

LEE COUNTY ORDINANCE NO. 01- 14

AN ORDINANCE OF LEE COUNTY, FLORIDA, AMENDING AND RESTATING LEE COUNTY ORDINANCE 90-02, AS AMENDED, RELATING TO THE CREATION AND IMPLEMENTATION OF THE LEE COUNTY PORT AUTHORITY; PROVIDING FOR TITLE; CREATING THE PORT AUTHORITY BOARD OF COMMISSIONERS; SPECIFYING THE LEE COUNTY PROPERTIES SUBJECT TO PORT AUTHORITY JURISDICTION; CREATING THE AIRPORTS SPECIAL MANAGEMENT COMMITTEE; PROVIDING FOR BOND OBLIGATIONS; PROVIDING FOR TRANSFER OF PROPERTY; PROVIDING FOR ADOPTION OF A POLICY MANUAL; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 63-1541, Laws of Florida, and Chapters 125 and 332, Florida Statutes, authorize the creation and administration of a Lee County Port Authority; and

WHEREAS, the Lee County Board of County Commissioners created and implemented a body corporate, known as the Lee County Port Authority, by adopting Lee County Ordinance 90-02, as amended; and,

WHEREAS, Lee County Ordinance 90-02, as amended, created an Airports Special Management Committee as an advisory body to the Board of Port Commissioners for the purposes of administration and management of all properties and facilities under jurisdiction of the Lee County Port Authority; and,

WHEREAS, the Board of County Commissioners desires to amend the Ordinance regarding terms of the members and governance of the Committee and restate the Ordinance.

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

SECTION 1. TITLE

This Ordinance shall be known and may be cited as the “Lee County Port Authority Ordinance.”

SECTION 2. CREATION OF THE LEE COUNTY PORT AUTHORITY

- 2.1 Pursuant to the specific authority granted to the Lee County Board of County Commissioners under the provisions of Chapter 63-1541, Laws of Florida, and the general powers granted under Chapters 125 and 332, Florida Statutes, there is hereby created a body corporate, known as the Lee County Port Authority.
- 2.2 The Lee County Port Authority shall be created, implemented and exist at the pleasure of the Board of County Commissioners of Lee County, and shall continue as an active body until such time as this enacting ordinance is amended, modified or repealed at a regular meeting of the Lee County Board of County Commissioners,
- 2.3 The Lee County Port Authority is hereby authorized to assume all of the rights, duties and authority as outlined in Chapter 63-1541, Section 3, Laws of Florida, and to assume all other lawful authority available to it under Chapters 125 and 332, Florida Statutes.

SECTION III. CREATION OF A BOARD OF PORT COMMISSIONERS

- 3.1 Pursuant to the specific authority granted to the Lee County Board of County Commissioners under the provisions of Chapter 63-1541, Section 3, Laws of Florida, and the general powers granted to the Board of County Commissioners of Lee County under Chapters 125 and 332, Florida Statutes, there is hereby created a governing body for the Lee County Port Authority to be designated as “The Board of Port Commissioners of the Lee County Port Authority” (hereinafter, Board of Port Commissioners).
- 3.2 The Board of Port Commissioners shall be created and shall exist at the pleasure of the Board of County Commissioners of Lee County, and shall continue as the active governing body

of the Lee County Port Authority until such time as this enacting Ordinance is amended, modified or repealed at a regular meeting of the Board of County Commissioners.

- 3.3 The Board of Port Commissioners shall consist of the members of the Board of County Commissioners of Lee County, Florida, sitting as “The Board of Port Commissioners of the Lee County Port Authority” pursuant to the provisions of the first paragraph of Section 2, of Chapter 63-1541, Laws of Florida.
- 3.4 The Board of Port Commissioners, as the governing body for the Lee County Port Authority, is hereby authorized to assume and exercise all of the rights and authority as granted in Chapter 63-1541, Laws of Florida, and to exercise all other lawful authority available to it under Chapters 125 and 332, Florida Statutes.
- 3.5 The Board of Port Commissioners shall meet on a regular basis at the direction of the Chairman, shall meet pursuant to the provisions of Chapter 286, Florida Statutes (Florida “Government in the Sunshine” Law), and shall specifically designate that the Board of County Commissioners of Lee County is sitting as the Board of Port Commissioners of Lee County, and conducting Lee County Port Authority business.
- 3.6 Public notice for, and the official minutes of, the business conducted by the Board of Port Commissioners shall be specifically designated as such, and be advertised and recorded separate and apart from all other business conducted by the Board of County Commissioners of Lee County.
- 3.7 It is the intent of this Ordinance that the powers and authority of the Lee County Board of County Commissioners are being expanded, and not limited, by the exercise of their powers while sitting as the Board of Port Commissioners. The Board of County Commissioners of Lee County sitting as the Board of Port Commissioners shall in no way nullify, impinge

upon, abridge, limit or modify any of the authority granted to the Board of County Commissioners under Chapters 125 and 332, Florida Statutes.

SECTION IV. PROPERTIES, FACILITIES, SYSTEMS, PERSONNEL AND MATERIAL SUBJECT TO THE LEE COUNTY PORT AUTHORITY

- 4.1 All properties, facilities, systems, personnel and material currently under the management, direction or control of the Lee County Department of Airports shall be transferred and subject to the Lee County Port Authority, pursuant to Section VII, of this Ordinance.
- 4.2 All future properties, facilities, systems, personnel and material associated with either air or sea transportation or commerce located in Lee County, shall be subject to the Lee County Port Authority.
- 4.3 At the direction of the Board of Port Commissioners of Lee County, any future properties, facilities, systems, personnel and material associated with land transportation or commerce may be subject to the Lee County Port Authority, upon an affirmative vote of the Board of Port Commissioners.

SECTION V. CREATION OF A SPECIAL MANAGEMENT COMMITTEE FOR THE LEE COUNTY AIRPORTS

- 5.1 Pursuant to the rights and authority granted to the Lee County Port Authority, and its governing body, the Board of Port Commissioners, under Chapter 63-1541, Section 3, Laws of Florida, and the general powers granted to the Lee County Board of County Commissioners sitting as the Board of Port Commissioners under Chapters 125 and 332, Florida Statutes, there is hereby created an Airports Special Management Committee for the administration and management of the Lee County Airports.

- 5.2 The Special Management Committee shall consist of seven (7) members, who shall be appointed by the Board of Port Commissioners as follows: Five (5) of the members shall be appointed directly by the Board of Port Commissioners, one direct appointment for each respective Port Commissioner. Two (2) Regional Members, one resident each from Charlotte and Collier counties, shall be appointed by the Chairman of the Board of Port Commissioners, subject to Board approval. All seven (7) members shall have an equal voice and vote on all matters relating to, and specifically delegated to, the Special Management Committee.
- 5.3 The members of the Special Management Committee shall serve at the pleasure of the Board of Port Commissioners, and any or all of the members may be removed from membership on the Committee, with or without cause, by a majority vote of the Board of Port Commissioners at a regularly scheduled meeting. The term of each Regular Member of the Management Committee shall coincide with the actual term of his or her appointing Port Commissioner. The term of each Regional Member of the Management Committee shall be two (2) years. Any Committee member may be reappointed for additional terms by the Commissioner responsible for that member's direct appointment. No sitting committee member shall be excused from his or her position, however, until such time as a new committee member has been appointed by an incumbent Commissioner or the Port Commission Chairman, as appropriate.
- 5.4 The members of the Airports Special Management Committee shall serve without compensation.
- 5.5 Each appointed member of the Special Management Committee shall be a person of integrity, responsibility, and business ability, who is competent and knowledgeable in one or more fields which include, but are not limited to, general business practices, aviation, public

affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or any other field substantially related to the duties and functions of the Port Authority. The Special Management Committee shall fairly represent the above-stated fields, and function on a nonpartisan basis. Each member shall be a resident of Lee County, if a Regular Member, or of Collier or Charlotte County, if a Regional Member, and shall remain a resident of the appropriate county throughout such member's term. It is desirable, but not essential, that one or more appointed members be experienced in some aviation-related field. No person holding elective or appointive office in the state, and no person employed by a municipality located in the County, or by the County, or by the Port Authority, shall be eligible to serve as a Regular Member of the Special Management Committee. Regional Members may be elected or appointive officers of a county or municipal government located within the county of their residence.

- 5.6 No person then transacting business with the Port Authority or who can be reasonably expected to transact business with the Port Authority, either for himself or herself or as an employee of, agent for, or consultant to any other person or legal entity, shall be eligible to serve as a member of the Special Management Committee. If the circumstances of any member change subsequent to appointment so that such member is not eligible to serve as a member or such member would not have been eligible for appointment, it shall be the duty of such member to resign from the Airports Special Management Committee within ten (10) days of such change of circumstance. If the member shall fail to resign, the member shall be deemed to have resigned ten (10) days from the date of the occurrence leading to the ineligibility and a vacancy thereby created, to be filled by the appointing Commissioner or the Port Authority Chairman.

5.7 The Special Management Committee shall elect a Regular Member as its Chairman. The Chairman shall be elected for a term of one (1) year. If the elected Chairman shall cease to be a member of the Special Management Committee, or shall for any reason not serve as Chairman, a successor shall be elected for the unexpired portion of the Chairman's term from among the Regular Members of the Committee.

The Special Management Committee shall also elect a Regular Member as its Vice Chairman. The Vice Chairman shall be elected for a term of one (1) year. The Vice Chairman shall assume all of the duties of the Chairman in his or her absence.

Three (3) Regular Members of the Special Management Committee shall constitute a quorum, and the vote of a majority of the members present shall be necessary for any recommendation made by the Special Management Committee. No vacancy in the Special Management Committee shall impair the right of a quorum of the Special Management Committee to exercise all of the rights and duties of the Committee.

5.8 The Special Management Committee for the Lee County Airports shall meet regularly at least once per month at a session to be held at an advertised time and place. A joint meeting with the Port Authority Commissioners in regular session, shall constitute a regular meeting of the Special Management Committee. The Special Management Committee may also meet at any other time as directed by the Chairman, or upon the request of three (3) or more of its members, pursuant to the regulations governing such meetings as set forth in Part 5.9, below.

5.9 All meetings of the Special Management Committee for the Lee County Airports shall be conducted pursuant to the provisions of Chapter 286, Florida Statutes (Florida "Government in the Sunshine" Law) and Roberts' "Rules of Order," and shall be duly advertised.

- 5.10 The Special Management Committee for the Lee County Airports shall be an advisory and review body to the Board of Port Commissioners on all issues and matters relating to the Lee County Airports. The Special Management Committee shall make only those final decisions with respect to the actual implementation of the policies of the Board of Port Commissioners that have been duly authorized and approved by the Board of Port Commissioners by prior resolution.
- 5.11 The Special Management Committee shall have a general advisory responsibility to the Board of Port Commissioners, and provide recommendations, direction, plans, objectives and/or comments to the Board of Port Commissioners on a regular basis as determined by the Board of Port Commissioners. The Special Management Committee shall also act upon those matters duly authorized to be acted upon by the Board of Port Commissioners by prior resolution.
- 5.12 The Special Management Committee shall review, analyze, evaluate and in a timely manner, recommend actions to the Board of Port Commissioners, on all matters and issues concerning the operation and functions of the Lee County Airports, to include but not be limited to:
- All external and internal Airport operations
 - All contracts
 - All budget matters
 - Land use and acquisition
 - Long range planning and development
 - Financing and refinancing of bonds
 - Regulation of the Airports facilities
 - All interlocal or intergovernmental matters affecting the Lee County Airports

- 5.13 The Special Management Committee shall provide to the Board of Port Commissioners all of its decisions, recommendations, plans, objectives, recommended actions and/or comments, in writing, for Board of Port Commissioners' ratification or denial, pursuant to the provisions as set forth in Part 5.14 below.
- 5.14 The Board of Port Commissioners shall ratify or overrule all decisions, recommendations, plans and/or actions of the Special Management Committee for the Airports, by a majority vote of the Board of Port Commissioners at a regularly scheduled meeting, prior to any implementation at any of the Lee County Airport facilities. The decision of the Board of Port Commissioners shall be final on all matters, and shall be transmitted to the Special Management Committee in a timely manner.
- 5.15 The Executive Director of the Port Authority shall cooperate, communicate, and interact with the Special Management Committee for Airports with respect to all matters concerning the operation and functions of the Lee County Airports. The Executive Director of the Port Authority shall also report to the Board of Port Commissioners on a regular basis, or at the request of a majority of the Board of Port Commissioners, from time to time.
- 5.16 The Special Management Committee shall perform any other functions, duties and/or responsibilities as may be specifically assigned to it by the Board of Port Commissioners from time to time.

SECTION VI. BOND OBLIGATIONS OF LEE COUNTY

- 6.1 The Lee County Airports bond obligations may be transferred to, and assumed by, the Lee County Port Authority, upon a four-fifths majority vote by the Board of County Commissioners. Such transfer and assumption shall be by County resolution as an advertised public item at a regular meeting of the Board of County Commissioners, and may be

concurrent with any transfer of the Lee County Airports real and personal property to the Lee County Port Authority as provided for in Section 6.1, below.

- 6.2 The Lee County Port Authority is hereby authorized to exercise its powers pursuant to Chapter 63-1541, Section 3, paragraphs (7) and (8), to issue bonds of indebtedness in its own name, and under its own seal, and to pledge as security for such bonds, the revenues of the Port Authority. However, such bonds shall not pledge, nor encumber in any manner, the tax revenues or any other manner of revenues of Lee County, and shall be subject to the express ratification of the Board of Port Commissioners.

SECTION VII. TRANSFER OF LEE COUNTY AIRPORTS REAL AND PERSONAL PROPERTIES AND FACILITIES

- 7.1 The Lee County Airports real and personal property and facilities may be transferred to the Lee County Port Authority by appropriate deed and sale, upon a four-fifths majority vote by the Board of County Commissioners. Such transfer shall be by County resolution as an advertised public item at a regular meeting of the Board of County Commissioners, and may be concurrent with any transfer of the Lee County Airports bond obligations to the Lee County Port Authority as provided for in Section 6.1, above.

- 7.2 The Lee County Port Authority is hereby authorized to exercise its powers pursuant to Chapter 63-1541, Section 3, paragraph (1), to acquire additional property (real and personal) and facilities, in its own name, and under its own seal, upon the express ratification by the Board of Port Commissioners.

SECTION VIII. ADOPTION OF PORT AUTHORITY POLICY MANUAL

- 8.1 Lee County hereby authorizes, permits and approves the adoption of a separate and distinct policy manual, to include purchasing procedures, by the Lee County Port Authority.

8.2 The Lee County Port Authority is hereby authorized to operate and maintain the Lee County Airports pursuant to its policy manual as adopted by the Port Commissioners by resolution, separate and distinct from Lee County. All such operations of the Lee County Port Authority shall conform to the guidelines as set forth in the Port Authority Policy Manual.

SECTION IX. REPEALER

Upon the adoption of this ordinance, Lee County Ordinances 90-02, 90-19, 95-06, 96-18, and 97-06 are hereby repealed.

SECTION X. SEVERABILITY

If any word, sentence, phrase, clause, section, or portion of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such word, sentence, phrase, clause, section, or portion shall be deemed as separate and independent, and invalidity of the part shall not affect the validity of the whole. The Board of County Commissioners declares that no invalid or prescribed provision was an inducement to the enactment of this Ordinance and that it would have enacted this Ordinance regardless of the invalid or prescribed provision.

SECTION XI. EFFECTIVE DATE

This Ordinance shall become effective upon notification by the Secretary of the State of Florida that the Ordinance has been duly filed with that office.

The foregoing Ordinance was offered by Commissioner Judah, who moved its adoption. The motion was seconded by Commissioner Coy and, being put to a vote, the vote was as follows:

BOB JANES _____ Ave
JOHN ALBION _____ Ave
RAY JUDAH _____ Ave
DOUGLAS ST. CERNY _____ Ave
ANDREW COY _____ Ave

PASSED AND ADOPTED this 10th day of September, 2001.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Michelle S. Leismu
Deputy Clerk

By: [Signature]
Chairman or Vice Chairman

APPROVED AS TO FORM:

By: [Signature]
Office of County Attorney