

Lee County Board of County Commissioners  
Agenda Item Summary

Blue Sheet No. 20041154

1. **REQUESTED MOTION:**

**ACTION REQUESTED:** Adopt an Emergency Ordinance relating to the removal of hurricane debris from public and private property by federal agencies during declared emergencies, to include the removal of damaged residences declared unsafe for habitation.

**WHY ACTION IS NECESSARY:** Federal disaster recovery agencies need local approval and authorization to assist in hurricane recovery by utilizing federal resources for the removal of debris from public and private property.

**WHAT ACTION ACCOMPLISHES:** Provides authorization to federal agencies to assist with the removal of hurricane debris, to include damaged residences declared unsafe for habitation.

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

3. **MEETING DATE:**

09-07-2004

4. **AGENDA:**

5. **REQUIREMENT/PURPOSE:**  
(Specify)

6. **REQUESTOR OF INFORMATION:**

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

- STATUTE 42 USC §5173 & 5174; §§252.38; 125.66, F.S.
- ORDINANCE
- ADMIN. CODE
- OTHER

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION General Services
- BY: David M. Owen  
Chief Assistant County Attorney

7. **BACKGROUND:**

On August 11, 2004, and subsequently, the United States, the State of Florida and Lee County have declared a State of Local Emergency for Lee County due to Hurricanes Charley and Frances. The U.S. Government has offered assistance to Lee County through certain agencies for the removal of hurricane debris from the hurricanes, to include damaged residences deemed unfit

(BACKGROUND CONTINUED - NEXT PAGE)

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	9/2/04	OA 9/2/04	OM 9/2/04	RISK 9/2	GC 9/2/04	9/2/04

10. **COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

AFTER DISCUSSION

RECEIVED BY COUNTY ADMIN:
9/2/04
9:00pm SLT
COUNTY ADMIN FORWARDED TO:
9-2-04

CO. ATTY 9/2/04
FORWARDED TO CO. ADMIN.
3:30pm

**BACKGROUND:** (Continued)

for habitation. In order to provide such assistance, the federal agencies require authorization from the local government (Lee County) in order to utilize federal forces for the clean-up assistance and to enter onto public and private property of Lee County for debris removal.

The Ordinance provides authority for the debris removal using federal forces and a process for damaged residences that are deemed and determined to be uninhabitable to be identified and removed in order to protect the public's health and safety.

Attachment: Authorization Ordinance for federal debris removal assistance.

**MEMORANDUM  
FROM THE  
OFFICE OF COUNTY ATTORNEY**

**DATE:** September 2, 2004

**TO:** Elizabeth Walker, Director

Public Resources

and

Kathy Geren

Public Resources

**FROM:**



David M. Owen

Chief Assistant County Attorney

**RE: EMERGENCY ORDINANCE WALK-ON BLUESHEET NO. 20041154 FOR  
MEETING OF SEPTEMBER 7, 2004**

Ladies;

The above bluesheet needs to be "walked on" next Tuesday in order to provide the U.S. Government with authorization to assist in hurricane debris removal and emergency housing.

As part of the Board's continuing legislative actions concerning Hurricane Charley and Hurricane Frances, and the daily changing of circumstances surrounding the storms, these actions need to be taken as expeditiously as possible in order to keep the Board's business in order with respect to actions taken pursuant to the hurricanes.

Thanks.

DMO/dm

xc: Robert W. Gray, Deputy County Attorney  
Donald D. Stilwell, County Manager  
Pete Winton, Assistant to the County Manager  
Lisa Pierce, Supervisor, Minutes Department

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM  
CODRS CODING FORM

COUNTY: ( Lee ) COUNTY ORDINANCE # ( 04-13 )  
(e.g., 93-001)

PRIMARY KEYFIELD  
DESCRIPTOR: ( Public Safety )

SECONDARY KEYFIELD  
DESCRIPTOR: ( Nuisances/Hazards )

OTHER KEYFIELD  
DESCRIPTOR: ( \_\_\_\_\_ )

ORDINANCE DESCRIPTION: ( Debris & Wreckage Removal )  
(25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by  
this legislation. If more than two, list the most recent two.)

AMENDMENT #1: ( \_\_\_\_\_ ); AMENDMENT #2: ( \_\_\_\_\_ ).

ORDINANCES REPEALED: (List below the ordinances that are repealed  
by this legislation.)

REPEAL #1: ( \_\_\_\_\_ ); REPEAL #3: ( \_\_\_\_\_ );  
REPEAL #2: ( \_\_\_\_\_ ); REPEAL #4: ( \_\_\_\_\_ );

(Others repealed: list all that apply): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

=====  
**(FOR OFFICE USE ONLY):** COUNTY CODE NUMBER: (    )  
  
KEYFIELD 1 CODE: ( \_\_\_\_\_ ) KEYFIELD 2 CODE: ( \_\_\_\_\_ )  
  
KEYFIELD 3 CODE: ( \_\_\_\_\_ )  
Rev. 6/29/93  
=====

LEE COUNTY ORDINANCE NO. 04-13

**AN EMERGENCY ORDINANCE OF LEE COUNTY  
GRANTING EMERGENCY AUTHORIZATION TO  
THE UNITED STATES GOVERNMENT AND ITS  
SEVERAL DEPARTMENTS, AGENCIES, AND  
INSTRUMENTALITIES FOR THE REMOVAL OF  
DEBRIS AND WRECKAGE CAUSED BY  
HURRICANES CHARLEY AND FRANCES FROM  
BOTH PUBLIC AND PRIVATE PROPERTY**

WHEREAS, on August 13, 2004, Hurricane Charley severely impacted Lee County and other counties; and,

WHEREAS, on August 10, 2004, the Governor of the State of Florida issued Executive Order 04-182, as amended, and declared a State of Emergency in the State, and the Board of County Commissioners of Lee County also declared a State of Local Emergency in Lee County on August 11, 2004 which was extended on August 17, 24 and 31, 2004; and,

WHEREAS, on September 4, 2004, Hurricane Frances further impacted Lee County; and,

WHEREAS, due to the destruction caused by Hurricanes Charley and Frances many structures have been damaged or destroyed, leaving such structures in uninhabitable condition, and leaving large quantities of wreckage causing unsafe and unsanitary conditions that endanger persons in the vicinity and the general public; and,

WHEREAS, the presence of large accumulations of wreckage constitutes a public nuisance that renders other structures in the vicinity uninhabitable, and is unsafe for the general public; and,

WHEREAS, in order to prevent disease, provide secure shelter for the victims of

Hurricanes Charley and Frances, and to protect the health, safety and welfare of persons in Lee County, the Board of County Commissioners of Lee County finds that there exists a compelling public purpose and need to immediately remove debris and wreckage caused by Hurricanes Charley and Frances from public and private property; and,

WHEREAS, on August 13, 2004, the President of the United States declared a major disaster in Lee County and other counties of the State of Florida due to Hurricane Charley by Disaster Declaration FEMA-1539-DR; and,

WHEREAS, Congress has authorized and provided means of providing major disaster relief in 42 USC § 5170 *et seq.*; and,

WHEREAS, pursuant to 42 USC § 5173(a)(1), the President has the authority to direct federal departments, agencies and instrumentalities to clear debris and wreckage resulting from a major disaster from publicly and privately-owned lands and waters; and,

WHEREAS, 42 USC § 5173(b), provides that state and local governments can authorize and approve federal actions within their jurisdictions for emergency-related activities; and,

WHEREAS, pursuant to 42 USC § 5174(a)(1)(A), the President also has the authority to provide temporary housing to eligible victims of a major disaster, and an immediate need for such temporary housing has been identified in Lee County.

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

Section 1. Due to the existing State of Local Emergency in Lee County, the Board of County Commissioners of Lee County, pursuant to its police powers to protect the public's health, safety and welfare, hereby gives the United States Government, together with its

departments, agencies and instrumentalities, the formal authority to remove debris and wreckage caused by Hurricanes Charley and Frances from any and all public and private lands in Lee County.

Section 2. Upon a finding that any structure in Lee County has been rendered unsafe for human habitation due to damage caused by Hurricane Charley or Frances, or upon a finding that the presence of debris or wreckage on any real property in the County creates an unsafe or unsanitary condition for persons in the vicinity, the Building Official of Lee County may order the condemnation and demolition of such structure and the removal of any wreckage or debris from the site in accordance with the procedures specified in this Ordinance.

Section 3. The County Building Official shall issue a Notice and Order to the owner of the real property where the structure is situated or where the wreckage and debris are located commanding the owner to demolish the structure and remove all wreckage and debris from the site not later than seventy-two (72) hours from the date and time the Notice and Order are posted. The Notice and Order shall be displayed at a conspicuous location at the site, shall state the date and time it was posted, and shall further state that if the owner does not demolish the structure within seventy-two (72) hours, the demolition and removal of wreckage and debris will be performed by the County or by an entity of the United States Government acting with the consent, authority and approval of Lee County. In addition, the Notice and Order shall state that the owner may appeal the Order of Demolition to the Board of County Commissioners within seventy-two (72) hours of the time it was posted by appearing in person before the Lee County Building Official and filing a written appeal within that time.

Section 4. If the Notice and Order is not appealed within the seventy-two (72) hours

from the time it was posted, and the owner has not demolished the structure and removed all wreckage and debris from the site within that time, any entity of the United States Government including, but not limited to; Lee County, the Federal Emergency Management Agency or the Army Corps of Engineers and their contractors and subcontractors, may proceed to demolish the structure and remove all wreckage and debris from the site. The cost of such demolition and removal shall then become a lien upon the real property to be placed by the entity performing the demolition and removal of the debris.

Section 5. In the enactment of this Ordinance it is the expressed intent of the Board of County Commissioners of Lee County to give independent effect to every provision of the Ordinance regardless of the effect of the other provisions. If any provision of this Ordinance is ruled invalid, such invalidity shall not affect the other provisions of the Ordinance; the invalid provisions shall be deemed severed therefrom, and the remaining provision shall continue to have full force and effect.

The foregoing Ordinance was offered by Commissioner Coy, who moved its adoption. The motion was seconded by Commissioner Judah and being put to a vote, the vote was as follows:

BOB JANES	<u>AYE</u>
DOUGLAS ST. CERNY	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
ANDREW COY	<u>AYE</u>
JOHN ALBION	<u>AYE</u>



DULY PASSED AND ADOPTED this 7<sup>th</sup> day of September, 2004.

ATTEST: CHARLIE GREEN  
CLERK OF THE COURT

By: Michelle S. Cooper  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: [Signature]  
Chairman



APPROVED AS TO FORM:

By: [Signature]  
Office of the County Attorney

**Charlie Green**  
**Clerk of Circuit Court**  
**Lee County, Florida**

STATE OF FLORIDA

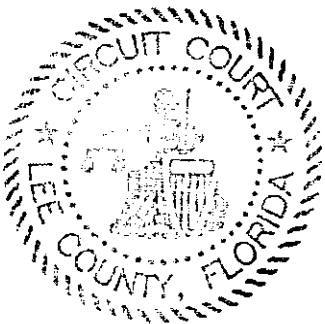
COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that Lee County Ordinance No. 04-13, duly adopted by the Board of Lee County Commissioners, at their meeting held on the 7th day of September 2004, was accepted by the Fort Myers, FL, Downtown Post Office on this 9th day of September 2004, at 9:34 a.m. for delivery by Express Mail.

Given under my hand and seal, at Fort Myers, Florida, this 9th day of September 2004.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By: Michelle S. Cooper  
Deputy Clerk





RECEIVED  
MINUTES OFFICE

2004 SEP 15 AM 10:57

FLORIDA DEPARTMENT OF STATE

**Glenda E. Hood**

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

September 13, 2004

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

Attention: Michele G. Cooper, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated September 9, 2004 and certified copy of Lee County Ordinance No. 04-13, which was filed in this office on September 10, 2004.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud  
Program Administrator

LC/kcs

STATE LIBRARY OF FLORIDA

R.A. Gray Building • Tallahassee, Florida 32399-0250 • (850) 245-6600

FAX: (850) 488-2746 • TDD: (850) 922-4085 • <http://www.dos.state.fl.us>

LEGISLATIVE LIBRARY SERVICE     RECORDS MANAGEMENT SERVICES     FLORIDA STATE ARCHIVES  
(850) 488-2812 • FAX: (850) 488-9879    (850) 487-2180 • FAX: (850) 413-7224    (850) 245-6700 • FAX: (850) 488-4894  
 ADMINISTRATIVE CODE AND WEEKLY  
(850) 245-6270 • FAX: (850) 245-6282