

**DATE CRITICAL**

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

**Blue Sheet No. 20060984**

**1. ACTION REQUESTED/PURPOSE:** Conduct a Public Hearing and consider the adoption of an Ordinance repealing and replacing Lee County Ordinance #83-16; entitled "Gasparilla Island Bird and Wildlife Sanctuary".

**2. WHAT ACTION ACCOMPLISHES:** Board must formally adopt an Ordinance at a scheduled, advertised Public Hearing.

**3. MANAGEMENT RECOMMENDATION:** Adopt Ordinance

<b>4. Departmental Category:</b>		<b>5:00 PH #1</b>	<b>5. Meeting Date:</b> August 22, 2006
<b>6. Agenda:</b>		<b>7. Requirement/Purpose: (specify)</b>	
<input type="checkbox"/> Consent		<input type="checkbox"/> Statute	
<input type="checkbox"/> Administrative		<input checked="" type="checkbox"/> Ordinance	83-16
<input type="checkbox"/> Appeals		<input type="checkbox"/> Admin. Code	
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Other	
<input type="checkbox"/> Walk-On			
		<b>8. Request Initiated:</b>	
		Commissioner _____	
		Department County Attorney	
		Division General Services	
		By: Melody A. Bowers <i>MAB</i>	
		Assistant County Attorney	

**9. 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.

**ATTACHMENTS:** Proposed Ordinance  
Notice of Intent  
Financial & Administrative Impact Statement (FAIS)

**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>Melody A. Bowers</i>	<i>RK 8/8</i>	<i>MAB</i>	<i>8/8/06</i>	<i>MAB</i>	<i>8-9-06</i>

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: 8-7-06 10:45
COUNTY ADMIN FORWARDED TO: <i>5/9/06</i> <i>gmm</i>

CO. ATTY. FORWARDED TO: <i>CAD</i> <i>8/7/06</i>
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*pw*

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.

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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

**LEE COUNTY**  
**NOTICE OF INTENT TO REPEAL AND REPLACE A COUNTY ORDINANCE**

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on **Tuesday, the 22<sup>nd</sup> day of August, 2006, 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:

**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.**

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.

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: Melvin J. Bass  
Office of the County Attorney

Ad Size: 2 x 5

**Publishing Dates: August 8, 2006 &  
August 15, 2006**

**LEE COUNTY, FLORIDA**

**FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT**

**PROPOSED COUNTY ORDINANCE:**

**NAME OF ORDINANCE: Lee County Island Bird and Wildlife Sanctuary  
(Repealing 83-16)**

**A. Statement of Purpose**

To amend the Lee County Gasparilla Island Bird and Wildlife Sanctuary designation to exclude protection of the black spiny-tailed iguana.

**B. Narrative Summary of Ordinance (Several Sentence Summary)**

Designates Gasparilla Island Bird and Wildlife Sanctuary and includes prohibitions against disturbing wildlife and wildlife habitat. Exempts black spiny-tailed iguanas from this prohibition.

**C. Principal Division(s) or Department(s) Affected (List)**

Environmental Sciences  
Code Enforcement  
Land Use  
Natural Resources  
Parks and Recreation

LEE COUNTY, FLORIDA  
 FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT  
 PROPOSED COUNTY ORDINANCE:

II. Fiscal impact on County Agencies/County Funds

- A. What is estimated Demand? N/A
- B. What is estimated Workload? N/A
- C. What are estimated costs?

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

- 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? No fee
  - 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-D, above.

The ordinance excludes wildlife protection to the black spiny-tailed iguana in order to avoid a conflict with the propose of the revised Gasparilla Island Improvement MSTU (to eradicate said iguanas).