

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

Blue Sheet No. 20040751

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct a Public Hearing to enact a Reviser's Ordinance Repealing Lee County Ordinances 02-31, 96-23, 96-15, 96-10, 90-64, 81-28 and 81-27, for Public Guardianship, Teen Court, the Juvenile Assessment Center, Legal Aid, Civil Mediation Program and the Law Library, for the reason that such ordinances are now obsolete and of no further effect. Adopt a Resolution to amend Administrative Code No. 3-10 "External Fee Numbers 6-2* and 6-3*".

WHY ACTION IS NECESSARY: Board must formally adopt an Ordinance at a scheduled, advertised Public Hearing.

WHAT ACTION ACCOMPLISHES: Will repeal Lee County Ordinances 02-31, 96-23, 96-15, 96-10, 90-64, 81-28 and 81-27 providing for current consistency with state law and amends by Resolution, Administrative Code No. 3-10 "External Fee Numbers 6-2* and 6-3*".

2. DEPARTMENTAL CATEGORY:

COMMISSION DISTRICT # 5:00 #7

3. MEETING DATE:

06-22-2004

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 L. Kroslack
Assistant County Attorney

7. BACKGROUND: Constitutional Revision 7, approved by the voters in November 1998 "allocates state court system funding among state, counties, and users of courts."

Under Revision 7, clerks of the circuit and county courts will be funded from their share of filing fees, service charges and certain criminal fine and forfeiture revenues that they collect.

- Continued on Page 2 -

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	<u>Kris</u> <u>6/18/04</u>	OA	OM	RISK	GC	<u>[Signature]</u>
					<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>	

10. COMMISSION ACTION:

APPROVED
 DENIED
 DEFERRED
 OTHER

RECEIVED BY COUNTY ADMIN:	<u>[Signature]</u>
	<u>6/8/04</u>
	<u>4:05 pm 507</u>
COUNTY ADMIN FORWARDED TO:	<u>[Signature]</u>
	<u>6-10-04</u>
	<u>1:52 pm</u>

Blue Sheet #:

Page No.: 2

Subject: Public Hearing Revision 7

Revision 7, Article V transfers authority to impose additional circuit civil and county court filing fees from the Board of County Commissioners to the Clerk of Court. Therefore, court clerks may impose filing fees in an amount clerks deem necessary to fund their costs within a specified cap. Charges imposed by county commissioners pursuant to Revision 7 to Article V will stand repealed as of July 1, 2004.

The above referenced ordinances imposed certain County Court costs and fees which are now repealed by Florida General Law. On May 11, 2004, at the 5:00 p.m. Public Hearing, the Board of County Commissioners directed the County Attorney's Office to present both the Repealer Ordinance and the proposed new ordinance simultaneously at this Public Hearing for Board consideration.

The new ordinance will be presented under separate cover (blue sheet) to the Board of County Commissioners which will impose new court charges and fees, per Senate Bill 2962 effective July 1, 2004.


ATTACHMENTS: Proposed Repealing Ordinance
 Resolution
 Financial & Administrative Impact Statement
 Notice of Intent to Enact a County Ordinance

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: June 8, 2004

To: Kathy Geren
Public Resources

FROM:



Kathi Bringman, Secretary to
Kristie L. Kroslack
Assistant County Attorney

RE: **Reviser Ordinance - Blue Sheets for Public Hearing June 22, 2004 at 5 p.m.**

Please substitute blue sheet #20040525 with the new blue sheet # 20040751 scheduled for Public Hearing on June 22, 2004 at 5 p.m. The new blue sheet contains additional ordinances to be repealed under the Reviser Ordinance.

LEE COUNTY ORDINANCE NO. _____

A REVISER'S ORDINANCE REPEALING LEE COUNTY ORDINANCES: NO. 02-31 AMENDING LEE COUNTY ORDINANCE NOS. 93-07 AND 98-16, THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; PROVIDING FOR THE COLLECTION AND EXPENDITURE OF FUNDS FOR THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; NO. 96-23 AN ORDINANCE PROVIDING FOR AN ASSESSMENT FOR TEEN COURT IN CASES PROSECUTED IN LEE COUNTY CIRCUIT AND COUNTY COURT; PROVIDING FOR DISTRIBUTION OF FUNDS SO ASSESSED; NO. 96-15 LEE COUNTY DELINQUENCY PREVENTION FINE; PROVIDING FOR A MANDATORY COURT COST OF \$3.00 PER SPECIFIED CASE, RELATING TO THE FUNDING OF A JUVENILE ASSESSMENT CENTER; 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; NO. 90-64 AN ORDINANCE ESTABLISHING A SERVICE CHARGE ON ALL CIVIL AND PROBATE CIRCUIT COURT PROCEEDINGS IN THE TWENTIETH JUDICIAL CIRCUIT TO DEFRAY THE COST OF MEDIATION AND ARBITRATION SERVICES; NO. 81-28 AN ORDINANCE PERTAINING TO THE COLLECTION OF ADDITIONAL COURT FILING FEE OR SERVICE CHARGE; PROVIDING FOR AN ADDITIONAL FEE OR SERVICE CHARGE OF \$3.00 FOR EACH ACTION OR PROCEEDING FILED WITHIN THE CIVIL JURISDICTION OF THE CIRCUIT COURT AND A \$2.00 ADDITIONAL FILING FEE OR SERVICE CHARGE FOR ACTIONS FILED WITH THE SMALL CLAIMS COURT IN AND FOR LEE COUNTY; PROVIDING SAID FUNDS TO BE USED FOR THE LEE COUNTY LEGAL AID SOCIETY; NO. 81-27 AN ORDINANCE PERTAINING TO THE COLLECTION OF ADDITIONAL COURT FILING FEE OR SERVICE CHARGE; PROVIDING FOR AN ADDITIONAL FILING FEE OR SERVICE CHARGE OF \$3.00 FOR EACH ACTION OR PROCEEDING FILED WITHIN THE CIVIL JURISDICTION EXCEEDING \$1500 OF THE COUNTY COURT AND A \$6.00 FILING FEE OR SERVICE CHARGE FOR ACTIONS OR PROCEEDINGS FILED WITH THE PROBATE COURT IN AND FOR LEE COUNTY, FLORIDA; PROVIDING SAID FUNDS TO BE USED FOR THE LEE COUNTY LAW LIBRARY; PROVIDING FOR FINDINGS, INTENT, REPEAL OF ORDINANCES, CODIFICATION AND SCRIVENER'S ERRORS AND AN EFFECTIVE DATE OF JULY 1, 2004.

WHEREAS, Constitutional Revision 7, approved by the voters in November 1998 “allocates state court system funding among state, counties and uses of courts”.

WHEREAS, Lee County Ordinances: 02-31, 96-23, 96-15, 96-10, 90-64, 81-28 and 81-27 are obsolete after the legislature amended Fla. Stat. § 28.2401, 28.241, 938.17 and 938.19 in 2004 (Senate Bill 2962) and Fla. Stat. § 34.041 amended in 2003, making the collection of such fees, service charges and costs imposed by Lee County unauthorized.

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

WHEREAS, THE repeal of Lee County Ordinances 02-31, 96-23, 96-15, 96-10, 90-34, 81-28 and 81-27 serve 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 Ordinances 02-31, 96-23, 96-15, 96-10, 90-64, 81-28 and 81-27 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 Ordinances and a favorable vote to adopt this Ordinance will be considered a favorable vote to repeal Lee County Ordinances 02-31, 96-23, 96-15, 96-10, 90-64, 81-28 and 81-27 stated hereafter, and such Ordinances shall be deemed repealed on July 1, 2004 and of no further force or effect.

SECTION THREE:

Lee County Ordinance Numbers 02-31, 96-23, 96-15, 96-10, 90-64, 81-28 and 81-27 relating to imposing excess service charges, fees and costs are hereby repealed.

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 Section of this Ordinance may be renumbered or relettered and that the work “Ordinance” may be changed to “Section”, “Article”, or such 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 as of July 1, 2004 and 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

LEE COUNTY RESOLUTION NO. _____

A RESOLUTION OF LEE COUNTY RELATING TO CERTAIN AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE AS ADOPTED BY LEE COUNTY ORDINANCE NO. 97-23; PROVIDING FOR APPROVAL OF AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 96-01, creating a charter form of government for Lee County pursuant to Section 125.80 and ff., Florida Statutes, and which was approved and ratified by the Electorate of Lee County on November 5, 1996; and,

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 97-23, which adopted the Lee County Administrative Code pursuant to Section 2.2.E. of Ordinance No. 96-01, the Lee County Charter; and,

WHEREAS, Lee County Ordinance No. 97-23 at Section III allows and provides for amendments to the Lee County Administrative Code to be made by Resolution of the Board of County Commissioners at a regularly scheduled Board of County Commissioners' meeting; and,

WHEREAS, certain amendments to the Lee County Administrative Code are now being proposed, and the Board of County Commissioners finds that such proposed amendments are acceptable, serve a public purpose and are consistent with the terms and conditions of Lee County Ordinance No. 96-01, the Lee County Charter.

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

1. The above preamble is hereby accepted and approved as being true and accurate, and is adopted and incorporated herein as if set out further at length.
2. The amendments proposed by the County's Repealer Ordinance of June 22, 2004 (Lee County Ordinance Number 96-10 and 96-15) require amending sections 3-10 of the Lee County Administrative Code and delete External Fee Numbers 6-2* and 6-3* from the External Fees Manual (attached hereto as Exhibit "A" and Exhibit "B"). Such amendments are hereby approved, and are hereby directed to be deleted from the Lee County Administrative Code as indicated.
3. The provisions of this Resolution are severable, and it is the intention to confer to the whole or any part of this Resolution, the powers herein provided for. If any of the provisions of this Resolution shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other remaining provisions of this Resolution. It is hereby declared to be the Board's legislative intent that this Resolution would have been adopted had such an unconstitutional provision not been included herein.
4. This Resolution shall become effective immediately upon its adoption by the Board of County Commissioners.

The foregoing Resolution 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

DEPARTMENT Elected Officials **EXTERNAL FEE NUMBER:** EX 6-2*

DIVISION: Clerk of Courts

PURPOSE: Court Filing Fees for Legal Aid Society, Inc. and Florida Rural Legal Services, Inc.

BASIS FOR FEE: Chapter 67-1636, Law of Florida 1967; Lee County Ordinance 81-28 & 96-10.

DATE APPROVED: 07-07-67, 05-27-81, and 06-19-96

NOTE: *May Not Be Changed Without BOCC Approval

**COURT FILING FEES FOR LEGAL AID SOCIETY, INC.
AND FLORIDA RURAL LEGAL SERVICES, INC.**

1. The Clerk of the Circuit Court of Lee County, Florida, pursuant to Section 34.041, Florida Statutes; is hereby authorized and directed to collect an additional fee or service charge in the amount of five dollars (\$5.00) for each and every action, suit, or proceeding filed within the Civil jurisdiction of the County Court in and for Lee County, Florida. All such additional filing fees or service charge so collected by the Clerk shall be deposited and paid to the Lee County Legal Aid Society, Inc., and the Florida Rural Legal Services, Inc. and expended in the manner as set forth in Chapter 67-1636, Laws of Florida, 1967.
2. The Clerk of the Circuit Court of Lee County, Florida, pursuant to Florida Statutes 28.241, is hereby authorized and directed to collect an additional fee or service charge in the amount of ten dollars (\$10.00) for each and every action, suit, or proceeding filed (excluding those referred to in F.S. 741.30) within the civil jurisdiction of the Circuit Court in and for Lee County. There will be a charge of \$5.00 for all probate proceedings. The additional fee or service charge shall be deposited and paid to the Lee County Legal Aid Society, Inc. and the Florida Rural Legal Services, Inc., and expended in the manner set forth in Chapter 67-1636, Laws of Florida, 1967.

All funds, which shall be received by the Clerk of the Circuit Court under section 1 and 2 hereof, shall be paid pursuant to the provisions of Ordinance #96-10.

DEPARTMENT: Elected Officials

EXTERNAL FEE NUMBER: EX 6-3*

DIVISION: Clerk of Courts

PURPOSE: Court Costs/Juvenile Assessment Center

BASIS FOR FEE: Florida Statutes 938.17 (1-4); Lee County Ordinance 96-15

DATE APPROVED: 09-04-96

NOTE: *May Not Be Changed Without BOCC Approval

JUVENILE ASSESSMENT CENTER

\$3.00

Lee County has been authorized to levy a mandatory court cost to be assessed on specified court cases in order to assist in funding a juvenile assessment center.

The Circuit and County Courts shall assess court costs of Three Dollars (\$3.00) per case, in addition to any other authorized cost or fine, on every person who, with respect to a charge, indictment, prosecution commenced, or petition of delinquency filed in the County or Circuit Court, pleads guilty, nolo contendere to, or is convicted of, or adjudicated delinquent for, or has an adjudication withheld for, a felony or misdemeanor, or a criminal traffic offense or handicapped parking violation under state law, or a violation of any municipal or county ordinance, if the violation constitutes a misdemeanor under state law.

LEE COUNTY
NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on Tuesday, the 22nd day of June, 2004, at 5:00 o'clock p.m., in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider the enactment of a County Ordinance pursuant to Article VIII, Section 1, of the Florida Constitution and Chapter 125, Florida Statutes. The title of the proposed County Ordinance is as follows:

A REVISER'S ORDINANCE REPEALING LEE COUNTY ORDINANCES: NO. 02-31 AMENDING LEE COUNTY ORDINANCE NOS. 93-07 AND 98-16, THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; PROVIDING FOR THE COLLECTION AND EXPENDITURE OF FUNDS FOR THE LEE COUNTY PUBLIC GUARDIANSHIP PROGRAM; NO. 96-23 AN ORDINANCE PROVIDING FOR AN ASSESSMENT FOR TEEN COURT IN CASES PROSECUTED IN LEE COUNTY CIRCUIT AND COUNTY COURT; PROVIDING FOR DISTRIBUTION OF FUNDS SO ASSESSED; NO. 96-15 LEE COUNTY DELINQUENCY PREVENTION FINE; PROVIDING FOR A MANDATORY COURT COST OF \$3.00 PER SPECIFIED CASE, RELATING TO THE FUNDING OF A JUVENILE ASSESSMENT CENTER; 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; NO. 90-64 AN ORDINANCE ESTABLISHING A SERVICE CHARGE ON ALL CIVIL AND PROBATE CIRCUIT COURT PROCEEDINGS IN THE TWENTIETH JUDICIAL CIRCUIT TO DEFRAY THE COST OF MEDIATION AND ARBITRATION SERVICES; NO. 81-28 AN ORDINANCE PERTAINING TO THE COLLECTION OF ADDITIONAL COURT FILING FEE OR SERVICE CHARGE; PROVIDING FOR AN ADDITIONAL FEE OR SERVICE CHARGE OF \$3.00 FOR EACH ACTION OR PROCEEDING FILED WITHIN THE CIVIL JURISDICTION

OF THE CIRCUIT COURT AND A \$2.00 ADDITIONAL FILING FEE OR SERVICE CHARGE FOR ACTIONS FILED WITH THE SMALL CLAIMS COURT IN AND FOR LEE COUNTY; PROVIDING SAID FUNDS TO BE USED FOR THE LEE COUNTY LEGAL AID SOCIETY; NO. 81-27 AN ORDINANCE PERTAINING TO THE COLLECTION OF ADDITIONAL COURT FILING FEE OR SERVICE CHARGE; PROVIDING FOR AN ADDITIONAL FILING FEE OR SERVICE CHARGE OF \$3.00 FOR EACH ACTION OR PROCEEDING FILED WITHIN THE CIVIL JURISDICTION EXCEEDING \$1500 OF THE COUNTY COURT AND A \$6.00 FILING FEE OR SERVICE CHARGE FOR ACTIONS OR PROCEEDINGS FILED WITH THE PROBATE COURT IN AND FOR LEE COUNTY, FLORIDA; PROVIDING SAID FUNDS TO BE USED FOR THE LEE COUNTY LAW LIBRARY; PROVIDING FOR FINDINGS, INTENT, REPEAL OF ORDINANCES, CODIFICATION AND SCRIVENER'S ERRORS AND AN EFFECTIVE DATE OF JULY 1, 2004.

1. Copies of this Notice and the proposed Ordinance are on file in the Minutes Office of the Clerk of Courts of Lee County. The public may inspect or copy the proposed Ordinance during regular business hours at the Office of Public Resources. The Minutes Office and Public Resources are located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. Public Resources is located on the first floor and the Minutes Office is located on the second floor of the Courthouse Administration Building.
2. Interested parties may appear at the meeting in person or through counsel, and be heard with respect to the adoption of the proposed Ordinance.
3. Anyone wishing to appeal the decision(s) made by the Board with respect to any matter considered at this meeting, will need a record of the proceedings for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.
4. The Ordinance will take effect upon its filing with the Office of the

Secretary of the Florida Department of State, or as may be otherwise prescribed in the Ordinance.

5. If you have a disability that will require special assistance or accommodations for your attendance at the public hearing, please call the Lee County Division of Public Resources at 335-2269 for information.

PLEASE GOVERN YOURSELF ACCORDINGLY.

The text of this Notice is in conformance with Section 125.66, Florida Statutes (2003), and other relevant sections of Florida law.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Charlie Green, Ex-Officio Clerk
to the Board of County Commissioners
of Lee County, Florida

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

Ad Size: 2 x 5

Publishing Dates: **JUNE 11, 2004**

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

Blue Sheet No. 20040525

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct a Public Hearing to enact a Reviser's Ordinance Repealing Lee County Ordinance 96-10, captioned Court Filing Fees for Legal Aid, for the reason that it is obsolete.

WHY ACTION IS NECESSARY: Board must formally adopt an Ordinance at a scheduled, advertised Public Hearing. Amends, by Resolution, AC 3-10 External Fee Number 6-2*.

WHAT ACTION ACCOMPLISHES: Will repeal Lee County Ordinance 96-10 providing for consistency and updatedness and amends the Administrative Code and removes External Fee Number 6-2*.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

3. MEETING DATE:
06-22-2004

- 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 L. 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.

Continued on Page 2 -

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		OA	OM	RISK	GC	
									<i>4/22/04</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER *CONTINUE 2:11*

CO. ATTY.
FORWARDED
TO CO. ADMIN.
4/22/04

RECEIVED BY
COUNTY ADMIN:
4/22/04
3:00 pm
COUNTY ADMIN
FORWARDED TO:

ON 05-11-04

6/8/04 PUBLIC HEARING 12:50 PM

06-08-04 - Continued to 06-22-04 Public Hearing @ 5:00 PM.

RK

BLUESHEET #: 20040525

PAGE #: 2

SUBJECT: Conduct Public Hearing

Constitutional Revision 7, approved by the voters in November 1998 “allocates state court system funding among state, counties, and users of courts.”

Under Revision 7, clerks of the circuit and county courts will be funded from their share of filing fees, service charges and certain criminal fine and forfeiture revenues that they collect.

Revision 7, Article V transfers authority to impose additional circuit civil and county court filing fees from the board of county commissioners to the clerk of court. Therefore, court clerks may impose filing fees in an amount clerks deem necessary to fund their costs within a cap. Charges imposed by county commissioners pursuant to Revision 7 to Article V will stand repealed July 1, 2004.

Local governments are now required to fund the cost of legal aid as a local requirement.

ATTACHMENTS: Memorandum dated 11/12/03 from County Attorney to Public Resources
Proposed Repealing Ordinance
Resolution
Financial & Administrative Impact Statement
Notice of Intent To Enact A County Ordinance

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, effective on July 1, 2004, and of no further force or effect thereafter.

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 effective July 1, 2004. (A copy of Lee Co. Ord. 96-10 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 on July 1, 2004 and 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

LEE COUNTY RESOLUTION NO. _____

A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE AS ADOPTED BY LEE COUNTY ORDINANCE NO. 97-23; PROVIDING FOR APPROVAL OF CERTAIN AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 96-01, creating a charter form of government for Lee County pursuant to Section 125.80 and ff., Florida Statutes, and which was approved and ratified by the Electorate of Lee County on November 5, 1996; and,

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 97-23, which adopted the Lee County Administrative Code pursuant to Section 2.2.E. of Ordinance No. 96-01, the Lee County Charter; and,

WHEREAS, Lee County Ordinance No. 97-23 at Section III allows and provides for amendments to the Lee County Administrative Code to be made by Resolution of the Board of County Commissioners at a regularly scheduled Board of County Commissioners' meeting; and,

WHEREAS, certain amendments to the Lee County Administrative Code are now being proposed, and the Board of County Commissioners finds that such proposed amendments are acceptable, serve a public purpose and are consistent with the terms and conditions of Lee County Ordinance No. 96-01, the Lee County Charter.

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

1. The above preamble is hereby accepted and approved as being true and accurate, and is adopted and incorporated herein as if set out further at length.
2. The amendments proposed by the Repealer Ordinance require amending 3-10 Lee County Administrative Code and will remove External Fee Number 6-2* from the External Fees Manual (attached hereto as Exhibit "A") is approved, and is hereby directed to be incorporated into the Lee County Administrative Code as indicated.
3. The provisions of this Resolution are severable, and it is the intention to confer to the whole or any part of this Resolution, the powers herein provided for. If any of the provisions of this Resolution shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other remaining provisions of this Resolution. It is hereby declared to be the Board's legislative intent that this Resolution would have been adopted had such an unconstitutional provision not been included herein.
4. This Resolution shall become effective immediately upon its adoption by the Board of County Commissioners.

The foregoing Resolution 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

B.S. 20040525

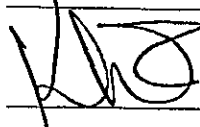
FILE COPY

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

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
NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on Tuesday, the 11th day of May, 2004, at 5:00 o'clock p.m., in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider the enactment of a County Ordinance pursuant to Article VIII, Section 1, of the Florida Constitution and Chapter 125, Florida Statutes. The title of the proposed County Ordinance is as follows:

**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.**

1. Copies of this Notice and the proposed Ordinance are on file in the Minutes Office of the Clerk of Courts of Lee County. The public may inspect or copy the proposed Ordinance during regular business hours at the Office of Public Resources. The Minutes Office and Public Resources are located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. Public Resources is located on the first floor and the Minutes Office is located on the second floor of the Courthouse Administration Building.
2. Interested parties may appear at the meeting in person or through counsel, and be heard with respect to the adoption of the proposed Ordinance.
3. Anyone wishing to appeal the decision(s) made by the Board with respect

to any matter considered at this meeting, will need a record of the proceedings for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

4. The Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State, or as may be otherwise prescribed in the Ordinance.

5. If you have a disability that will require special assistance or accommodations for your attendance at the public hearing, please call the Lee County Division of Public Resources at 335-2269 for information.

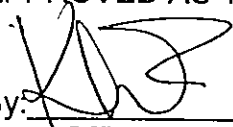
PLEASE GOVERN YOURSELF ACCORDINGLY.

The text of this Notice is in conformance with Section 125.66, Florida Statutes (2003), and other relevant sections of Florida law.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Charlie Green, Ex-Officio Clerk
to the Board of County Commissioners
of Lee County, Florida

APPROVED AS TO FORM:

By:  _____
Office of the County Attorney

Ad Size: 2 x 5

Publishing Dates: **April 27, 2004 and May 4, 2004**

A G E N D A U P D A T E

FROM



DIVISION OF PUBLIC RESOURCES

MEETING OF MAY 11, 2004

RE: 5:00 #3-COURT FILING FEE FOR LEGAL AID

Attached please find additional backup for the above referenced agenda item. Please place this in your agenda book.

Thank you.

**SEND TO: BOARD - ALBION COY JANES JUDAH ST. CERNY
 COMMISSION RECEPTION DESK
 DONALD STILWELL, COUNTY MANAGER
 BILL HAMMOND, DEPUTY COUNTY MANAGER
 HOLLY SCHWARTZ, ASSISTANT COUNTY MANAGER
 ANTONIO MAJUL, BUDGET SERVICES
 JAMES LAVENDER, PUBLIC WORKS
 JAMES YAEGER, COUNTY ATTORNEY
 LISA PIERCE, MINUTES DEPARTMENT
 PUBLIC RESOURCES OFFICE**

DATE AND TIME DISTRIBUTED: 05-05-04 11:00 AM

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: May 5, 2004

To: Lee Cares

FROM:


Kristie L. Kroslack
Assistant County Attorney

RE: Court Filing Fee for Legal Aid

Please include the attached Financial Impact Statement, prepared by Budget Services as back up to Blue Sheet Number 20040525, Court Filing Fee for Legal Aid, scheduled for Public Hearing on the May 11, 2004 Agenda.

Thank you

Attachment

LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE:
Relating to Collection of Filing Fees for Indigent Legal Services

II. Fiscal Impact on County Agencies/County Funds.

A. What is estimated Demand? (Develop Indicators) N/A

B. What is estimated Workload? (Develop Indicators) N/A

C. What are estimated costs?

	1st Year \$'s		2nd Year \$'s	
	<u>Existing</u>	<u>New</u>	<u>Existing</u>	<u>New</u>
Personnel	N/A		N/A	
Fringe	N/A		N/A	
Operating	N/A		N/A	
Capital Outlay	N/A		N/A	
Total	N/A		N/A	

D. List the anticipated revenues to cover costs identified in II, C, above. If a fee is to be charged, answer the following:

1. What is the basis (rationale) for the fee? N/A

2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered? N/A

E. Give a brief narrative analysis of the information contained in II. A through D, above.

Repeal of ordinance results in loss of approximately \$200,000 annually, per Clerk's Office.