
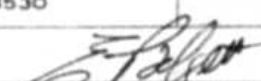


MANATEE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT	SETTING PUBLIC HEARING FOR ADOPTION OF ORDINANCE 98-38	TYPE AGENDA ITEM	CONSENT
DATE REQUESTED	JULY 7, 1998	DATE SUBMITTED/REVISED	JUNE 30, 1998
BRIEFINGS/WHO?	NONE REQUIRED	CONSEQUENCES IF DEFERRED	NONE
DEPARTMENT/DIVISION	PUBLIC SAFETY DEPARTMENT EMERGENCY MANAGEMENT	AUTHORIZED BY TITLE	KAREN WINDON DIRECTOR 
CONTACT PERSON TELEPHONE/EXTENSION	KAREN WINDON, EXT 3559 NANCY DANDINO, EXT 3530	PRESENTER/TITLE TELEPHONE/EXTENSION	KAREN WINDON EXT 3559
ADMINISTRATIVE APPROVAL			

ACTION DESIRED

INDICATE WHETHER "REPORT OR "DISCUSSION, "FORM OF MOTION, OR "OTHER ACTION REQUIRED:

AUTHORIZATION TO SET PUBLIC HEARING ON AUGUST 4, 1998 AT 9:00 AM OR AS SOON THEREAFTER AS SAME MAY BE HEARD TO CONSIDER ADOPTING ORDINANCE 98-38, RESCINDING ORDINANCE 98-09 WHICH WAS IMPROPERLY ADOPTED ON JUNE 2, 1998, REPEALING ORDINANCE 93-24, BASIC SUBSISTENCE FOR VOLUNTEERS DURING BONA FIDE DECLARED EMERGENCIES, TO EXPAND THE SCOPE OF THE ORDINANCE TO INCLUDE THE COUNTY'S PROVISION OF BASIC SUBSISTENCE TO THOSE EMPLOYEES AND VOLUNTEERS WHO ARE RESTRICTED TO THE WORKPLACE NOT ONLY DURING TIMES OF BONA FIDE DECLARED EMERGENCIES, BUT ALSO DURING TIMES OF PROTECTIVE MEASURES DURING THE COURSE OF THREATENED BONA FIDE EMERGENCIES.

ENABLING/REGULATING AUTHORITY

FEDERAL/STATE LAWS), ADMINISTRATIVE RULING(S), MANATEE COUNTY COMP PLAN/LAND DEVELOPMENT CODE, ORDINANCES, RESOLUTIONS, POLICE/COMP

MANATEE COUNTY COMP PLAN, SECTION 2 - PURPOSE: PAGE 11, PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE
MANATEE COUNTY ORDINANCE 92-56 - BASIC SUBSISTENCE FOR EMPLOYEES DURING BONA FIDE DECLARED EMERGENCIES
MANATEE COUNTY ORDINANCE 93-24 - BASIC SUBSISTENCE FOR VOLUNTEERS AND EOC EMPLOYEES DURING BONA FIDE DECLARED EMERGENCIES
F.S. 252.38 - EMERGENCY MANAGEMENT POWERS
F.S. 125.66 - NOTICE OF PUBLIC HEARING

BACKGROUND/DISCUSSION

- ORDINANCE 92-56 WAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS ON SEPTEMBER 8, 1992 AUTHORIZING THE PROVISION OF BASIC SUBSISTENCE FOR EMPLOYEES RESTRICTED TO THE WORKPLACE DURING A BONA FIDE DECLARED EMERGENCY.
- ORDINANCE 93-24 WAS ADOPTED ON JULY 6, 1993 IN ORDER TO ADD VOLUNTEERS TO THE LIST OF THOSE QUALIFYING FOR PAYMENT OF BASIC SUBSISTENCE WHILE RESTRICTED TO THE WORKPLACE DURING A BONA FIDE DECLARED EMERGENCY.
- DURING IMMINENT THREAT, OFTEN ONLY A STATE OF READINESS IS REQUIRED FOR PERFORMANCE OF PROTECTIVE MEASURES RATHER THAN THE NEED TO DECLARE A LOCAL STATE OF EMERGENCY.
- CONTINUED ON PAGE 2.

HAS COUNTY ATTORNEY REVIEW BEEN REQUESTED? INDICATE "NO" OR "YES" @ RIGHT. (IF "NO," PROCEED TO 1) BELOW; AND IF "YES," PROCEED TO 2) BELOW) YES

1) IF "NO" TO ABOVE.

A) PLEASE EXPLAIN BELOW (SEE ALSO FOLLOWING SECTION 1 B) RE: CONTRACT, AGREEMENT, LEASE, ETC.):

B) IF A CONTRACT, AGREEMENT, LEASE OR OTHER DOCUMENT WAS PREVIOUSLY APPROVED, STATE YEAR OF LAST USE @ RIGHT:

2) IF "YES" TO FIRST QUESTION IN THIS SECTION.

A) HAS ENTIRE MATTER, OR ONLY A PORTION, BEEN REVIEWED? IF ONLY A PORTION, WHICH PORTION?

THE ENTIRE MATTER HAS BEEN REVIEWED

B) HAVE ALL COMMENTS/SUGGESTIONS RAISED BY COUNTY ATTORNEY BEEN ADDRESSED/INCORPORATED? IF NOT, PLEASE EXPLAIN. A COPY OF FINAL COUNTY ATTORNEY MEMO RE THIS MATTER MUST BE ATTACHED (IF COMMENTS WERE VERBAL, SO INDICATE.)

ALL COMMENTS/SUGGESTIONS HAVE BEEN ADDRESSED

APPROVED IN OPEN SESSION

JUL 07 1998

ATTACHMENTS: (LIST IN ORDER AS ATTACHED)		INSTRUCTIONS TO BOARD RECORDS:	
ORDINANCE 98-38 MEMORANDUM - MITCHELL D. PALMER - 5/1/98 MEMORANDUM - KAREN WINDON - 7/1/98 LEGAL NOTICE - PUBLISH DATE: JULY 22, 1998			
COST	\$21/DAY PER PERSON ALLOWABLE	SOURCE (ACCT# & NAME)	APPROPRIATE DEPARTMENTAL OPERATING BUDGET OR IF WARRANTED, AN EMERGENCY COST CENTER IS ASSIGNED BY FMD.
COMMENTS	SHOULD A LOCAL STATE OF EMERGENCY BE DECLARED AND PUBLIC ASSISTANCE BE MADE AVAILABLE BY FEMA, THESE COSTS ARE CONSIDERED TO BE ELIGIBLE FOR FEDERAL REIMBURSEMENT UNDER CATEGORY B IN ACCORDANCE WITH THE STAFFORD ACT.	AMT./FREQ. OF RECURRING COSTS (ATTACH FISCAL IMPACT STATEMENT)	FUNDS ARE NOT BEING BUDGETED SPECIFICALLY FOR EMERGENCY EXPENDITURES.

BACKGROUND/ DISCUSSION - CONTINUED:

- DUE TO THE IMPLICATIONS AND EMERGENCY POWERS ASSOCIATED WITH THE DECLARATION OF A LOCAL STATE OF EMERGENCY, IT REMAINS A CONSERVATIVE PROCESS THAT IS ONLY INITIATED WHEN CONDITIONS ARE SUCH THAT LOCAL RESOURCES WOULD BE EXHAUSTED AND MANDATORY EVACUATIONS ARE RECOMMENDED.
- EMERGENCY MANAGEMENT RELATED PLANS AND STANDARD OPERATING PROCEDURES IDENTIFY SPECIFIC ACTIVITIES AND TIME LINES WHICH MUST TAKE PLACE DURING IMMEDIATE THREAT TO MAINTAIN VARYING DEGREES OF READINESS WITH AN EMERGENCY DECLARATION BEING THE EXTREME MEASURE.
- ORDINANCE 98-09 WAS PRESENTED TO THE BOARD ON MAY 19, 1998 TO REQUEST AUTHORIZATION TO SET PUBLIC HEARING ON JUNE 2, 1998.
- ON JUNE 2, 1998, THE PUBLIC HEARING WAS CONDUCTED AND ORDINANCE 98-09 WAS ADOPTED WITHOUT FIRST BEING ADVERTISED, PURSUANT TO SECTION 125.66, FLORIDA STATUTES.
- IN ORDER TO LAWFULLY PROMULGATE THIS ORDINANCE, ORDINANCE 98-09 SHALL BE RESCINDED AND REPEALED BY ORDINANCE 98-38 VIA AN ADVERTISED PUBLIC HEARING.
- ORDINANCE 98-38 WILL BE PROPERLY ADVERTISED ON JULY 22, 1998, TO BE ADOPTED DURING THE AUGUST 4, 1998 MEETING.
- WE REGRET THIS OVERSIGHT.



Office of
**MANATEE COUNTY
ATTORNEY**

• Board Certified City, County & Local Government Law
† Board Certified Civil Trial

May 1, 1998

Teddy N. Williams, Jr., County Attorney
Mark P. Barnebey, Chief Assistant County Attorney *
Paul G. Bangel, Senior Assistant County Attorney *
William C. Henry, Senior Assistant County Attorney for Risk Management
Patricia McVoy, Senior Assistant County Attorney *
James A. Minix, Senior Assistant County Attorney †
Mitchell O. Palmer, Senior Assistant County Attorney
Jeffrey N. Steinsnyder, Senior Assistant County Attorney *

MEMORANDUM

TO: Karen Windon, Chief, Emergency Management Division,
Department of Public Safety

THRU: Teddy N. Williams, Jr., County Attorney *TNW 5/1/98*

FROM: Mitchell O. Palmer, Senior Assistant County Attorney *MOP 5/1/98*

RE: Proposed revisions to Ordinance 93-24, allowing for emergency purchases of foodstuffs; RLS-98-36, received February 5, 1998; CAO File No. 1055-072

In this Request for Legal Services, you have solicited my review of and advice regarding a proposed ordinance (Ordinance 98-09) which would serve to replace existing Ordinance 93-24. The basic thrust of this ordinance is to allow the expenditure of public funds for basic subsistence for those employees and volunteers who are restricted to the workplace during times of emergencies and threatened emergencies. Your patience in waiting my response is appreciated.

As you know, this ordinance has a bit of history. The first version of this ordinance (Ordinance 92-56) was adopted by the Board of County Commissioners on September 8, 1992. The second version of this ordinance (Ordinance 93-24) was adopted on July 6, 1993, in order to add volunteers to the list of those qualifying for payment of basic subsistence while restricted to the workplace. You are now proposing to expand the scope of the ordinance to include the County's provision of basic subsistence to those employees and volunteers who are restricted to the workplace not only during times of bona fide declared emergencies, but also during times of protective measures during the course of threatened bona fide emergencies.

Office of County Attorney
1112 Manatee Avenue West, Suite 969, P.O. Box 1000, Bradenton, FL 34206

(941) 745-3750 • fax (941) 749-3089

Karen Windon
May 1, 1998
Page 2

I can find no prohibition in state law as regards your proposed expansion of the scope of this ordinance. In fact, as you know, counties are afforded very broad powers of emergency management (see Section 252.38, Florida Statutes).

Nevertheless, in my judgment, the document is in need of significant revamping. In its present state, it is simply very poorly structured. I trust that you will agree that my proposed version (attached) is much more readable.

With the enclosed rewrite of the ordinance (two originals are attached for your usage), I can recommend this proposed enactment for approval by the Board of County Commissioners. It will be necessary for your Department to appropriately advertise and conduct the public hearing before the Board. If I can be of any assistance in this regard, please advise.

This concludes my response to the above-described Request for Legal Services.

MOP/kc

Attachments

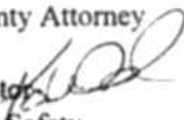
cc: E. Michael Latessa, Director, Department of Public Safety

MANATEE COUNTY GOVERNMENT

MEMORANDUM

DATE: July 1, 1998

TO: Mitchell O. Palmer
Senior Assistant County Attorney

FROM: Karen Windon, Director 
Department of Public Safety

SUBJECT: CAO File No. 1055-072 - Review Ordinance 98-38, rescinding Ordinance 98-09 adopted on June 2, 1998 prior to promulgation.

Enclosed, please find the Agenda Memorandum request for authorization to set a Public Hearing to consider adopting Ordinance No. 98-38, rescinding Ordinance 98-09. Ordinance 98-09 had been improperly adopted on June 2, 1998. Ordinance 98-38 mirrors Ordinance 98-09, however steps are being taken to advertise.

Please review the enclosed Agenda Memorandum to ensure that all areas of concern are addressed with regard to the lawful adoption of Ordinance 98-38. I will need to submit your comments to the Agenda Coordinator prior to the Public Hearing final submission date for this meeting, July 29, 1998.

Thank you for your expertise and assistance. Should you have any questions, please call me at Ext. 3559.

Again, thank you so very much.

KW:ND:nd
Enclosures

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, pursuant to Section 125.66, Florida Statutes, that the Board of County Commissioners of Manatee County, Florida will conduct a public hearing in the chambers of said Board at the Manatee County Administrative Center, 1112 Manatee Avenue West, First Floor, Bradenton, Florida, on the 4th day of August, 1998 at 9:00 a.m. or soon thereafter to consider, act upon, adopt or reject the following ordinance:

ORDINANCE 98-38

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AUTHORIZING AND APPROVING THE EXPENDITURE OF PUBLIC FUNDS FOR THE PURCHASE OF BASIC SUBSISTENCE FOR MANATEE COUNTY EMPLOYEES AND REGULAR SERVICE EMERGENCY OPERATIONS CENTER (EOC) VOLUNTEERS OR FOR THE REIMBURSEMENT OF MANATEE COUNTY EMPLOYEES AND REGULAR SERVICE EOC VOLUNTEERS WHO PURCHASE BASIC SUBSISTENCE AS A RESULT OF THEIR RESTRICTION TO THE WORKPLACE DURING THE COURSE OR IMMINENT THREAT OF BONA FIDE COUNTY-WIDE EMERGENCIES AND DURING THE COURSE OF PROTECTIVE MEASURES UNDERTAKEN PURSUANT TO THE THREAT OF BONA FIDE COUNTY-WIDE EMERGENCIES; PROVIDING FOR LIMITATIONS ON SUCH EXPENDITURES; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES AND ORDINANCE 98-09; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Interested parties are advised that they may appear at the meeting and be heard with respect to the proposed ordinance.

Pursuant to Section 286.0105, Florida Statutes, if any person decides to appeal any decision made by the Board with respect to any matter to be considered at the meeting or hearing, he will need a record of the proceedings and for such purposes he may need to insure that a verbatim record of the proceedings is made, which record would include any testimony or evidence upon which the appeal is to be based.

Copies of the proposed Ordinance will be made available prior to the public hearing at the Office of the County Attorney during normal business hours. A reasonable charge may be made for the provision of copies.

DATE TO BE PUBLISHED: Wednesday, July 22, 1998

ORDINANCE 98-38

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AUTHORIZING AND APPROVING THE EXPENDITURE OF PUBLIC FUNDS FOR THE PURCHASE OF BASIC SUBSISTENCE FOR MANATEE COUNTY EMPLOYEES AND REGULAR SERVICE EMERGENCY OPERATIONS CENTER (EOC) VOLUNTEERS OR FOR THE REIMBURSEMENT OF MANATEE COUNTY EMPLOYEES AND REGULAR SERVICE EOC VOLUNTEERS WHO PURCHASE BASIC SUBSISTENCE AS A RESULT OF THEIR RESTRICTION TO THE WORKPLACE DURING THE COURSE OR IMMINENT THREAT OF BONA FIDE COUNTY-WIDE EMERGENCIES AND DURING THE COURSE OF PROTECTIVE MEASURES UNDERTAKEN PURSUANT TO THE THREAT OF BONA FIDE COUNTY-WIDE EMERGENCIES; PROVIDING FOR LIMITATIONS ON SUCH EXPENDITURES; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES AND ORDINANCE 98-09; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners in and for Manatee County, Florida, recognizes that certain Manatee County employees and Emergency Operations Center (EOC) volunteers are required to remain in the workplace during the time in which bona fide county-wide emergencies occur; and

WHEREAS, it may be necessary for Manatee County to provide foodstuffs or require employees to bear the costs of purchasing foodstuffs as a result of their restriction to the workplace; and

WHEREAS, there may exist certain County-wide emergencies that do not rise to the magnitude of those disasters enumerated under Manatee County Ordinance 84-20, which do not warrant convening of the Board of County Commissioners, such as circumstances where an imminent threat exists and protective measures are prudently undertaken to ensure the health, safety and welfare of Manatee County residents and its visitors as described and defined in the Manatee County Comprehensive Emergency Management Plan based upon the Manatee County Hazards Vulnerability Analysis; and

WHEREAS, pursuant to the authority vested in counties by Sections 252.38, Florida Statutes, the Board of County Commissioners has determined that the expenditure of public funds for the purchase of foodstuffs for Manatee County employees and EOC volunteers restricted to the workplace during a bona fide county-wide emergency or during the course of protective measures pursuant to the threat of bona fide county-wide emergencies, serves a valid and lawful public purpose; and

WHEREAS, Section 125.9504 Florida Statutes, empowers local governments to furnish, without charge, meals to regular-service volunteers serving a unit of county government.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida, that:

Section 1. Authority. The County Administrator or his/her designee is hereby authorized to expend public funds for:

- a) the payment of foodstuffs for Manatee County employees and EOC volunteers and for the reimbursement of monies expended on foodstuffs by Manatee County employees and EOC volunteers during the course of bona fide county-wide emergencies, during which said employees and volunteers are restricted to the workplace; and
- b) the payment for foodstuffs for Manatee County employees and EOC volunteers and for the reimbursement of monies expended on foodstuffs by Manatee County employees and EOC volunteers during the course of protective measures undertaken pursuant to the threat of bona fide county-wide emergencies, during which said employees and volunteers are restricted to the workplace.

The nature and amounts of such expenditures shall be specifically documented, and the expenditures will be charged to a specific emergency account established for that particular event, until it is determined that the emergency is or is not eligible for disaster assistance funding and declared a disaster. At such time that eligibility is denied, expenses will be charged back to the appropriate department's operating budget as defined in the Manatee County Damage Assessment/Mutual Aid Documentation Manual.

Section 2. Definitions. For purposes of this Ordinance, the following definitions shall apply:

- (a) "protective measures" shall be defined as set forth in the Federal Emergency Management Agency's Public Assistance Guide, dated September 1996; and
- (b) "regular-service volunteers" shall be defined as set forth in Section 125.9501, Florida Statutes.

Section 3. Limitations on expenditures. The expenditures and reimbursements for basic subsistence shall not exceed those amounts established by Section 112.061, Florida Statutes, as follows:

A.	Breakfast	\$ 3.00
B.	Lunch	\$ 6.00
C.	Dinner	\$12.00

Section 4. Repeal of Manatee County Ordinance 93-24 and 98-09; conditional repeal of other conflicting enactments. Manatee County Ordinance 93-24 and 98-09 shall be repealed as of the effective date of this Ordinance. Any provisions of any County ordinance or other County enactment which are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such inconsistency or conflict.

Section 5. Severability. In the event any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, all remaining provisions and portions of this Ordinance shall remain in full force and effect. All provisions of this Ordinance are severable if the legality or enforceability of any one provision is not contingent or dependent upon validity or enforceability of any other provision of this Ordinance. Furthermore, this Ordinance is not intended to conflict with or supersede any Statute or Rule or Regulation of the State of Florida, and if there is any conflict between this Ordinance and any Statute, Rule or Regulation of the State of Florida, such state Statute, Rule or Regulation shall prevail.

Section 6. Effective Date. Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Circuit Court, within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon such filing with the Department of State.

PASSED AND DULY ADOPTED in open session this _____ day of _____, 1998.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court