

Lee County Board of County Commissioners
Agenda Item Summary

Blue Sheet No. 20041159

1. **REQUESTED MOTION:**

ACTION REQUESTED: Confirm and accept for both filing and the Clerk's Minutes cataloging purposes, Lee County Resolution Nos. 04-09-01 and 04-09-02, relating to the Declaration of Local Emergency and granting emergency authorization to the agencies of the U.S. Government for debris clearing as adopted by the County on September 3, 2004 and September 2, 2004, respectively, relating to Hurricanes Frances and Charley, respectively.

WHY ACTION IS NECESSARY: Approval of the Emergency Resolutions at a Board meeting facilitates the filing of same with the Clerk for the minutes of the Board.

WHAT ACTION ACCOMPLISHES: Provides both a Board meeting confirmation and scheduling document for the filing of Emergency Resolutions as adopted by the Board through the Chairman or Vice Chairman.

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

3. **MEETING DATE:**

09-07-2004

4. **AGENDA:**

X CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:

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

X STATUTE 42 USC, §5173, & §252.38, F.S.

X ORDINANCE 87-02

ADMIN. CODE

X OTHER State Exec. Order No. 04-192

6. **REQUESTOR OF INFORMATION:**

A. COMMISSIONER

B. DEPARTMENT County Attorney

C. DIVISION General Services

BY: David M. Owen
Chief Assistant County Attorney

7. **BACKGROUND:**

On September 2, 2004 and September 3, 2004, the County enacted two (2) County Emergency Resolutions pursuant to County Ordinance and general law as the result of the impacts and effects from Hurricanes Charley and Frances. The Resolutions were enacted without action at a Board meeting and now need after-the-fact confirmation by the Board in order to properly file same in the County's Minutes of its Emergency Legislative actions by the Clerk to the Board.

8. **MANAGEMENT RECOMMENDATIONS:**

9. **RECOMMENDED APPROVAL:**

Confirm Lee County Resolution Nos. 04-09-01 and 04-09-02 and file in the County's Minutes.

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	9/3/04	OA RK 9/3	OM 9/3/04	RISK 9/3/04	GC 9/3/04	9/14/04

10. **COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY. 9/3/04
FORWARDED
TO CO. ADMIN.
3:05 PM

RECEIVED BY
COUNTY ADMIN:
9/13/04
3:15 PM
COUNTY ADMIN
FORWARDED TO: FR
4:50 PM
9/13/04

ENTERED

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: September 3, 2004

TO: Elizabeth Walker, Director

Public Works

and

Kathy Geren

Public Resources

FROM:


David M. Owen

Chief Assistant County Attorney

**RE: WALK-ON BLUESHEET NOS. 20041158 AND 20041159 FOR
MEETING OF SEPTEMBER 7, 2004**

Ladies;

The above bluesheets need to be "walked on" next Tuesday in order to approve the fourth extension of the Declaration of State of Local Emergency, originally declared on August 11, 2004, relating to Hurricane Charley (No. 20041158), and to confirm and accept for both filing and the Clerk's Minutes cataloging purposes, Lee County Emergency Resolution Nos. 04-09-01 and 04-09-02 adopted by the Board on September 3, 2004 and September 2, 2004, respectively (No. 20041159).

As with the numerous walk-on bluesheets we have had in recent weeks, the above referenced actions must be taken as expeditiously as possible as part of the Board's on-going legislative actions concerning Hurricane Charley, and now, Hurricane Frances.

As always, thanks for your assistance.

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

LEE COUNTY, FLORIDA
EMERGENCY RESOLUTION NO. 04-09-01
DECLARING A STATE OF LOCAL EMERGENCY

WHEREAS, the National Hurricane Center has identified a potential flooding danger to coastal residents of Florida from Hurricane Frances, by posting a HURRICANE watch from September 1, 2004 to September 6, 2004; and

WHEREAS, the Governor, by Executive Order Number 04-192, has declared an emergency for the State of Florida due to the imminent landfall from Hurricane Frances, a Category 3/4 Hurricane with anticipated high winds and extensive rainfall; and

WHEREAS, Lee County requires an extensive period of time to evacuate threatened residents from the hazards of flooding from a hurricane; and

WHEREAS, the current error of the National Hurricane Center's meteorological forecast does provide an accurate prediction of where the track of Hurricane Frances will be at that point in time coinciding with Lee County's estimated evacuation times; and

WHEREAS, Hurricane Frances has the potential for causing life threatening conditions and extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, commercial and residential buildings and areas from flooding conditions; and

WHEREAS, §252.38 (3)(2)(5), Florida Statutes, provides authority for political subdivisions, such as Lee County, to declare a State of Local Emergency and to waive the procedures and formalities otherwise required of political subdivisions in order to take whatever actions are necessary to ensure the health, safety, and welfare of the community; and

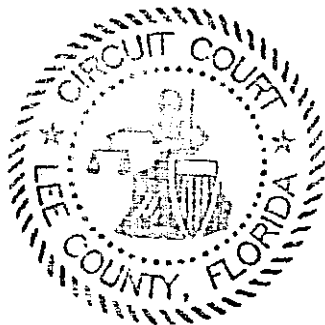
WHEREAS, Lee County Ordinance Number 87-01, states that when a quorum of the board of County Commissioners is unable to meet, the Chairperson of the Board of County Commissioners, or the Vice-Chairperson in his/her absence, or the County Administrator or his/her

designee in the absence of the Chairperson, or Vice-Chairperson is authorized to declare a State of Local Emergency.

NOW THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

1. That Hurricane Frances poses a serious threat to the lives and property of the residents of Lee County as the result of potential extensive flooding, and that a State of Local Emergency shall be declared effective immediately for all unincorporated and incorporated areas within the boundary of Lee County, Florida.
2. That the Board of County Commissioners hereby exercises its authority and waives the procedures and formalities required by law for political subdivision, as provided in §252.38 (3)(2)(5), Florida Statutes.
3. The duration of this State of Local Emergency is limited to seven (7) days; however, it may be extended, as deemed necessary by the Board of County Commissioners for additional terms in seven (7) day increments.
4. The State of Florida Executive Order No. 04-192 relating to Hurricane Frances is hereby incorporated into the terms and conditions of this Resolution.

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF
LEE COUNTY, FLORIDA, this 3rd day of September, 2004.



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: [Signature]
Chairman

ATTEST:
CHARLIE GREEN, CLERK

By: [Signature]
Deputy Clerk

12 : 00 P.M.
(Time)

APPROVED AS TO FORM:

By: [Signature]
Office of the County Attorney



State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 3rd day of September, A.D. 2004

CHARLIE GREEN, CLERK
By: [Signature]
Deputy Clerk

LEE COUNTY RESOLUTION NO. 04-09-02

**A RESOLUTION OF LEE COUNTY, FLORIDA,
GRANTING EMERGENCY AUTHORIZATION TO
THE UNITED STATES GOVERNMENT ITS
DEPARTMENTS, AGENCIES AND
INSTRUMENTALITIES TO REMOVE DEBRIS AND
WRECKAGE RESULTING FROM HURRICANE
CHARLEY FROM BOTH PUBLIC AND PRIVATE
PROPERTY AND INDEMNIFYING THE FEDERAL
GOVERNMENT FOR SUCH ACTIVITIES IN LEE
COUNTY**

WHEREAS, on August 13, 2004, Hurricane Charley severely impacted Lee County causing major damage to portions of the County in particular, to its Barrier Islands; and,

WHEREAS, on August 10, 2004, the Governor of the State of Florida by Executive Order Number 04-182, and the Board of County Commissioners by Resolution, declared the existence of a State of Emergency in Lee County on August 11, 2004, and extended such State of Local Emergency on August 17, 24 and 31, 2004 by subsequent Resolutions, all of which are incorporated herein by reference; and,

WHEREAS, in order to prevent the spread of disease, provide secure shelter for victims of the hurricane and otherwise safeguard the health, safety and welfare of the citizens of Lee County and the impending approach of a new Hurricane, Frances, the Board finds that there exists a compelling public interest in immediately removing debris and wreckage resulting from Hurricane Charley from both public and private property; and,

WHEREAS, due to the destruction caused by Hurricane Charley 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, on August 13, 2004, the President of the United States has declared Lee County a federal disaster 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 §1570 *et seq.*; and

WHEREAS, pursuant to 42 USC §5173(a)(1), the President has 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, in accordance with 42 USC §5173(b), such federal authority cannot be exercised unless the affected state or local government provides formal authorization for such action.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that the Board, in light of the existing State of Local Emergency in Lee County, the approach of Hurricane Frances, and pursuant to its police powers to protect the public health, safety and welfare, hereby authorizes the United States Government, its departments, agencies, and instrumentalities to remove debris and wreckage from both public and private property throughout Lee County resulting from Hurricane Charley.

The County agrees, to the extent permitted by Florida law, to indemnify the Federal Government against any claims resulting from such removal activities of the federal agencies.

DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, this 2nd day of September, 2004, at 10:00 A.M.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

By: *Ana S. Purci*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: *Douglas St. Cerny*
Douglas St. Cerny
Vice Chairman



APPROVED AS TO FORM:

By: *[Signature]*
Office of the County Attorney

State of Florida
County of Lee

I Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 2nd day of September, A.D. 2004

CHARLIE GREEN, CLERK
By: *Ana S. Purci*
Deputy Clerk

