

SEPTEMBER 16, 1980PUBLIC HEARING

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The Board of County Commissioners, Manatee County, Florida, and the Manatee County Planning Commission reconvened in joint public meeting in the Courthouse, Bradenton, Florida, Tuesday, September 16, 1980 at 1:28 p.m.

## Present were Commissioners:

Patricia M. Glass, Chairman  
Lamar S. Parrish, Vice-Chairman  
Claude E. McGavic  
L. H. Fortson, Jr  
Louis E. Driggers

## Also present were:

E. N. Fay, Jr., County Attorney  
Peter Ramsden, Finance Director, representing R. B. Shore,  
Clerk of Circuit Court

Planning Commission Members

Ann Bott  
Gordon Bartle  
Robert H. Hoffman  
Fay Firkins  
James C. Garrison  
George W. Hooper  
Seymore Sailes

Representing the various news media were Libby Allison, The Bradenton Herald; Mark Todd, Sarasota Herald-Tribune, and others who entered during the meeting.

Court Reporter: Lynn Morrison, Kahn & Kahn Court Reporters, 1105 6th Avenue W., Bradenton, Fl 33505 (Administered oath to all witnesses).

The meeting was called to order by Chairman Glass.

PROCEDURES

At the request of Chairman Glass, the County Attorney outlined the procedures and course that should be taken by the governing bodies.

He had no objection to closing the public hearing on the rezone (R-80-21) and the special exception (SE-80-23) portions of the petition, but did recommend that the public hearing on D.R.I. No. 11 be continued to a stated date, or until such time as further notice is given the parties and the public.

SCENARIO - COURSE OF ACTION TO BE TAKEN

On the rezone matter and the special exception, under the County Zoning Ordinance and procedures, the Planning Commission hears the facts and takes whatever action is appropriate in order to make a recommendation to the Board of County Commissioners.

In this case, enough legally required information has been heard that the Planning Commission can now make some sort of recommendation to the Board of County Commissioners on the rezone and the special exception, regardless of whether it is referred to the committee as a whole, to some particular committees or whether the Planning Commission wishes to close the public hearing and, at its next meeting, take action.

On the D.R.I. application, the Planning Commission has to make a recommendation to the Board of County Commissioners, and, customarily, make a proposed or recommended order to the Board. In view of this, the public hearing should be kept open, and though the two Boards could have separate public hearings, there is no reason not to hold a joint public hearing if its more convenient,

and have matters received into the record and allow parties to cross examine.

Case law and past experience has pretty well indicated that a decision must be based on the record in the D.R.I. proceedings. The record means those things that happen in public hearing.

If the public hearing is closed, the Commissioners can only discuss with staff what has happened before or act as if it does not exist. In that questions have been raised which may be material evidence, they should be presented in public hearing. Opposing counsel ought to be allowed to see it if its in writing, and, if there is cross examination, witnesses should be cross examined in public hearing.

Action may be taken on the rezone and special exception prior to D.R.I. final hearings being concluded, or action on all three may be taken simultaneously. However, the Board cannot enter a decision on the DRI until a decision is made on the rezone and special exception because Chapter 3 (Florida Statutes) requires that the D.R.I. be consistent with local land uses.

Another point to take into consideration is that some Commissioners have questions they still feel were not resolved. These should be conducted in the framework of a public hearing to give the applicant an opportunity to respond to any matters that are brought up. If the Commissioners do not get their questions answered, the applicant does not get the relief requested.

So, if there are serious questions or material questions that Board members want answered, it would be appropriate to make them a part of the record, which means it should be a part of the final hearing.

Another reason why the public hearing should be continued is that any member of either one of the bodies who missed any of the hearing should read the record before a decision is rendered. If the administrative procedure act is followed, the governing body cannot make a decision on a public hearing unless it attends and participates in a public hearing or reads a transcript.

Chairman Glass asked if, in the event the Commissioners decided that there was expertise needed in certain areas to answer certain questions, could the Board avail itself of consultants for advice in regard to the development order or anything of that nature if it were a part of the record.

Mr Fay advised that if the Board brings in experts to testify either on the County's position to the application or to administratively help the governing body to decide what decision to make, the applicant should also be allowed rebuttal.

If the information is insufficient and if the applicant has not met the burden of proof and resolved all concerns, he is not entitled to the relief requested. If applicant has no objections, the Board may call in witnesses if it is done within a reasonable period of time. There are financial considerations in addition to the environmental and other factors being considered, and to most big developers "every day is money". So if there is going to be delay with expert witnesses called in, it must be done with some haste, and the applicant must be given the opportunity to know what is being done and rebut it if that is his desire.

In reference to questions previously posed by Mr McGavic, Mr Fay advised that if the questions pertain to the merits of the issue, are material to the decision, and if the public hearing is continued, that staff or the Board should make these questions available to the City of Bradenton and TARA Ltd so both the City and TARA may have the opportunity to respond.

TRANSCRIPTS TO BE FURNISHED

Mr Dye reiterated that the main concern of the developer is to have a definite date to close the hearing. He indicated that copies of

SEPTEMBER 16, 1980

Cont'd

the complete transcript of the hearing to date will be ready by Friday (9/15/80) and available to any and everyone who needs it. He had no objection to closing public hearing on the rezone and the special exception. Nor did he have any objection to keeping the public hearing open on all three issues, so long as there is some sort of stated reasonably short time frame.

Bill Lisch, Attorney representing City of Bradenton, stated that a reasonable period of time for the public hearing to be closed would be acceptable to the City.

Mr Fay suggested, in that Mr Dye has indicated the complete transcript will be ready by Friday, that a public hearing be scheduled a week from now, at which time any questions that any members of the governing bodies had raised, could either have them answered orally at that meeting, or leave the record open at that time to allow the parties to respond to it for a period of time and then have a close-off date so that the Board could go ahead and make its decision.

Mr McGavic explained that he had previously indicated that he did not have enough information upon which to base a decision and had asked Mr Dye if he would allow those who were participating to consult with respective staffs to gather additional information, and that he was unsure of the answer to that question. He then drafted a memorandum with several questions addressed to Bob Rile, Planning and Development (with a copy to Mr Dye, but unintentionally failed to notify the city of Bradenton).

He felt certain those questions could be answered to his satisfaction within a week.

In response to a query by Mrs Glass whether questions not answered to the Boards' satisfaction are part of the deliberation process, Mr Fay stated that theoretically the applicant has the burden of proof, proving he is entitled to the relief that he is requesting. If the Board is of the opinion that he has not satisfied all those, and if the Board cannot grant the request because of the lack of information, the Board has the right to say that request might be acceptable for approval if the certain information or facts existed. In due process, it may be more appropriate to tell the applicant what the things are, so that he has a chance to respond to them.

PUBLIC HEARING RECESSED - RECONVENE DATE SET

Mr Driggers recommended and MOVED that the hearing be recessed at this time and reconvened on 30th of September at 1:30 p.m. At that time, pose the necessary questions to the developer and his experts, and if they want to go ahead and write the questions, give them to all parties (which included City of Bradenton and County staff) so they can bring just those experts who would be answering the questions. Mr Firkins seconded the MOTION.

Mr Fay recommended that any written questions that the members of either Board may have be submitted through a clearing house to make sure that copies reach all pertinent parties and copies of everything are included among the official records.

MOTION carried unanimously.

COUNTY ATTORNEY - CLEARING HOUSE

The County Attorney volunteered to act as a clearing house, and that on September 30th he will put all the questions into record as a composite exhibit with the answers. He advised that the answers may be submitted prior to the 30th to afford the Board members an opportunity to read them before the hearing. There were no objections.

MEETING RECESSED

There being no further business, the meeting was declared recessed until September 30, 1980 at 1:30 p.m.

SEPTEMBER 16, 1980

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Courthouse, Bradenton, Florida, Tuesday, September 16, 1980 at 9:03 a.m.

Present were Commissioners:

Patricia M. Glass, Chairman  
Lamar S. Parrish, Vice-Chairman  
Claude E. McGavic  
L. H. Fortson, Jr.  
Louis E. Driggers

Also present were:

E. N. Fay, Jr., County Attorney  
David B. Collier, County Administrator  
Richard H. Ashley, Chief Deputy Clerk, representing  
R. B. Shore, Clerk of Circuit Court

Representing the various news media were Betty Kohlman, St. Petersburg Times; Mark Todd, Sarasota Herald-Tribune, and others who entered during the meeting.

Invocation by Reverend Michael A. Breznan, Trinity Luthern Church.

The meeting was called to order by Chairman Glass.

TAMPA BAY REGIONAL PLANNING COUNCIL/INTERLOCAL AGREEMENT

Scott Wilson, Tampa Bay Regional Planning Council (TBRPC), explained the function of the Council and services it offers Manatee County and answered questions regarding the amendments to the Interlocal Agreement Establishing a Tampa Bay Regional Planning Council, as adopted by TBRPC on September 8, 1980.

Mr. Driggers moved to authorize the Staff to prepare the necessary resolution for approval of the amendments to the Interlocal Agreement creating the TBRPC. Motion was seconded by Mr. Fortson. Voting "Aye" were Commissioners Fortson, Driggers, Parrish and Chairman Glass. Voting "No" was Commissioner McGavic. Motion carried.

SHRINE PAPER SALE DAYS

Upon motion by Mr. Driggers, seconded by Mr. McGavic, Proclamation was unanimously adopted proclaiming October 31st through November 1, 1980 as Shrine Paper Sale Days in Manatee County, during which time Shriners will distribute Shrine tabloid newspapers explaining the hospitals and services available to children of this County and soliciting voluntary donations.

RECORD PROCLAMATION S10-155

Barry Willard, Chairman of the Paper Drive, Walter Vogler, Don Halbertson and Paul Jaworoski, Egypt Shriners, presented copies of the newspapers to the Board.

GUN PERMIT RENEWAL (GENSLER)

Motion was made by Mr. Driggers to adopt a resolution renewing license to carry a certain pistol by

Henry A. Gensler - Royal Garden Ests Lane 4 St. 38, Bradenton  
(Bond: Crum/Forster Insurance Company) - 2 years  
S & W .38 Sp S/N 995283-8 Blue

Motion was seconded by Mr. Parrish and carried unanimously.

RECORD RESOLUTION

S10-156

ESTECH - LAKE MANATEE (NPDES PERMIT)

The County Attorney submitted letter dated September 15, 1980,

Re: Application by Estech General Chemicals Corporation for a National Pollutant Discharge Elimination System Permit (NPDES) by the Environmental Protection Agency for the Duette phosphate mining project

in which he recommended that his office and the Utilities System, together with the Consulting Engineers for MCUS, be authorized to institute and prosecute the necessary proceedings for the reclassification of Lake Manatee to Outstanding Florida Waters and for the reclassification of the Manatee River and all its tributaries from the waters of Lake Manatee upstream to the source thereof to Class 1A. This may also involve the participation in conferences with Department of Environmental Regulations and hearings before the DER Commission or hearing officer.

Richard Wilford, Director, Manatee County Utilities System, concurred with the recommendations outlined by the County Attorney.

Motion was made by Mr. Driggers to approve the recommendation as outlined by County Attorney in letter dated September 15, 1980. Motion was seconded by Mr. Fortson and carried unanimously.

Upon notification that Sarasota County would like to intervene in the DER proceedings to help Manatee County protect its watershed, motion was made by Mr. Fortson to endorse participation by Sarasota County. Motion was seconded by Mr. Driggers and carried unanimously.

HUMAN SERVICES

By memorandum dated September 9, 1980, Kathy Snell, Director, Human Services Department, recommended the following:

- 1) Approval of CETA Title VII On-The-Job Training Contracts:
  - a. P-021, Old Bradentown Realty, \$272.80
  - b. P-022, Don Corbett Electric, Inc., \$308.00
- 2) Authorize Chairman to sign Title III Older Americans Act grant application for the provision of Homemaker Services to County residents age 60 and over for period October 1, 1980 through March 31, 1981 (\$38,637 in Federal funds, \$4,518 as a cash contribution). Homemaker Services will be provided through the Manatee County Community Mental Health Center; Grant Management will be provided by the Human Services Department

Motion was made by Mr. McGavic to approve the items as outlined in memorandum dated September 9, 1980. Motion was seconded by Mr. Driggers and carried unanimously.

MATERIALS AND SERVICES

By memoranda dated September 4 and 5 1980, Gary M. Knuckles, Director, Materials and Services Department recommended the following:

UTILITIES SYSTEM

- 1) Bid 80-81 Trailer Mounted Diesel Engine Centrifugal Pumps
  - a. Awarded to Stang Hydronics, Inc., on August 26, 1980, to purchase one 6" pump, \$9,072 and three 4" pumps at \$7,500 each.
  - b. Correct error in total dollar amount to be awarded to read \$31,572 and not \$46,572 as indicated in letter dated August 18, 1980. (Approved 8/26/80)

Motion was made by Mr. Driggers to correct the amount of Bid 80-81. Motion was seconded by Mr. McGavic and carried unanimously.

- 2) Bid 80-85 Water Treatment Plant Improvements - Elevated Tank No. 4, Project No. 630-761-10
  - a. Award to the lowest responsible bidder meeting conditions and specifications of the bid, Universal Tank & Iron Works, Inc., \$1,198,860.

Motion was made by Mr. Parrish to approve Bid 80-85. Motion was seconded by Mr. McGavic and carried unanimously.

SEPTEMBER 16, 1980

Cont'd

MOTOR POOL (26TH AVE E) - YARD PAVEMENT

Phil Davis, Director, Highway and Engineering Department, requested authorization to pave approximately 11,000 square yards of the Maintenance and Motor Pool Yard on 26th Avenue East at estimated cost of \$22,000. He advised that funds are available.

Motion was made by Mr. Fortson to approve the request. Motion was seconded by Mr. McGavic. Voting "Aye" were Commissioners Fortson, McGavic, Parrish and Chairman Glass. Voting "No" was Commissioner Driggers. Motion carried.

CEMETERIES: OPERATION AND MAINTENANCE

Based on the recommendation of the Director of the Highway Department and the willingness of Parks and Recreation Department to assume the responsibility for regular maintenance of cemeteries, motion was made by Mr Parrish and seconded by Mr McGavic, to transfer two men, necessary funds (approximately \$22,000) and related equipment (listed below) from the Highway Department to the Parks and Recreation Department:

- 1 - L II Henry Kirchoff
- 1 - T II Owen Schuler
- 2 - Mowers Vehicle No. 10-78 & Sears 12-51
- 1 - Pick-up Vehicle No. 12-22

Motion carried unanimously.

SARASOTA-BRADENTON AIRPORT:  
LOW LEVEL WIND SHEAR ALERT SYSTEM

The County Administrator submitted

AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION  
(FAA) ACTING FOR THE U.S. GOVERNMENT, RE: A PERMIT  
FOR LOW LEVEL WIND SHEAR ALERT SYSTEM  
NO. DOTFA80SO-12606

whereby the County permits the Government to install, operate and maintain two sensors at the Bradenton-Sarasota Airport.

The County Attorney recommended that language in the Agreement referring to the "Engineering Department" and its address be stricken from the proposed agreement and the term of Manatee County, Florida and its address be used in the appropriate places.

Motion was made by Mr. McGavic to authorize the Staff to make necessary changes as outlined by the County Attorney; to approve the agreement and to authorize the Chairman to sign. Motion was seconded by Mr. Parrish and carried unanimously.

RECORD AGREEMENT

LITTLE PITTSBURG DRAIN

S10-157

Upon motion by Mr. Fortson, seconded by Mr. Parrish, the following Change Order was unanimously approved:

- Change Order No. 1 - Woodruff and Sons, Inc.,
- Contractor Little Pittsburg Drain - Highway Project 3009
- Decrease contract by net amount of \$5,812.70

CYSTIC FIBROSIS FOUNDATION BIKE-A-THON

Motion was made by Mr. Parrish to close 2nd Avenue from US 301 to 10th Street in Parrish on October 4, 1980, from 10 a.m. to 2 p.m. for a Cystic Fibrosis Foundation Bike-A-Thon. Motion was seconded by Mr. Fortson and carried unanimously.

ROADS: MADONNA PLACE; PERSIMMON PLACE - SPEED LIMIT

Motion was made by Mr. McGavic to adopt

RESOLUTION ESTABLISHING SPEED LIMIT  
ON COUNTY MAINTAINED STREET OR ROAD

whereby the speed limit is established at 20 mph, effective as of

- 1) Madonna Place from Whitfield Ave (69th Ave E) to dead end
- 2) Persimmon Place from Whitfield Ave (69th Ave E) to dead end

Motion was seconded by Mr. Parrish and carried unanimously.

RECORD RESOLUTION

S10-158

RECESS/RECONVENE

After a brief recess, the Board reconvened with all members present.

TWIN VIEW LAKES SUBDIVISION - PLAT APPROVED

(Deferred from 9/11/80, Re: Fire hydrant installation)

Jim Price and Herbert Shuart, purchasers of the property, offered to pay for the installation of the fire hydrant.

The County Attorney advised that the Board could approve the plat of Twin View Lakes Subdivision subject to letter from the developers concerning the installation of the fire hydrants being furnished the County.

Motion was made by Mr. Driggers to approve the plat as outlined by the County Attorney. Motion was seconded by Mr. Parrish and carried unanimously.

ELDER BUS/TITLE III GRANT, FY 1980

By memorandum dated September 9, 1980, Robert Hofmann, Transit Division Chief, submitted an amendment to the budget of the Title III Elder Bus Grant, revising the total grant budget by increasing the Federal share by \$6,441, thus allowing the County to spend \$2,769 presently on deposit.

Motion was made by Mr. Driggers to authorize the Chairman to sign the grant amendment. Motion was seconded by Mr. McGavic and carried unanimously.

LEGISLATION: TRANSPORTATION MONITORING SYSTEM

Mr. McGavic announced that a new State law requires the County, through the Metropolitan Planning Organization, to establish a monitoring procedure to: estimate the cost of transportation services; monitor the costs throughout the year; and submit a report at the end of the year.

Phil Davis, Director, Transportation Department, advised that an additional staff person has been requested for next year to work in this area.

MYAKKA VOLUNTEER FIRE DEPARTMENT

In connection with request for financial assistance to pay an outstanding telephone bill (9/9/80), the County Administrator reported that Mr. Smith, Assistant Chief, Myakka Volunteer Fire Department, has been contacted regarding the possibility of creating a taxing district. No action was taken.

AGRICULTURE CENTER LEASE: ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Motion was made by Mr. Fortson to accept the fully executed lease No. 57-6395-0-85 between the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS) and the County for parking space for an APHIS office trailer on County property at the Agricultural Center, Palmetto (Approved 5/27/80). Motion was seconded by Mr. Driggers and carried unanimously.

The County Administrator reported that APHIS has indicated by letter that the increased annual rental fee of \$500 is acceptable (increased from \$200).

AQUATIC PLANT CONTROL AGREEMENT

S10-159

By memorandum dated September 11, 1980, Philip A. Davis, Acting Director, Highway and Engineering Department, submitted an

AQUATIC PLANT CONTROL AGREEMENT BETWEEN THE DEPARTMENT OF NATURAL RESOURCES (DNR) AND MANATEE COUNTY

SEPTEMBER 16, 1980

Cont'd

whereby DNR agrees to make \$105,613 available to the County to be used for aquatic plant control during Fiscal Year 1980-81. (Loral funds \$276,470)

Motion was made by Mr. Driggers to approve the Agreement and authorize the Chairman to sign. Motion was seconded by Mr. Fortson and carried unanimously.

✓ RECORD AGREEMENT

S10-160

ARTIFICIAL FISHING REEFS

The County Administrator reported that two boats donated to the County, after being properly cleaned to meet pollution control standards, are to be placed (sunk) at the Artificial Fishing Reefs.

The transportation costs of approximately \$2,000 will be paid from grant funds.

BUDGET AMENDMENT (1979-80) - PUBLIC HEARING

The County Administrator announced that a public hearing will be held September 25, 1980 at 9 a.m. to consider the proposed amendment to the current 1979-80 Budget with regard to transfer of interest income to municipalities.

ROADS, COUNTY

In that a referendum authorizing a Road Bond Issue to fund County road improvements failed to receive a majority vote in the September 9th primary election, the County Administrator was instructed to schedule a work session with the appropriate staff to develop options available for paving County roads.

BUDGET: TAX ROLL

Following questions regarding the rejection of the County Tax Roll by the Department of Revenue and the effect on the FY 1980-81 Budget, the County Administrator was instructed to contact Archie Powell, Property Appraiser, and request that he appear before the Board on September 18, 1980, to discuss this matter.

UTILITY EASEMENTS: LOUDEN; SNYDER

Motion was made by Mr. Driggers to accept two utility easements from:

- 1) Earl L. and Claudette J. Snyder, II - 10 foot wide permanent easement
- 2) Francis H. and Florence E. Louden - 7.5 foot permanent easement

Motion was seconded by Mr. Parrish and carried unanimously.

ORDINANCE 80-3 TOURIST DEVELOPMENT TAX

Motion was made by Mr. Driggers to set a public hearing for October 2, 1980 to consider the proposed Tourist Development Tax Ordinance No. 80-3 and that the effective date of the proposed Ordinance (if approved) shall be January 1, 1981. Motion was seconded by Mr. McGavic and carried unanimously.

CORRESPONDENCE

The Chairman submitted the following correspondence from

- 1) Mrs. Evelyn Hoskins - requesting that the Anna Maria City Pier be designated as a National Historic Landmark by the U. S. Historical Society
- 2) William R. Farnell, Jr., President, El Conquistador Neighborhood Association, Inc. - requesting installation of traffic signal light and street illuminating lights at intersection of 34th Street, West and El Conquistador Parkway; petition attached

The County Administrator recommended that the Board give consideration to the request by Mrs. Hoskins after lease arrangements with the City of Anna Maria have been completed.



He advised that the Highway and Planning Departments have been instructed to research the request by Mr. Farnell and submit a report to the Board.

CLERK'S CONSENT CALENDAR

Upon motion by Mr. Fortson, seconded by Mr. Driggers, the Clerk's Consent Calendar dated September 16, 1980 was unanimously approved as follows:

BILLS FOR PAYMENT:

Refund: Inter City National Bank	\$ 15.00
Janet McLelland (Fleet Ins. Settlement)	49.00
Manatee Memorial Hospital (OB Clinic)	1,078.44
Manatee Memorial Hospital (Welfare)	5,392.20
Lakeland General Hospital (Welfare)	484.00
Mann & Fay (Estech)	2,155.95

ASSET MANAGEMENT:

Deletion of Assets - Civil Defense:

<u>Asset No.</u>	<u>Description</u>
2764	1952 Auto Car, 3000 gallon tanker
2795 & 2810	Motorola Mobile
6323	Reo, 2-1/2 ton truck
7362	GMC, 1952, 2-1/2 ton truck
7363	Trailer, 2 wheel, 1-1/2 ton
7553	GMC, 1953, 2-1/2 ton, 6x6
7713 & 7714	(2) GMC, 2-1/2 ton trucks, 6x6
7716 & 8599	(2) 1953 Willys Jeeps, 1/4 ton truck
8567	Disc, Furrow

Deletion of Assets - Clerk of Circuit Court:

<u>Asset No.</u>	<u>Description</u>
171, 173 & 185	Document Cabinets
463, 479 & 574	Document Cabinets
186, 590 & 602	Roller Shelves
604, 609 & 611	Roller Shelves
5909	Counter w/Swing Door

WARRANT LISTS

Approve Warrant Lists from September 9 to 16, 1980. Also authorize Warrant Lists from September 16 to 23, 1980.

HOSPITAL BOARD OF TRUSTEES

Motion was made by Mr. Fortson, to accept the letter dated September 9, 1980, from Harold W. Whitcomb, tendering his resignation as Trustee of Manatee Memorial Hospital, effective September 23, 1980; and authorize the Chairman to send a letter of appreciation to Mr. Whitcomb. Motion was seconded by Mr. Driggers and carried unanimously.

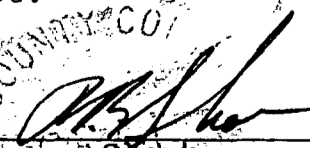
COMMISSIONER CANDIDATES

Upon suggestion by Mrs. Glass, the County Administrator volunteered to contact County Commissioner candidates and offer to arrange meetings between them and County department heads and to brief them on the facilities and programs operated by the County.

MEETING ADJOURNED

There being no further business, the meeting was declared adjourned.

Attest:

  
 Clerk

APPROVED:

  
 Chairman 10/14/80

Adj: 11:25 a.m.