

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

Blue Sheet No. 20070391

1. ACTION REQUESTED/PURPOSE: Authorize Pavese Law Firm to file a complaint on behalf of and in the name of Lee County against Lee County Electric Cooperative to seek a judicial determination with regard to Lee County Electric Cooperatives Easement Claim.

2. FUNDING SOURCE: No funds required. This claim will be filed pursuant to a title insurance policy.

3. WHAT ACTION ACCOMPLISHES: Provides the Pavese Law Firm with proper authority to seek a judicial determination invalidating the easement claim of Lee County Electric Cooperative across Lee County 20/20 property know as Prairie Pines Preserve.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: CGF **6. Meeting Date:** APR 03 2007

7. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	8. Requirement/Purpose: (specify)		9. Request Initiated:
	<input type="checkbox"/> Statute	<input type="checkbox"/>	Commissioner
	<input type="checkbox"/> Ordinance	<input type="checkbox"/>	Department <u>Independent</u>
	<input type="checkbox"/> Admin. Code	<input type="checkbox"/>	Division <u>County Lands</u>
	<input checked="" type="checkbox"/> Other	<input type="checkbox"/> Title Policy OPM-2377970	By: <u>Karen Forsyth, Director</u>

10. Background:

In April 2003, Lee County, through the Conservation 20/20 Program, purchased the property known as the Prairie Pines Preserve for conservation purposes. At the same time Lee County purchased a title insurance policy for the property. In March, 2006, Lee County received a letter from Lee County Electric Co-op (LCEC) stating LCEC's intent to enter upon the Prairie Pines Preserve property for the purpose of constructing a transmission line pursuant to a claim of easement over the County's property. The title policy did not show the existence of an easement in favor of LCEC. The title insurance company was notified of the LCEC claim, and, as a result, the attached letter from the Pavese Law Firm was received by the Division of County Lands requesting authorization to proceed to a judicial determination with regard to LCEC's easement claim.

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/ R.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>[Signature]</i>				<i>[Signature]</i>	<i>[Signature]</i> 3/20/07	<i>[Signature]</i> 3/20/07	<i>[Signature]</i> 3/20/07	<i>[Signature]</i> 3/20/07	<i>[Signature]</i> 3-20-07

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: <u>3/20/07 2:50 pm</u>
COUNTY ADMIN FORWARDED TO: <u>[Signature]</u>
<u>3/20/07</u> <u>3pm</u>

Rec. by CoAtty Date: <u>3/19/07</u> Time: <u>3:50pm</u>
Forwarded to: <u>Admin</u>

3/19/07 4:32 pm

PAVESE LAW FIRM

KEITH H. HAGMAN
(239) 336-6276
E-mail: Keith.Hagman@paveselaw.com

COPY

1833 HENDRY STREET, FORT MYERS, FLORIDA 33901 | P.O. DRAWER 1507, FORT MYERS, FLORIDA 33902-1507 | (239) 334-2195 | FAX (239) 332-2243

February 7, 2007

Robert Clemens, Acquisition Program Manager
Division of County Lands
Lee County Board of County Commissioners
P.O. Box 398
Fort Myers, FL 33902-0398

2007 FEB -8 AM 8:27
RECEIVED BY
LEE CO. ATTORNEY

**RE: Conservation Lands Program, Project No. 8800 - Parcel 194
Fund Claim No.: 20061
Fund Policy No.: OPM-2377970**

Dear Robert:

Please be advised of the undersigned firm's continued representation of Attorney's Title Insurance Fund with regard to Lee County's claim further identified in the above caption.

I am writing as a follow up to my recent conversation with Attorney Robert Spickerman of your offices to advise you in writing of the Fund's position with regard to the Claim. A review of the title history of the property and the facts as we know them at this time surrounding Lee County Electric Cooperative's easement claim indicate that the purported easement may be defensible under multiple legal theories including, but not limited to, the Marketable Record Title Act and abandonment. By virtue of the foregoing, I have been directed by Attorney's Title to file a Complaint on behalf of and in the name of Lee County against Lee County Electric Cooperative to seek a judicial determination with regard to LCEC's easement claim. I anticipate that the Complaint will contain causes of action for declaratory judgment and quiet title. Please advise at your earliest convenience as to whether Lee County authorizes us to proceed in this manner.

Thank you for your attention to this matter. As always, should you wish to discuss the information contained above in more detail or have any questions, please feel free to contact me at the address provided in the above letterhead.

Sincerely yours,



Keith H. Hagman

KHH/gh

cc: Clients

cc: Robert Spickerman

Our File No.: 67453.005

T:\WPDATA\KHH\JP\Attorney's Title\Clemens2-2-07Ltr.wpd

4635 S. DEL PRADO BLVD.
CAPE CORAL, FLORIDA 33904
(239) 542-3148

4524 GUN CLUB ROAD
WEST PALM BEACH, FLORIDA 33415
(561) 471-1366

461 S. MAIN STREET
LABELLE, FLORIDA 33935
(863) 675-5800

