

**MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT	YULE FEST '98	TYPE AGENDA ITEM	CONSENT
DATE REQUESTED	DECEMBER 8, 1998	DATE SUBMITTED/REVISED	DECEMBER 2, 1998
BRIEFINGS/WHO?	NONE	CONSEQUENCES IF DEFERRED	NONE
DEPARTMENT/DIVISION	COUNTY ADMINISTRATOR	AUTHORIZED BY TITLE	ERNIE PADOETT COUNTY ADMINISTRATOR
CONTACT PERSON TELEPHONE/EXTENSION	DAVE ROTHFUSS 3722 <i>DR 12/18</i>	PRESENTER/TITLE TELEPHONE/EXTENSION	DAVE ROTHFUSS 3722
ADMINISTRATIVE APPROVAL	<i>[Signature]</i>		

ACTION DESIRED

INDICATE WHETHER ¹REPORT OR ²DISCUSSION, ³FORM OF MOTION, OR ⁴OTHER ACTION REQUIRED:

ADOPTION OF RESOLUTION R-98-281, AUTHORIZING THE EXPENDITURE OF COUNTY FUNDS FOR SPECIFIED COSTS ASSOCIATED WITH THE YULE FEST '98 EVENT.

ENABLING/REGULATING AUTHORITY

FEDERAL/STATE LAW(S), ADMINISTRATIVE RULING(S), MANATEE COUNTY COMP PLAN/LAND DEVELOPMENT CODE, ORDINANCES, RESOLUTIONS, POLICY.)

- COMMISSION AUTHORIZATION IS REQUIRED IN ORDER FOR MANATEE COUNTY TO EXPEND FUNDS IN SUPPORT OF A COMMUNITY EVENT
- MANATEE COUNTY ORDINANCE 97-28, EXPENDITURE OF COUNTY FUNDS, TO PROMOTE GOOD WILL, ETC.

BACKGROUND/DISCUSSION

- DURING ITS MEETING OF OCTOBER 27, 1998, THE BOARD OF COUNTY COMMISSIONERS EXPRESSED ITS COLLECTIVE INTENT TO PARTICIPATE IN THE YULE FEST '98 EVENT BY MAKING A CONTRIBUTION OF \$2,000 TOWARDS THE EVENT'S EXPENSES. STAFF THEREUPON COMMUNICATED THE COMMISSION'S DECISION TO A REPRESENTATIVE OF THE EVENT AND DISCUSSED WITH THE COUNTY ATTORNEY'S OFFICE THE MANNER IN WHICH SUCH A CONTRIBUTION COULD BE EFFECTED.
- AS YOU WILL NOTE IN THE ATTACHED MEMORANDUM FROM SENIOR ASSISTANT COUNTY ATTORNEY McVOY, THE BOARD OF COUNTY COMMISSIONERS MAY NOT LAWFULLY CONTRIBUTE FUNDS EXCEPT INsofar AS SUCH A CONTRIBUTION IS FOR THE PURPOSE OF REIMBURSING A VALID EXPENSE. MOREOVER, AS THE ORGANIZERS OF YULE FEST '98 HAS NOT YET INCORPORATED AS A NOT-FOR-PROFIT ORGANIZATION, THE COUNTY'S CONTRIBUTION WILL BE DIRECTED AND PAID TO MANATEE CHILDREN'S SERVICES, INC., WHICH IS PARTICIPATING AS A FORMAL SPONSOR OF THE YULE FEST '98 EVENT.
- CONSISTENT WITH THE WISHES OF THE BOARD OF COUNTY COMMISSIONERS, AS EXPRESSED DURING ITS OCTOBER 27, 1998, MEETING, NO ACKNOWLEDGEMENT OF THE BOARD OF COUNTY COMMISSIONERS' CONTRIBUTION TO THE EVENT WILL BE MADE.

CC: TEDDY N. WILLIAMS, JR., COUNTY ATTORNEY
PATRICIA McVOY, SENIOR ASSISTANT COUNTY ATTORNEY
KIM UMANA, DIRECTOR, FINANCE DEPARTMENT
JANE EVERS, YULE FEST '98

APPROVED IN OPEN SESSION

<REF: A098-20524>

DEC 08 1998

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

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 1B) RE: CONTRACT, AGREEMENT, LEASE, ETC.:

N/A

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

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?

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 AND SUGGESTIONS HAVE BEEN INCORPORATED.

<p>ATTACHMENTS: (LIST IN ORDER AS ATTACHED)</p> <p>RESOLUTION R-98-281 INVOICE LEGAL OPINION FROM ATTORNEY McVOY</p>	<p>INSTRUCTIONS TO BOARD RECORDS:</p> <p>PROVIDE AN EXECUTED COPY OF R-98-281 TO: (1) COUNTY ADMINISTRATOR'S OFFICE, ATTN: DAVE ROTHFUSS; (2) COUNTY ATTORNEY'S OFFICE, ATTN: P. McVOY, (3) FINANCE DEPARTMENT, ATTN: KIM UMANA</p>
<p>COST \$2,000</p>	<p>SOURCE (ACCT# & NAME) GENERAL COUNTY</p>
<p>COMMENTS NONE</p>	<p>AMT./FREQ. OF RECURRING COSTS (ATTACH FISCAL IMPACT STATEMENT) NONE</p>

Fold along bottom of column header bar to fit 771 or 1038-1 envelopes



CHRISTMAS DESIGNERS, INC.
3124 N.W. 16TH TERRACE
POMPANO BEACH, FLORIDA 33004

(954) 973-4225
FAX (954) 973-0914

INVOICE**857437**

NOV 23, 1998

DATE

TO

MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS
ATTN: SHARON MILLS
P. O. BOX 1000
BRADENTON, FL 34206
FAX #941-745-3790

CUSTOMER CLAYTON LONG

SALESPERSON

VIA

TERMS

QUANTITY	DESCRIPTION	PRICE	AMOUNT
4	5 8" SILHOUETTE SNOWFLAKES	\$305.00	\$1,220.00
5	8" SILHOUETTE SNOWFLAKES	\$195.00	\$975.00
			\$2,195.00
	15% DISCOUNT		(329.25)
			\$1,865.75
	FREIGHT 5%		\$109.75
	BALANCE DUE		\$1,975.50

(THANK YOU)

...END...



Office of
**MANATEE COUNTY
ATTORNEY**

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

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

DATE: December 2, 1998

TO: Dave Rothfuss, Chief Assistant County Administrator

THRU: Teddy N. Williams, Jr., County Attorney *TNW 12/7/98*

FROM: Patricia McVoy, Senior Assistant County Attorney *PM 12/2/98*

RE: **Yule Fest '98 (AO98-20465)**
RLS-98-448; CAO File 1040-179

ISSUE PRESENTED:

The Board of County Commissioners has voted to contribute \$2,000.00 in support of Yule Fest '98. You have asked about what must be accomplished in order for the Board to provide the funding. You have stated that a bank account had been established, but a non-profit organization had not assumed responsibility for the event or been formed to produce the event. Subsequently, you have advised that Children's Services of Manatee, Inc., will be sponsoring the event.

BRIEF RESPONSE:

Due to constitutional and statutory limitations, the Board may not make contributions or donations of public funds. The Board can only expend public funds for a legally authorized public purpose in a manner that provides both pre- and post-audit accountability with respect to the legality of the expenditure.

RECOMMENDATION:

If the Board is able to make a determination that any specific expenditure would be consistent with Ordinance 97-28, which authorizes the expenditure of public funds to engender goodwill toward the County and its services and programs, the Board could lawfully authorize such an expenditure.

The authorization, whether by resolution or agreement, would need to provide a mechanism for assuring that the purposes of the expenditure have been or will be accomplished.

You have indicated that a substantial portion of the expenditures for the event will be for secular lighting displays and that these have been delivered. A resolution conforming to the requirements of Ordinance 97-28 and providing for the reimbursement of the specified amount, attaching documentation of the expenditure to the resolution, would permit accomplishment of the purpose without additional formality.

DISCUSSION:

Article VII, Section 10 of the Florida Constitution, which prohibits pledging or lending of credit, is generally cited as the public purpose clause. Under this clause, any public funds may only be expended to serve a public purpose.

Under Article VIII, Section 1(f), which provides for non-charter counties, the authority of the County must be explicit or implied in general or special laws, or provided for by ordinance not inconsistent with general or special law.

✓ Guidelines must be implemented to assure that expenditures would be used to accomplish the stated public purpose provided for by special law, general law or County ordinance. The guidelines must be sufficient for the Clerk of the Circuit Court to meet the pre-audit and post-audit requirements imposed on the Clerk under Article V, Section 16 and Article VIII, Section 1(d) of the Florida Constitution, as well as Section 129.09, Florida Statutes.¹

¹Payments of a lump sum contribution in advance of services being rendered would violate the legal requirement that, absent constitutional or statutory authority, County funds must be paid out by warrant of the County Commissioners after a claim has been audited and approved by the Clerk of the Circuit Court acting as County Auditor. Att'y Gen. Let. 11-22 (1971) (citing Florida Constitution Article VIII, Section 1(d) and Florida Statutes §129.09). County funds cannot be turned over in a lump sum to an organization for use in its discretion. Op. Att'y Gen. 97 (1977) (County Commission is not authorized to appropriate and pay funds to mental health board in lump sum to fund County's proportionate share); Op. Att'y Gen. 73 (1980) (district school board may not make salary payments to its employees prior to services being rendered); Op. Att'y Gen. 78 (1979) (Board of County Commissioners cannot delegate its authority to approve, compromise, and pay claims against the County, nor can it make a lump sum disbursement of County funds in escrow with claims adjuster for purpose of paying claims against County); Op. Att'y Gen. 150 (1971) (contributions to Red Cross blood bank from County funds may be made only on an item-by-item basis following audit and approval by County Commissioners and Clerk); Op. Att'y Gen. 96 (1964) (County Commission has no clear-cut legal authority to budget for and pay over a sum of money for anticipated indigent hospital care).

Dave Rothfuss, Chief Assistant County Administrator
December 2, 1998
Page 3

Under the circumstances you have described, the adoption of a resolution could authorize the reimbursement of sums expended, recite the public purpose to be served, and the source of authority. If additional assurances are required, an agreement should be developed.

PM/klm

cc.: Ernie Padgett, County Administrator