

# MANATEE COUNTY GOVERNMENT

## AGENDA MEMORANDUM

<b>SUBJECT</b> Manatee County Tree Fund	<b>TYPE AGENDA ITEM</b> Consent
<b>DATE REQUESTED</b> December 15, 1998	<b>DATE SUBMITTED/REVISED</b> December 10, 1998
<b>BRIEFINGS?/WHO?</b> None	<b>CONSEQUENCES IF DEFERRED</b> Loss of \$29,476 plus interest in Tree Fund
<b>DEPARTMENT/DIVISION</b> Planning Community Planning	<b>AUTHORIZED BY TITLE</b> Carol B. Clarke, AICP Director
<b>CONTACT PERSON TELEPHONE/EXTENSION</b> Robert H. Pederson ext 6833	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b> Robert H. Pederson, Community Planning Administrator, ext 6833
<b>ADMINISTRATIVE APPROVAL</b>	

### ACTION DESIRED

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

**Adoption of Resolution 98-267, extending the time frame for expenditures in Tree Protection Fund.**

### ENABLING/REGULATING AUTHORITY

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy.)

Land Development Code Sections 714.4, 714.5, and 714.6

### BACKGROUND/DISCUSSION

Continued to Page 2

**HAS COUNTY ATTORNEY REVIEW BEEN REQUESTED?** Indicate "NO" or "YES" @ right.

Yes

If "NO," proceed to 1A/1B below. If "YES," proceed to 2A/2B below

1) IF "NO" TO ABOVE,

**A) PLEASE EXPLAIN BELOW:** (see also following section 1B re: contract, agreement, lease, etc.)

Authorization for the proposed actions is contemplated in Section 714 of the Land Development Code

**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

**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.)

Yes

**APPROVED IN OPEN SESSION**

DEC 15 1998

14.

ATTACHMENTS: (List in order as attached)	INSTRUCTIONS TO BOARD RECORDS:
	None
COST None	SOURCE (ACCT# & NAME) None
COMMENTS None	AMT./FREQ. OF RECURRING COSTS (ATTACH FISCAL IMPACT STATEMENT) None

### BACKGROUND/DISCUSSION

#### Continued from Page 1

- **The Manatee County Tree Fund was established in 1991 within the Land Development Code.**
- **The LDC establishes five (5) tree replacement districts, which correspond to the County's impact fee construction districts. The Tree Fund must be expended in the district in which they were generated or outside of the district in a manner approved by the Board.**
- **Any funds not expended seven years after payment are to be returned to the payer with interest. The County will soon be faced with a "use it or lose it" scenario for some tree fund monies. Accordantly we have developed recommendations for the Board to consider in using the available funds.**
- **During the Board of County Commissioners meeting on September 1, 1998, the County Administrator committed to using the Tree Protection Trust Fund to augment the recent Keep Manatee Beautiful grant award for the U.S. 41 demonstration project in Palmetto.**
- **As of November 25, 1998, \$325,278 has accrued in the Tree Protection Trust Fund. This amount may be sufficient to complete two or three priority projects listed in the Urban Forestry Master Plan, but would not cover projects in each district.**
- **From 1990-1997, the funds collected were not tracked with respect to their district of origin, so staff recommends that the Board authorize expenditure of the funds on a County wide basis on projects approved by the Board**
- **Staff also recommends that the Board, by Resolution, extend the time frame to expend the funds for the three years, as envisioned under Section 714.6 of the LDC. This would eliminate the possibility of a "use it or lose it" scenario for \$29,476 collected on August 27, 1991, which would have to be returned if not extended (Resolution R-98-299 to this effect is attached).**
- **With respect to other possible projects, the new County Forester will be developing a list of alternatives and report back to the Board within 120 days.**



PLANNING  
DEC 10 1998  
DEPARTMENT

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\*

December 9, 1998

**MEMORANDUM**

TO: Carol B. Clarke, Director, Planning Department

THRU: Teddy N. Williams, Jr., County Attorney *12/10/98*

FROM: Mark P. Barnebey, Chief Assistant County Attorney *12/9/98*

RE: Tree Trust Fund  
CAO File No. 1113-280  
RLS-98-487; Received December 4, 1998

This memorandum is in response to the above-referenced Request for Legal Services in which you asked this office to review the attached agenda item and resolution relating to the extension of the Tree Trust Funds. There were no specific legal concerns raised in the Request for Legal Services and, therefore, review will be primarily in regard to clarity, consistency, and completeness of the report for legal purposes.

This office's comments are as follows:

1. A marked-up copy of the agenda is attached for your use. Extension of the period for expenditure of trust fund monies appears to be contemplated under Section 714.6 of the Land Development Code (LDC) if the Board makes a finding that plant replacement activities will be completed within three years. This resolution meets the intent of Section 714.6 with the amendments proposed.

2. The resolution itself, as previously drafted, may have suggested a three year extension for all trust protection trust fund monies, but I recommend amending the resolution, as shown, to only address those funds collected prior to January 1, 1993, so that it only relates to those funds which are about to reach the seven year limit for expenditures under Section 714.5 of the LDC.

Carol B. Clarke, Director, Planning Department  
December 9, 1998  
Page 2

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I do not believe the intent of this Section is to provide for continual rollover to a three year period but to look at time frames that are about to expire and review the possible use of affected funds during the subsequent three years. As a general rule, the County should be able to find appropriate projects to utilize the funds within a seven year period.

3. This response does not address any particular tree fund monies or expenditure project.

If you have any questions or if this memorandum is incorrect, please call me.

MPB:mh  
Attachment



**Manatee County**  
**Clerk of the Circuit Court and Comptroller**

R.B. "Chips" Shore

P.O. Box <sup>XXXX</sup> 25900 Manatee County Courthouse • Bradenton, Florida 34206-1<sup>XXXX</sup> 5400 (941) 749-1800 • FAX (941) 741-4082

FAX NO. 941-741-4089

DATE: 1/7/99  
 TIME: 8:50<sup>AM</sup>

CLERK OF CIRCUIT COURT  
 FAX COVER PAGE

TO: Glenn

LOCATION: 795-3495

DEPARTMENT: Transportation

FROM: Pat

LOCATION: 4178

DEPARTMENT: Bd Records

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**Manatee County**  
**Clerk of the Circuit Court and Comptroller**

RB Clays Shore

XXXX  
29800 Manatee County Courthouse • Bradenton, Florida 34206-1500 • FAX 941-741-1582  
XXXX  
5400

FAX NO. 941-741-4089

DATE: 12/21/98

TIME: 11:20 A

**CLERK OF CIRCUIT COURT**  
**FAX COVER PAGE**

TO: Blizza

LOCATION: Transportation

DEPARTMENT: 795-3495

FROM: Pat

LOCATION: \_\_\_\_\_

DEPARTMENT: Pat Records

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NOTE: \_\_\_\_\_

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**Manatee County**  
**Clerk of the Circuit Court and Comptroller**

R.B. "Chips" Shore

P.O. Box <sup>XXXX</sup> 29400 Manatee County Courthouse • Bradenton, Florida 34206 <sup>XXXX</sup> (941) 749-1800 • FAX (941) 741-2082  
 5400

FAX NO. 941-741-4089

DATE: 12/21/98

TIME: 11:19 AM

CLERK OF CIRCUIT COURT  
 FAX COVER PAGE

TO: Mike Keaton

LOCATION: \_\_\_\_\_

DEPARTMENT: 742-5920

FROM: Pat

LOCATION: Rel. Records

DEPARTMENT: \_\_\_\_\_

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