

JUNE 10, 1982

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Courthouse, Bradenton, Florida, Thursday, June 10, 1982 at 9:07 a.m.

Present were Commissioners:

Vernon E. Vickers, Chairman  
Edward W. Chance, Vice-Chairman  
Claude E. McGavic  
Westwood H. Fletcher, Jr.  
Patricia M. Glass

Also present were:

Mary Greenwood, County Attorney  
Keith Roberts, Assistant County Attorney  
Robert F. Fernandez, Acting County Administrator  
Richard H. Ashley, Chief Deputy Clerk, representing  
R. B. Shore, Clerk of Circuit Court

Representing the various news media were Greg Spears, The Bradenton Herald; Jud Magrin, Sarasota Herald-Tribune; David Givers, WTRL, and others who entered during the meeting.

Invocation by Rev David Elmer, Christian & Missionary Alliance Church.

The meeting was called to order by Chairman Vickers.

MANATEE BEACH - PARKING SPACES

At the request of Mr. Fletcher, responding to complaints he had received on parking problems at Manatee Beach, the Acting County Administrator was instructed to take appropriate action to organize the parking/space areas at that facility.

RUBONIA AREA/BAYSHORE ROAD - DESTRUCTION OF MANGROVES

A complaint, relayed by Mr. Chance, about the destruction of mangroves by bulldozing in the Rubonia area (from Bayshore Road to the Bay) was referred to Mr. Fernandez for investigation.

LAWSUIT: STATE VS ORIE WILLIAMS

By letter dated June 4, 1982, Kenneth D. Henderson, Assistant State Attorney, questioned if the Board desired to appeal the Defendant's Motion to Dismiss, which was granted by the Court on June 4, 1982,  
Re: Case No. 82-182 MC  
State of Florida vs. Orie Williams  
Violation of Manatee County Comprehensive Code  
(81-4; Section 203-C)

The County Attorney advised it would not be in the best interest of the County to appeal the decision of the Court and recommended the Board not pursue further action.

Mr. Fletcher moved that, based on advice of Legal Counsel, the County not appeal Case No. 82-182 MC., State of Florida vs Orie Williams. Motion was seconded by Mr. Chance and carried unanimously.

HUMAN SERVICES: SUMMER PROGRAM

By memorandum dated June 4, 1982, Kathy Snell, Director of Human Services, advised that the Florida Department of Education had approved the Board as an authorized Sponsor for the Summer Foods Service Program (\$90,499) and recommended execution of an agreement with G. A. Food Service for delivery of the packaged lunches.

Mr. Fernandez submitted an agreement between the County and Vendor, stating that the cost may vary depending upon the number of meals served during the program period, June 14-August 13, 1982.

Mrs. Glass moved to approve execution of AGREEMENT BETWEEN MANATEE COUNTY AND G. A. FOOD SERVICE INC., for service as outlined in memorandum of June 4, 1982. Motion was seconded by Mr. Chance and carried unanimously.

RECORD AGREEMENT  
S32-117

ZONING

Bruce Siciliano submitted a written communication from the Director of Planning and Development concerning the Status of Land Development Code Text Amendments scheduled for Public Hearing by the Board on June 17, 1982.

Z-81-20 EGBERT S. REASONER - (R-4-B - APPROVED)

Request: To change the present zoning from -A- to R-4B on 266.37 acres at North Side of U. S. 301, 1/2 mile west of Ft. Hamer Road.

The Planning Commission recommended DENIAL.

Public Hearing was opened for the purpose of considering

ORDINANCE Z-81-20:

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY ORDINANCE NO. 81-4, THE MANATEE COUNTY COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE, RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF MANATEE COUNTY; PROVIDING FOR THE REZONING OF CERTAIN LAND FROM -A- TO R-4B; PROVIDING AN EFFECTIVE DATE

(Notice published in the Bradenton Herald, May 20, 1982)

Egbert S. Reasoner, in reviewing the request, stated that the site is the former location of Reasoner's Tropical Nurseries and is currently undeveloped.

Ralph Nelson (Nelson Engineers), representing Mr. Reasoner, outlined the plans to provide residential areas for mobile home dwellings and a golf course. He said the site has direct access to U.S. 301 and that the land plan layout, which incorporates design of entrances to U.S. 301 for traffic control in that area, was available for review.

Mr. Chance noted that when this project first came before the Board several months ago, he had asked that it be deferred due to the traffic increase this mobile home development would create on 301. However, since the Florida Department of Transportation has agreed to widen 301 to a three-lane highway with turn lane from the interchange of I-75 to pass Erie Road, and since it has been clarified that this project is not part of the Parrish Village Sector (error in legal description), he has no objections to the granting of the rezone request.

Mr. Siciliano summarized the issues involved in this zoning request

- 1) Land use element, the eroding of agricultural areas
- 2) Urban sprawl
- 3) Compatibility with the sector
- 4) Level of services. (i.e. sewer)

Mr. Chance moved for approval of Z-81-20 for the reasons expressed and the comments and discussions of the Board and staff, particularly upon a finding that subject property lies within the 301 corridor and that it is appropriate that it be developed in accordance with the policies in that corridor. (Motion framed by Keith Roberts, Assistant County Attorney.) Motion was seconded by Mr. McGavic and carried unanimously.

RECORD ORDINANCE

*Zoning*

LOT CLEARING

Following public hearing on Lot Clearing Petition

LC-1554 Forrest J. Lincoln - alleging that land owned by Beula M. Barrabrant had not been cleared,

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Mr. Siciliano indicated that no further lot clearing petitions will be brought to the Board for consideration as such items will be handled administratively in the future.

Mr. Fletcher moved to authorize the LC-1554 lot clearing (by adoption of the appropriate resolution determining the property owner had not complied with the law and demanding that corrective action be taken). Motion was seconded by Mrs. Glass and carried unanimously.

RECORD RESOLUTION

S32-118

HOUSEMOVING (CUMMINGS)

Upon motion by Mr. Chance, and seconded by Mrs. Glass, the following housemoving application was unanimously approved:

HM-82-13 KYLE CUMMINGS - to move a building from 3215 2nd Ave. W., Bradenton, TO Waterbury-Grapefruit Tracts 12 & 13 (SR 64 to Verna-Bethany, go 2 mi T/R 1 mi T/R 1/2 mi on east side)

ORANGE RIDGE SUBDIVISION - ROAD VACATION

Public hearing was declared open for the purpose of considering Application 82-V-3 by Fortner, Brown & Vincent, to vacate a portion of 21st Avenue East in ORANGE RIDGE SUBDIVISION.

Mr. Siciliano relayed request from applicant's attorney that the public hearing be continued until June 24, 1982 to allow time for preparation of documents to grant utility easements to the County and to Florida Power and Light Company.

Mrs. Glass moved to continue the public hearing (to June 24, 1982 as requested). Motion was seconded by Mr. Chance and carried unanimously.

ZONING82-T-1 GORDON MEYERS HOME PARK - P/PLAN APPROVED

Request: Preliminary mobile home park plan approval on 237 acres at northeast corner of U. S. 301 and Erie Road. Planning Commission recommended APPROVAL with a waiver of sidewalk requirements along interior streets, and subject to the following conditions:

1. A left turn lane will be required on U. S. Highway 301
2. Phases 3 and 4 cannot be constructed until Erie Road is constructed to County standards from the west project entrance south to U. S. 301.
3. A four-foot wide sidewalk is required along 96th Ave. E.
4. Five-foot wide sidewalks are required adjacent to U.S. 301 and Erie Road.
5. Adequate paved parking shall be provided for the model center when constructed.
6. A detailed landscape plan for the buffer, recreation and offstreet parking areas shall be submitted and approved with construction drawings.

(Depart Mr. Vickers; Mr. Chance presided)

Dan Zoller (Zoller and Najjar Engineers) requested the Board waive the requirement of the Planning Commission for a sidewalk along 96th Avenue E. as there is no entrance on that particular road serving the subdivision. Regarding the sidewalk along U. S. 301 and Erie Road, he requested the terminology be changed to "pedestrian way."

(Enter Mr. Vickers)

The Assistant County Attorney requested this item be deferred pending review of stipulations by staff, as well as the additional waiver and change from sidewalk to pedestrian way requested by Mr. Zoller.

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

Keith Roberts advised that the developers have agreed to the stipulations set forth by the Planning Commission with the following modifications:

- No. 3 - A four-foot wide sidewalk or alternate paved pedestrian way within the privately owned buffer is required along 96th Ave. E.
- No. 4 - Five-foot wide sidewalks or alternate paved pedestrian ways within the privately owned buffers are required adjacent to U. S. 301 and Erie Road.

Mr. Chance moved to approve Preliminary Mobile Home Park Plan 82-T-1 Gordon Meyers Mobile Home Park, subject to the stipulations as presented by Mr. Roberts and agreed to by Mr. Zoller, who is representing the petitioner. Motion was seconded by Mrs. Glass and carried unanimously.

Mr. Siciliano stated that notices on Special Permit applications were properly published with the exception of

SP-82-21 - ART SAMSON (USED CAR LOT)

Request: Special Permit to allow a used car lot on .30 acre at 5105 15th Street East,

which was not published the full 15 days prior to the date of the public hearing. Sundays, legal holidays and the day of the hearing are not included in the 15-days notice specified by the ordinance, and the publication falls one day short of the requirement. He stated the applicant must publish another legal notice and staff will place the item on the next appropriate agenda.

Pat Cunningham, attorney for the applicant, acknowledged that if the Sunday is not counted, June 10th is the fifteenth day; however, he requested the petition be considered in order to get the views of the Commissioners.

County Legal Counsel advised the Board the application was not in order to be considered since advertising requirements were not met.

SP-82-35 SAMUEL D. POLLARD - CHURCH APPROVED

Request: To allow a church and related facilities on .49 acre in 800 block of 29th St. E., north of Palmetto. (Seeking permit for proposed church facility for the First Born Church of the Living God; Rev. Lawrence Livingston, pastor.)  
(Notice published in The Bradenton Herald May 21, 1982)

The Planning Commission recommended APPROVAL with the following stipulations:

1. The existing paved off-street parking shall be striped to delineate individual spaces.
2. The seating capacity shall be limited to sixty (60). Should the applicant desire to increase the seating capacity at some future date, the applicant shall submit an expanded parking plan for administrative approval.

Ralph Nelson (Nelson Engineers, Architects), representing the petitioner, explained that the existing unoccupied building, which was constructed for a funeral home would be utilized for an appropriate use and would provide a service for the community. (Rezoning of the property to PR-Professional by the Board was overturned by the Court and it remains residential.)

Among those speaking in favor of the church were:  
Deacon Hall, representing Rev. Livingston  
Carrie Brown  
Jannel Johnson, 208 27th Street, Palmetto  
Estela L. Goody  
Mrs. Lawrence Livingston

S. O. Johnson, Jr., who lives in the neighborhood, stated he had no problem with the church; however, he was opposed to expansion of the building and prefers that zoning remain R-1.

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Mr. Chance moved to approve SP-82-35 subject to the stipulations set forth by the Planning Commission. Motion was seconded by Mrs. Glass and carried unanimously.

SP-82-36 MANATEE COUNTY STOCKADE - APPROVED

Request: To allow a Manatee County prisoner stockade. (Notice published in The Bradenton Herald May 10, 1982) Planning Commission recommended APPROVAL subject to the following stipulation:

1. The Special Permit shall be granted to Manatee County for use as a County operated stockade.

Captain Sally McCammon, Manatee County Sheriff's Department, requested the special permit be granted to allow construction of a 96-bed stockade with provision for an addition to house up to 200 inmates. The inmates, County prisoners sentenced to County time, will be working on the roads and highways as a road gang.

Mr. McGavic moved to approve SP-82-36, subject to the stipulation recommended by the Planning Commission. Motion was seconded by Mr. Chance and carried unanimously.

SP-82-37 (AMENDMENT) JONES AVIATION SERVICE, INC. - APPROVED

Request: Special permit to allow the construction of 28 portable aircraft hangars on 3.8 acres at Sarasota-Bradenton Airport.

Planning Commission recommended APPROVAL.

(Notice published in The Bradenton Herald on May 15, 1982).

Mrs. Glass moved to approve SP-82-37 Amendment. Motion was seconded by Mr. Chance and carried unanimously.

SP-82-39 FLORIDA EXECUTIVE MANOR - GROUP CARE HOME APPROVED

Request: To allow a Group Care Home for 13 residents on .20 acre at 1411 57th Avenue Drive East.

(Notice published in The Bradenton Herald May 21, 1982)

Planning Commission recommended APPROVAL subject to the following conditions:

1. The applicant shall install a paved circular drive on-site to provide for staff parking. The circular drive will also act to provide for a smooth traffic flow and prevent backing onto 57th Avenue Drive E.
2. Four (4) spaces for visitor parking, signed clearly as such, shall be provided off-site in a safe location on adjoining property. A recordable instrument granting a permanent easement or otherwise showing the continuing permanent availability of these spaces to the Group Care facility shall be provided. Unless an instrument has been provided and approved by the County Attorney prior to consideration of the application by the Board of County Commissioners, the Planning Commission recommends denial of the application.
3. All the proposed improvements to the facility shall be installed prior to any increase in facility capacity.
4. A buzzer device shall be installed in all entrances and exits for security.

(Notice published in The Bradenton Herald, May 21, 1982)

John Pry, owner of Pry Equipment in Oneco, opposed the group home as he does not feel it is the proper location for the facility. He said that on two occasions residents of the group home have left the premises, unattended, entered his property and asked for money.

Harold Baldwing spoke in support of the petition, stating his mother is a resident of the group home and he has not experienced any problem with security.

Jerry Cumper, Florida Executive Manor, Inc., responded to questions by the Board and specifically addressed comments by Mr. Pry in regard to security.

Mr. Roberts recommended approval of the Special Permit subject to stipulations:

1. As approved by the Planning Commission and set forth in the staff report.
2. Change to read: Prior to any increase in facility capacity, the applicant shall provide the Planning Department with a document that demonstrates that cooperative off-site parking for visitors is available at a safe location for the duration of the special permit.
3. As stated from the Planning Commission.
4. As stated from the Planning Commission.
5. This Special permit is issued to the applicant only and may not be transferred without prior approval of the Board.

Mrs. Glass moved to approve SP-82-39 with the stipulations as outlined by the County Attorney. Motion was seconded by Mr. Fletcher and carried unanimously.

Mr. Siciliano submitted the recommendations of the Planning Commission and indicated this was a public hearing for the purpose of considering Zoning Atlas Amendments.

Z-82-24 - TELEPROMPTER SOUTHEAST INC - C-1 APPROVED  
 Request: To change the present zoning from R-3B to C-1 on .42 acre at 3301 - 14th St. West.  
 Planning Commission recommended APPROVAL.

Public Hearing

ORDINANCE Z-82-24:  
 AMENDING ORDINANCE NO. 81-4...  
 PROVIDING FOR THE REZONING OF CERTAIN LAND FROM R-3B TO C-1; PROVIDING AN EFFECTIVE DATE  
 (Notice published in The Bradenton Herald, May 21, 1982).

Tom Levin and Ralph Nelson, representing the petitioner, described the parcel involved and proposed use of the site for office and storage, and earth station for receiving additional transmission for increasing channel capacity.

Mr. Fletcher moved to adopt Manatee County Ordinance Z-82-24. Motion was seconded by Mrs. Glass and carried unanimously.

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Z-82-26 - CHARLES LAGANA -C- APPROVED  
 Request: To change the present zoning from R-1A to -C- to provide areas primarily for convenience shopping and personal service establishments oriented to a neighborhood market. Planning Commission recommended DENIAL as the request represents commercial encroachment into a residential area. Commercial encroachment should be discouraged as incompatible with the adjacent residential uses.

Public Hearing

ORDINANCE Z-82-26:  
 AMENDING ORDINANCE NO. 81-4...  
 PROVIDING FOR THE REZONING OF CERTAIN LAND FROM R-1A TO -C-; PROVIDING AN EFFECTIVE DATE.  
 (Notice published in The Bradenton Herald, May 22, 1982)

Randy Albach, who is negotiating with Mr. Lagana to operate a beauty shop, spoke in favor of the petition.

Charles Lagana, petitioner, restated his petition.

Among those present and speaking in opposition of Z-82-26 were:  
 Al Draeger, 45th St. and 7th Ave.  
 Dale Young, 515 45th St. W.  
 June Long, 512 45th St. W. owner of adjoining property

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A petition (with 23 signatures) in opposition to zoning request was submitted into the record.

Mr. McGavic, in whose district the property in question is located, stated he did not find the request to be incompatible, nor does he find it to be an encroachment into a residential area.

Mr. McGavic moved to adopt Manatee County Ordinance Z-82-26. Motion was seconded by Mr. Chance and carried four to one, with Mr. Fletcher voting "Nay."

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Z-82-27 - ELLENTON FAITH TEMPLE C-1A APPROVED  
Request: To change the present zoning from M-1 to C-1A on 3.2 Acres on U. S. 301 across from Highland Shores Subdivision. Planning Commission recommended APPROVAL.

Public Hearing

ORDINANCE Z-82-27:  
AMENDING ORDINANCE NO. 81-4....  
PROVIDING FOR THE REZONING OF CERTAIN LAND FROM M-1  
TO C-1A; PROVIDING AN EFFECTIVE DATE.  
(Notice Published in The Bradenton Herald May 21, 1982)

Jerry Fletcher, representing the applicant, was present to answer any questions from the Board.

Mr. Chance moved to adopt Manatee County Ordinance Z-82-27. Motion was seconded by Mr. McGavic and carried unanimously.

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The Chairman declared the public hearing closed.

RECESS/RECONVENE

The meeting was declared recessed until 1:30 p.m.

The Board reconvened at 1:40 p.m. with all members present.

ESTECH LAWSUIT

The Assistant County Attorney advised that the Department of Environmental Regulation issued an order dated May 28, 1982 which in summary directs that the permits, sought by Estech, be issued. It also directs that before Estech can begin operations a ground water permit must be obtained. This is the first time that ground water permits have been required for phosphate mining operations.

He said it was the joint recommendation of the Environmental Attorney, Staff and the County Attorney's office that the Board authorize the attorneys for the County to prosecute and appeal the DER order or those portions of the order the attorneys find are substantial grounds for appeal.

Bill Earl, Environmental Attorney, concurred with Mr. Roberts' comments and summarized the status of the Estech matter in terms of environmental permitting process. He further advised that the phosphate industry intends to appeal the groundwater order issue.

Mr. Fletcher moved that staff and counsel be directed to prepare an appropriate appeal to the DER Order of May 28, 1982, and to authorize the Attorneys to defend any appeal by Estech. Motion was seconded by Mr. Chance and carried unanimously.

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

ERNST & WHINNEY CONTRACT RENEWAL (MANATEE MEMORIAL HOSPITAL AUDIT)

Bob Fernandez submitted a letter of understanding from Ernst & Whinney on renewal of contract to perform auditing services for the Manatee Memorial Hospital, indicating that the terms and conditions remain virtually the same as approved by the Board on July 7, 1981.

Mr. Fletcher moved that the letter of agreement submitted by Ernest Whinney dated May 25, 1982 to do the auditing of the Manatee Memorial Hospital be adopted and Chairman be authorized to sign. There was no second, and motion was lost.

Mrs. Glass moved to renew the contract for this year with Ernst & Whinney, request Mr. Watson and members of the firm to discuss concerns of the Board regarding financing, and authorize the Chairman to execute the letter of agreement. Motion was seconded by Mr. Fletcher. Voting "Aye" were Mrs. Glass, Mr. Fletcher and Mr. McGavic. Voting "Nay" were Mr. Chance and Chairman Vickers. Motion carried.

Mrs Glass moved to rescind the previous action. Motion was seconded by Mr. Fletcher, and carried three to two, with Mr. Chance and Chairman Vickers voting "Nay."

Mrs. Glass moved to authorize the renewal of the contract with Ernest & Whinney, subject to meeting with Mr. Watson and representatives of Ernst & Whinney. Motion was seconded by Mr. Fletcher. Following discussion, motion and second were withdrawn.

Mr. Chance moved the Board ask Miles Watson and representatives of Ernst & Whinney to meet with the Board concerning the audit and previous actions taken by this Board. Motion was seconded by Mr McGavic and carried unanimously.

Action on the agreement was deferred.

TRAVEL AUTHORIZATION

Motion was made by Mrs. Glass, and seconded by Mr. McGavic, to approve travel requests for staff (Mr. Vickers, Mrs. Glass, Mr. Chance and Mr. Fernandez) to attend the NACO conference in Baltimore, July 9 to 18, 1982. Motion carried unanimously.

CLERK'S CONSENT CALENDAR

Upon motion by Mrs. Glass, seconded by Mr. Chance, the Clerk's Consent Calendar dated June 10, 1982 as revised, was unanimously approved as follows:

BILLS FOR PAYMENT:

Camp, Dresser & McKee: Eng. of Rec. Payment #2	\$16,493.85
Eng. of Rec. Payment #3	6,511.15
Gee & Jenson - Safe Yield & Impact Assessment; Paym. #13	87,582.26
Universal Tank & Iron Works - Tank #4 (Est. #17; Final)	29,772.50
Attorney's Fees:	
<u>Phosphate:</u>	
Balance before payments:	\$31,661.51
Balance after payments:	\$28,604.98
Peeples, Earl, Moore & Blank - 11/81-3/82 re W. R Grace,	
AMAX, Estech/Fla. Supreme Court	3,056.53
<u>Utilities:</u>	
Balance before payments:	\$60,344.71
Balance after payments:	\$51,131.61
Manatee Co. Gen. Fund. (Greenwood) (3/15-5/15/82)	805.00
Mann & Fay: City Sarasota v. Manatee Co.	3,023.42
MCUS (April 1982)	1,059.29
Re Estech permits/Duette Phosphate	525.39
Oliver v. Manatee Co. (1/14/82-4/7/82)	1,518.75
Re Patterson/Wilder Constr. dispute	100.00
City of Palmetto v. Co. (10/81-5/12/82)	987.50
Aliieri v. Co. (12/11/81-5/12/82)	475.00
Triad Tech v. Co. (11/4/81-5/13/82)	587.50
Sarasota Co. v. Co. (May 1982)	131.25
<u>General Fund:</u>	
Balance before payments:	\$31,371.47
Balance after payments:	\$900.54
Lane, Trohn: Anderson v. Co.	\$ 45.60
LeChance v. Co.	94.71
Co. v. Watkins	215.27



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Morrison v. Co., et al.	132.15	
Roy Harland v. Co., et al.	228.55	
Co. v. J. W. Rood	154.00	
Co. v. Royce Hall	240.00	
FPL v. Co., et al.	103.75	
SCDF v. Co.	94.83	
Leroy Burns v. Co.	102.60	
Texaco v. FPL, Co., et al.	50.15	
Fred Sutton v. Co.	252.00	
Manatee Mem. Hosp.	642.00	\$ 2,355.61
Peeples, Earl - Ocean Dumping (11/1/81-1/31/82)		6,357.21
Ross, Hardies: Impact Fee Ord.	77.00	
Palacios v. HUD	3,732.84	
SCDF v. Driggers	16,434.93	20,244.77
Mann & Fay: Texaco v. FPL, Co.	1,077.12	
Estech v. Co.	300.00	
Sutton v. Co.	136.22	1,513.34
AUTHORIZE EXECUTION: Final reconciliation Agreement - Universal Tank & Iron Works (Tank #4)		

OCEAN DUMPING ACT

Mr. Chance referred to information in a circular from the National Wildlife Federation that the Corps of Engineers, through the Public Works Committee, is attempting to have legislation changed concerning the Ocean Dumping Act. This change is designed to repeal the requirement that only dumpsites fully studied by the EPA can be used.


Motion was made by Mr. Chance to authorize legal staff to draft a resolution opposing any relaxation of existing dumping safeguards. Motion was seconded by Mrs. Glass and carried unanimously.

MEETING ADJOURNED

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

Attest:

APPROVED:



Clerk



Chairman

9/28/82

Adj: 3:17 p.m.