

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

Blue Sheet No. 20061725

1. ACTION REQUESTED/PURPOSE:

Request BoCC Schedule Public Hearing for February 13, 2007, 5:00 p.m., to consider an involuntary amendment to the Lehigh Acres Streetlight Ordinance.

2. WHAT ACTION ACCOMPLISHES: Allows staff to proceed with required notification and advertising for Public Hearing.

3. MANAGEMENT RECOMMENDATION: Do Not Approve. Historically, the County has not approved involuntary MST/BU projects for non essential county services. Decorative banners and holiday lighting would not be considered essential county services.

4. DEPARTMENTAL CATEGORY: #6

C6A

5. MEETING DATE:

01-16-07

6. AGENDA:

CONSENT
 ADMINISTRATIVE
 APPEALS
 PUBLIC
 WALK-ON

7. REQUIREMENT/PURPOSE (SPECIFY)

STATUTE
 ORDINANCE
 ADMIN. 3-15
 CODE
 OTHER

8. REQUEST INITIATED:

COMMISSIONER _____
 DEPARTMENT County Commission
 DIVISION Public Resources/MSTBU
 BY: Libby Walker

9. BACKGROUND: The Chamber of Commerce and a number of property owners in Lehigh Acres have requested the funds collected pursuant to the Lehigh Acres Streetlighting MSTU be used to purchase, install and maintain decorative seasonal banners and possibly future holiday decorative lighting, on Streetlight poles, for Homestead Road in Lehigh Acres. The scope of services in the current Ordinance allows only for the operation and maintenance of streetlighting within the unit. Administrative Code 3-15 requires a petition process with a minimum of 51% support of the property owners to make a change, or the Board of County Commissioners can waive the petition process choosing another process and/or proceeding with an involuntary change/modification. Due to nearly 120,000 parcels within the unit, the petition process as outlined in the Administrative code is unreasonable and/or cost prohibitive.

Scheduling the public hearing will allow staff to proceed with advertising the public hearing and notifying all property owners via letter of the proposed Public Hearing. The public hearing will consider allowing funding to be used for decorative banners and holiday lighting, however, the Lee County Sign Ordinance (LDC Chapter 30) will have to be amended to allow for the banners to be placed in the right-of-way on light poles.

Attach "A": Proposed Amended Ordinance

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>[Signature]</i>	N/A	N/A	N/A	<i>M. Brown</i>	<i>CA 12/21/06</i>	<i>M 12/21/06</i>	<i>12/21/06</i>	<i>12/21/06</i>	<i>12/28/06</i>

11. COMMISSION ACTION

Approved
 Deferred
 Denied
 Other

Scheduling only 12/21/06

RECEIVED BY COUNTY ADMIN: <i>12/21 4:45 mp.</i>	Rec. by CoAtty Date: <i>12/20/06</i>
COUNTY ADMIN FORWARDED TO:	Time: <i>4:35 pm</i>
	Forwarded To: <i>CAD 12/21 11:43 am</i>

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO. 92-08, AS AMENDED, RELATING TO THE LEHIGH ACRES STREET LIGHTING UNIT; AMENDING SECTION ONE PROVIDING FOR ADDITIONAL MUNICIPAL SERVICES TO BE INCLUDED; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners is the governing body in and for Lee County, a charter county and political subdivision of the State of Florida, and holds all powers granted to counties pursuant to the Florida Constitution and state statutes; and

WHEREAS, the Lee County Board of County Commissioners had previously adopted Ordinance No. 92-08, as amended, relating to the creation of the Lehigh Acres Street Lighting Unit; and

WHEREAS, the Board of County Commissioners of Lee County now desires to amend Lee County Ordinance No. 92-08, as amended, in order to expand the scope of municipal services to provide for decorative seasonal banners and lighting.

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

SECTION ONE:

This Ordinance amends Lee County Ordinance 92-08, as amended, as set forth herein. The amendments and revisions set forth in the following Sections are hereby adopted, with strike-through type being the language deleted and underlined text being language added.

SECTION TWO:

Section One of Lee County Ordinance 92-08, as amended, is hereby further amended to read as follows:

SECTION 1.

CREATION OF THE UNIT, PURPOSE AND BOUNDARIES

Pursuant to the powers granted to the Board of County Commissioners of Lee County, Florida, hereinafter referred to as the "Board", by the Constitution of the State of Florida and the Florida Statutes, in particular, Section 125.01, Florida Statute, the Board hereby creates a municipal service taxing or benefit unit to be known as the Lehigh Acres Streetlighting Unit. Unless expressly mandated by State Statute, any and all procedures, administrative or otherwise, which were required to be followed prior to the enactment of this ordinance shall be waived or considered directory in nature and noncompliance with the procedure shall have no effect upon the validity of this ordinance, constitutional or otherwise.

The purpose of the Lehigh Acres Streetlighting Unit shall be to provide the following municipal services within the boundaries of the unit: Streetlighting, and maintenance of the streetlights, and installation and maintenance of decorative seasonal banners and holiday lighting on the streetlight poles.

The boundaries of the Unit shall be as follows:

SEE ATTACHED LEGAL DESCRIPTION WHICH IS LABELED
"EXHIBIT A" HEREBY INCORPORATED BY REFERENCE.

SECTION THREE:

Section Ten of Lee County Ordinance 92-08, as amended, is hereby further amended to read as follows:

SECTION 10.

EFFECTIVE DATE

This Ordinance shall take effect immediately upon receipt from the Florida Department of State of its filing with that office.

SECTION FOUR: SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer to the whole or any part of this Ordinance 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 affect or impair any of the other remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such an unconstitutional provision not been included herein.

(Balance of Page left Intentionally Blank)

Commissioner _____ made a motion to adopt the foregoing Ordinance, seconded by Commissioner _____. The vote was as follows:

ROBERT P. JANES _____

A. BRIAN BIGELOW _____

RAY JUDAH _____

TAMMARA HALL _____

FRANKLIN B. MANN _____

DULY PASSED AND ADOPTED THIS _____ day of _____, 2007.

ATTEST:

CHARLIE GREEN
CLERK OF THE COURT

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Robert P. Janes, Chair

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

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DRAFT FOR DISCUSSION PURPOSES ONLY
Lee County Attorney's Office
January 3, 2007