am faxing (and mailing) a Letter of Agreement, that requests approval from the Department for the conducting of educational classes and recreational activities at the North Shore Overlook location.

As you are aware, Lee County and the Florida Department of Transportation entered into a twenty-five (25) year lease agreement for the North Shore Overlook (right of way on U.S. 41) on October 1, 1999. Presently, Lee County maintains the area and built a pier and pavilion to improve the park-like setting. This improved site makes a wonderful location for Lee County Parks and Recreation staff to offer the public enhanced educational opportunities (i.e. beginner's fishing, kayaking, sailing, etc).

Please consider Lee County's request to provide public educational opportunities at the North Shore location. If the enclosed document complies with the Department's procedures, please have the District Secretary execute same at his/her earliest convenience.

S:\GS\Kroslack\letter\2005 Letters\Cury - Request for Authorization North Shore Overlook.wpd

COPY

Mr. Bruce P. Cury, District General Counsel
March 15, 2005
Page 2

Re: Request for Authorization to Offer County Recreational Opportunities

Thank you in advance for your kindness and consideration in this matter.

Should you have any questions or concerns, please contact me at 239-335-2613.

Sincerely,



Kristie L. Kroslack
Assistant County Attorney

KLK/kab

Attachment

cc: Commissioner Ray Judah
David M. Owen, County Attorney
Andrea R. Fraser, Acting Chief Assistant County Attorney
John Yarbrough, Director, Parks & Recreation