

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

Blue Sheet No. 20060964

1. ACTION REQUESTED/PURPOSE: Request permission to advertise for and conduct a Public Hearing on Tuesday, August 22, 2006 at 5:00 p.m. in Chambers to consider the amendment of Ordinance 83-16.

2. WHAT ACTION ACCOMPLISHES: Allows the proposed amendment of the Lee County Gasparilla Island Bird and Wildlife Sanctuary ordinance to exclude the Black Spiny Iguana from protection to proceed to Public Hearing.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category: 06

CGH

Meeting Date: August 1, 2006

6. Agenda:
 Consent
 Administrative
 Appeals
 Public 5:00 P.M.
 Walk-On

7. Requirement/Purpose: (specify)

<input type="checkbox"/>	Statute	
<input checked="" type="checkbox"/>	Ordinance	83-16
<input checked="" type="checkbox"/>	Admin. Code	1-3
<input type="checkbox"/>	Other	

8. Request Initiated:
 Commissioner _____
 Department _____
 Division _____ Animal Services
 By: Scott Trebatoski, Director

Background: The Lee County Gasparilla Island Bird and Wildlife Sanctuary was originally established by Ordinance 83-16 which was adopted by the Board of County Commissioners on May 11, 1983. The purpose of this ordinance was to provide protective regulations to preserve Gasparilla Island as a perpetual bird habitat and wildlife refuge.

The proposed amendment to this Ordinance will exclude the Black Spiny Iguana, (*Ctenosaura similes*) from protection in this Sanctuary, allowing control efforts by the Gasparilla Island Special Improvement Unit, as well as private property owners, to proceed.

Attachment: Proposed Amended Ordinance 83-16

10. Review for Scheduling

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>Scott Trebatoski By Scott CRIO</i>	N/A	N/A	N/A	<i>W. Chafin B. Allen</i>	<i>CA 7/20/06</i>	<i>JT 7/20/06</i>	<i>JA 7/20/06</i>	<i>AK 7/20/06</i>	<i>W. Chafin</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
 COUNTY ADMIN: *CA*
 7-20-06 11:00 AM
 COUNTY ADMIN
 FORWARDED TO: *PA*
 7/20/06
3/12

RECEIVED BY
 COUNTY ATTY
 Date: *7/20/06*
 Time: *5:30 AM*
 Forwarded to:

LEE COUNTY ORDINANCE # _____

AN ORDINANCE REPEALING AND REPLACING LEE COUNTY ORDINANCE 83-16; ESTABLISHING THE LEE COUNTY GASPARILLA ISLAND BIRD AND WILDLIFE SANCTUARY; PROVIDING SHORT TITLE; PROVIDING PURPOSE AND INTENT; DESIGNATING GASPARILLA ISLAND AS A BIRD AND WILDLIFE SANCTUARY AND ESTABLISHING LEGAL BOUNDARIES; PROVIDING PROHIBITION; PROVIDING FOR VIOLATION, ENFORCEMENT AND PENALTIES; PROVIDING FOR THE EXERCISE OF POLICE POWER; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, RULES OR REGULATIONS; PROVIDING SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, on May 11, 1983, the Board of County Commissioners, Lee County adopted Lee County Ordinance 83-16, relating to the Gasparilla Island Bird and Wildlife Sanctuary; and

WHEREAS, the Board of County Commissioners, Lee County, now desires to update the scope of prohibitions of the Ordinance; and

WHEREAS, Gasparilla Island in Lee County provides a significant habitat for a wide variety of wildlife and bird species which is not currently regulated in Lee County; and

WHEREAS, recreational hunting would prove to be detrimental to the safety of the inhabitants and wildlife of Gasparilla Island as well as pose a threat to the viability of the island as a perpetual wildlife refuge; and

WHEREAS, in the interest of public safety and wildlife conservation, it is the desire of the board to establish through protective regulations, a sanctuary for the protection of all birds and/or other wildlife located on Gasparilla Island, Lee County Florida; and

WHEREAS, the Florida Game and Fresh Water Fish Commission pursuant to establishment order BS 83-1 on January 7, 1983, approved the establishment of a bird sanctuary for the protection of all birds and other wildlife in Lee County in the area known as Gasparilla Island sanctuary as described herein below; and

WHEREAS, establishment order BS 83-1 was filed in the Office of the Secretary of State, state of Florida, on January 12, 1983, said order having become effective twenty-one (21) days from the date of filing with said offices; and

WHEREAS, chapter 125.01 subsection F Florida Statutes establishes authority for the Board of County Commissioners to provide for parks, preserves, playgrounds, recreation areas, libraries, museums, historical commissions, and other recreation and cultural facilities and programs.

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

SECTION ONE: REPEALER AND REPLACEMENT OF ORDINANCE

Lee County Ordinance 83-16 is hereby repealed and replaced with the provisions of this Ordinance. The purpose of repealing and replacing Lee County Ordinance 83-16 is to update the scope of prohibitions required by the Ordinance.

SECTION TWO: **SHORT TITLE**

This Ordinance shall be known and may be cited as the "Lee County Gasparilla Island Bird and Wildlife Sanctuary".

SECTION THREE: **PURPOSE AND INTENT**

It is the intent of the Board of County Commissioners to preserve Gasparilla Island as a perpetual bird habitat and wildlife refuge by establishing Gasparilla Island as a bird sanctuary and wildlife refuge. The purpose of this Ordinance is to provide protective regulations as described in this Ordinance.

SECTION FOUR: **DESIGNATION AND BOUNDARIES**

The Board of County Commissioners, Lee County, Florida, hereby designates the entire area of Gasparilla Island described herein as a bird sanctuary and wildlife refuge. The lands subject to this Ordinance are as follows:

All of Gasparilla Island lying within Lee County and within Sections 2, 11, 12, 13, 14,23,24,26 and 35, township 43 South, range 20 East.

SECTION FIVE: **PROHIBITION**

It shall be a violation of this Ordinance for any person, organization, society, association, corporation or any agency or representative thereof, directly or indirectly to hunt, take, or otherwise disturb any bird, wildlife or wildlife habitat, EXCEPT for Ctenosaura similes, (black spiny iguanas), from the area described as the Lee County Gasparilla Island Bird and Wildlife Sanctuary, unless such taking, hunting and/or

disturbance has been previously specifically authorized by the Lee County Board of County Commissioners.

SECTION SIX: **VIOLATION/ENFORCEMENT/PENALTIES**

It shall be unlawful for any person to violate any provisions of this Ordinance. It shall be the duty of any law or code enforcement official having jurisdiction in Lee County to enforce the provisions of this Ordinance. Violation of the provisions of this Ordinance shall constitute a misdemeanor. Any person who violates this Ordinance shall be guilty of a misdemeanor upon conviction thereof, and may be fined not more than five hundred dollars (\$500) or imprisoned for more than sixty (60) days or both. In addition, the court in its discretion may direct the violator to pay all costs and expenses involved in the case.

SECTION SEVEN: **EXERCISE OF POLICE POWER**

This entire Ordinance shall be deemed and construed to be an exercise of the police power of the county of Lee, for the preservation and protection of public safety and all of its perceptions shall be liberally construed with a view to the effectuation of such purpose.

SECTION EIGHT: **REPEAL OF CONFLICTING ORDINANCES**

All Ordinances and parts of Ordinances inconsistent with the terms of this Ordinance are hereby repealed, provided, however, that such repeal shall only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other state and/or local Ordinances, rules or regulations regulating the subject matter covered by this Ordinance.

SECTION NINE: SEVERABILITY

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not effect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included therein.

SECTION TEN: EFFECTIVE DATE

This Ordinance shall become effective immediately upon receipt of the official acknowledgment from the Office of the Secretary of the State of Florida that this Ordinance has been filed with that office.

(Balance of Page Left Intentionally Blank)

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 _____
TAMMARA HALL _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED THIS _____ day of _____, 2006.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Tammara Hall, Chairwoman

APPROVED AS TO FORM:

BY: _____
Office of the County Attorney