

AUGUST 3, 1982

The Board of County Commissioners, Manatee County, Florida, met in Regular Session in the Courthouse, Bradenton, Florida, Tuesday, August 3, 1982 at 9:10 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  
Robert F. Fernandez, County Administrator  
Richard H. Ashley, Chief Deputy Clerk, representing  
R. B. Shore, Clerk of Circuit Court

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

Invocation by Rev. Lewis George, Central Christian Church.

The meeting was called to order by Chairman Vickers.

#### BEER CAN ISLAND PARKING

Mr. Fletcher reported on a meeting with Wayne Aligere, Manager of the Town of Longboat Key, to discuss problems of parking and access to Beer Can Island.

Mr Aligere had no reason to believe the Town Commissioners would have any objections to proposals offered by Manatee County staff in an effort to resolve some of the problems. He mentioned, however, that the Town of Longboat Key is preparing a grant application to obtain funds for walkways from North Shore Drive in the direction of Beer Can island and suggested this be a joint application.

The County Administrator was requested to pursue the suggestion of a joint application and to coordinate discussions with staffs or representatives of Manatee County and Longboat Key.

#### MERITORIOUS SERVICE AWARD (WALDEN)

A meritorious service award was presented to James C. Walden, an employee of the Manatee County Motor Pool, for providing life-saving emergency medical attention to a choking victim on February 13, 1982 at the Manatee County Golf Course. Sergeant Walden, US Air Force Reserve, received a Certificate of Recognition of Outstanding Service from James R. Fischelli, Commander, 37th Aeromedical Evacuation Group, Tampa.

#### TAMPA BAY REGIONAL PLANNING COUNCIL - CLEARING HOUSE COMMITTEE

Mr. Fernandez submitted names of individuals interested in appointment to the Clearing House Committee, Tampa Bay Regional Planning Council.

Following nominations of

- 1) David Paul Montgomery by Mr Chance
- 2) Anthony Yaneralo by Mr Fletcher

nominations were closed and Mr Montgomery was appointed by unanimous vote.

Following nomination of Robert Salemm by Mr Chance nominations were closed and he was appointed by unanimous vote.

The Board determined that in the future, a meeting should be scheduled with the candidates prior to any appointments.

AUGUST 3, 1982

Cont'd

COUNTY ADMINISTRATOR'S CONSENT AGENDA

Upon motion by Mrs. Glass, seconded by Mr. McGavic, the County Administrator's Consent Agenda dated August 3, 1982 was unanimously approved. Items approved on the Agenda included:

VICK & FAY BLACKSTONE DAY

Adoption of Proclamation designating July 27, 1982.

RECORD PROCLAMATIONUTILITIES

S32-296

1) New Waterwork Laboratory Building

Contract Settlement with Inter City Construction Corporation in connection with Bid 80-76 in the amount of \$7,500

RECORD CONTRACT2) 201 Facilities Master Plan

S32-297

Modification to Supplemental Agreement with CH2M Hill Southeast, Inc to provide engineering services in connection with North, Southeast and Southwest Wastewater Treatment Plants.

RECORD AGREEMENTHUMAN SERVICESChore Program

S32-298

a. Addendum to Chore Agreement with Manatee County Community Mental Health Center, Inc., \$4,336.

RECORD CONTRACT

S32-299

b. Grant application to the State of Florida, Department of Community and Veterans Affairs, to fund the Chore Program (State - \$8,460; local match - \$8,460)

MATERIALS AND SERVICESHighway

a. Purchase agreement with Tampa Tractor Company for a motor grader, \$88,924.33. Acceptance of performance payment bond.

RECORD AGREEMENT

S32-300

b. Purchase agreement with Tampa Tractor Company for a wheel loader with Stacker Rake, \$76,761.66. Acceptance of performance bond (Surety, John Deere Insurance Co.)

RECORD AGREEMENT

S32-301

c. Street and Road Sign Materials (Annual) Bid 82-106-550-00 - Award to: Municipal Supply & Sign Company, McCain Sales of Florida, Vulcan Signs, Dave Smith & Co. Inc., Markings & Equipment Corp., Amerace Corporation.

Utilities

a. Tapping Machine/accessories, Bid 82-137-545-08 - Award to Davis Meter & Supply Div., \$11,554.72

ORDINANCE 82-14: NO PARKING BRADEN AVENUE

a. Schedule Public Hearing August 24, 1982 to consider no Parking on Braden Avenue between U. S. 41 and Longbay Blvd.

DEEDS & EASEMENTS/ACCEPTED

a. 33rd Street East/SR 70 - Warranty deed from Robert L. and Marcella M. Newman.

CORRESPONDENCE - Acknowledged from:

a. Tampa Bay Regional Planning Council - Resolution 82-18 supporting acquisition of floodplain lands downstream Lake Manatee.

b. U. S. Department of the Interior - Notice of interest penalties on overdue payments of billings U.S. Geological Survey Federal/State Cooperative Program

c. Town of Longboat Key - Expression of appreciation for Manatee County assistance re waterline break and storm damage.

d. Governor Bob Graham - Notice of letter to President Reagan including Manatee County as major disaster area due to storm 6/18/82

e. Department of Law Enforcement - Request for Budget information prior to disbursement of State supplemental funding.

f. Manatee Memorial Hospital - Copy of Audited Financial Statements, Ernst & Whinney, for FY ended 9/30/81.

g. Various - Manatee County Residents Supporting No Smoking Ordinance

h. Toni Piechowski, Michael White & Toni Walter - Opposing proposed Day Care Center Legislation.

(End Consent Agenda)

COMMUNITY DEVELOPMENT BLOCK GRANT - RUBONIA WATER HOOKUP ASSISTANCE

The Planning Director recommended approval of HUD Form 424, Application for Federal Assistance to provide for the amendment of Manatee County's Community Development Block Grant B-80-DS-12-0179. This amendment will authorize utilization of funds (approximately \$25,000) left over from the grant for the Samoset sewer collection system for a water distribution system in Rubonia (hookup assistance)

Mr. McGavic moved to approve the application amendment and authorize execution by the Chairman. Motion was seconded by Mrs. Glass and carried unanimously.

AGREEMENT RE: FUNDING AIRPORT SITE SELECTION STUDY

The County Administrator reported that the County staff has reviewed the Joint Participation Agreement with the State of Florida Department of Transportation Division of Planning, which will provide funding to finalize the Airport Site Selection Study.

Mr. Fletcher moved that the application be approved and authorized execution by the Chairman. Motion was seconded by Mrs. Glass. Voting "Aye" were Mrs. Glass, Mr. Fletcher and Mr. McGavic. Mr. Chance and Mr. Vickers voted "Nay." Motion carried.

RECORD AGREEMENT

S32-302

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

BEKER OPERATING PERMIT

Dick Eckenrod, Phosphate Mining Coordinator, reviewed violations of the Beker Phosphate Mining Operating Permit, which occurred July 2nd and July 16th, 1982, and Notices of those violations sent to Beker by his office.

Keith Roberts, Assistant County Attorney recommended the Board defer consideration of Beker's request for withdrawal of the Notices of Violations and the concurrent consideration of suspending Beker's operating permit. He submitted a resolution deferring consideration of these issues until October 12, 1982.

John Harllee, attorney representing Beker, requested that the proceedings either be terminated or dismissed today, and explained the reasons for the request.

Russell Klear, Director of Environmental Services Department for Sarasota County, agreed that violations of the Manatee County Ordinance, as well as the State of Florida Administrative Code, have occurred, and requested the Board suspend Beker's operation until a viable proof of discharge plan has been installed.

Gloria Raines, Palmetto, representing Manasota 88, suggested that Beker's permit be revoked or their operation stopped.

Kathryn Fernald, representing Manatee-Save-Our-Bays, opposed the adoption of the resolution deferring consideration of suspension of Beker's Operating Permit.

Motion was made by Mrs. Glass, and seconded by McGavic, to accept into the record a letter from

Gary D. Greer, Acting General Manager, Beker Phosphate Corporation (dated August 2, 1982)...

requesting the Board dismiss the proceedings contemplated by the notices and stating that Beker has developed, implemented and is continuing to develop corrective programs to address the problems reflected in the notices of violation and submitting further commitments.

Motion carried unanimously.

RECORD S32-303

O.E. Randle, Pollution Control Director, indicated that the Pollution Control Department is going to separate its lawsuit against Beker from the suspension of the operating permit.

AUGUST 3, 1982

Cont'd

Mr. McGavic moved for adoption of

RESOLUTION DEFERRING CONSIDERATION OF SUSPENSION OF OPERATING PERMIT until October 12, 1982, as presented by the Assistant County Attorney. Motion was seconded by Mrs. Glass and carried unanimously.

RECORD RESOLUTION

S32-304

WATERLINE ROAD

A request by Marie Cantalino for assistance in cleaning a culvert and ditches in the area of Waterline Road, and shelling about 800 feet of road was referred to the County Administrator for review and recommendations to the Board for action at a later date.

TIDY ISLAND - DREDGE & FILL PERMIT

John Thomas, Highway Department, recommended approval of an application by Island Properties, Ltd for a dredge and fill permit in connection with the proposed construction of a bridge from the mainland to Tidy Island, in Sarasota Bay, (referred to as Chadwick's Island Bridge) and indicated that neither Pollution Control nor the Planning Department offered any objections.

In compliance with the permitting process, Mr. Thomas read into the record the Biological Comments from the Department of Environmental Regulation dated May 26, 1982, (File No. 410512709, Manatee County Island Properties, Ltd)

RECORD REPORT

S32-305

Upon motion by Mr. Fletcher, seconded by Mr. Chance, the Board unanimously adopted a

RESOLUTION GRANTING PERMISSION TO ISLAND PROPERTIES, LTD. TO DO THE NECESSARY DREDGING AND FILLING IN CONNECTION WITH THE CHADWICK'S ISLAND BRIDGE

RECORD RESOLUTION

S32-306

Upon motion by Mr. Fletcher, seconded by Mr. McGavic, a letter from Thomas C. McCollum, AICP, Zoller & Najjar Engineering, Inc., to the Board of County Commissioners, dated June 29, 1982, regarding Island Properties, Ltd., was unanimously entered into the record.

RECORD LETTER

S32-307

RECESS/RECONVENE

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

The Board reconvened at 1:57 p.m. with all members present.

PUBLIC HEARING: ORDINANCE 82-13 REPEALING MINING MORATORIUM

The Chairman declared the public hearing open (notice published in the Bradenton Herald, July 13, 1982) for the purpose of considering Ordinance 82-13, Repealing the Mining Moratorium on mining, major earthmoving, and industrial activities in the watershed of Lake Manatee, which was established March 15, 1982.

Kathryn Fernald and Gloria Raines questioned if the moratorium could not automatically expire and if repealing the moratorium would adversely impact ongoing court cases.

The Chairman declared the public hearing closed.

Upon motion by Mr. McGavic, seconded by Mr. Chance, the Board unanimously adopted

ORDINANCE 82-13

AN ORDINANCE OF MANATEE COUNTY, FLORIDA REPEALING AN ORDINANCE NO. 82-04, AS AMENDED BY ORDINANCE NO. 81-09, WHICH TEMPORARILY PROHIBITS THE ACCEPTANCE OR CONSIDERATION OF REQUESTS FOR OFFICIAL ZONING ATLAS AMENDMENTS OR FOR PERMITS OR APPROVALS AUTHORIZING MAJOR EARTHMOVING, INDUSTRIAL OR MINING USES IN THE WATERSHED OF THE LAKE MANATEE RESERVOIR, TO ALLOW SUCH REQUESTS TO BE ACCEPTED, REVIEWED, AND CONSIDERED ACCORDING TO ESTABLISHED PROCEDURES, AND PROVIDING AN EFFECTIVE DATE.

RECORD ORDINANCE

S32-308

EMERGENCY CONTINUITY OF GOVERNMENT

Jimmie E. Hamrick, Emergency Services Director, submitted a resolution for Emergency Continuity of Government and recommended its adoption which would provide for emergency interim successors to Manatee County officials to assure continuation of essential functions of government.

Mrs. Glass moved to adopt the resolution. Motion was seconded by Mr. Vickers and carried four to one. Those voting "Aye" were Mrs. Glass, Mr. Chance, Mr. McGavic and Mr. Vickers. Mr. Fletcher voted "Nay." Motion carried. (This resolution rescinds resolution April 25, 1966)  
(Depart Mr Vickers)

RECORD RESOLUTION

S32-309

No action was taken on appointment of interim successors for the County Commissioners.

STATE/LOCAL DISASTER RELIEF FUNDING AGREEMENT

Mr. Hamrick submitted and requested approval of the State/Local Disaster Relief Funding Agreement, (amount of funds required estimated at \$68,354.00) with ultimate responsibility to be shared by Federal, 75 percent; State, 12.5 percent and Local, 12.5 percent.

Mr. Fletcher moved for approval of the State/Local Disaster Relief Funding Agreement and authorization for Chairman to sign. Motion was seconded by Mrs. Glass and carried unanimously.

RECORD AGREEMENT

S32-310

LEASE (EMS) - QUATTLEBAUM GUEST HOUSE

Mr. Hamrick submitted an agreement between Manatee County Utilities Department and Manatee County Emergency Medical Services (EMS) for lease of the guest house on the former Quattlebaum property for the relocation of Emergency Medical Services Station No. 5. (\$300 a month).

Mr. McGavic moved for the execution of the Lease. Motion was seconded by Mrs. Glass and carried unanimously.

RECORD AGREEMENT

S32-311

AMERICAN HEART ASSOCIATION

Mr. Hamrick presented the Board with the American Heart Association Certificate of Appreciation/plaque for outstanding service in the advancement of the heart program.

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

MARCOVE DEVELOPMENT

Execution of the agreement for extension of an additional water line to serve the Marcove Development was deferred to a later date.

UTILITIES: WASTEWATER ALLOCATION STUDY

R. A. Wilford and Charles Hunsicker, County Utilities Department, requested authorization for the Chairman to sign a letter to Victoria Tschinkel, Secretary of Department of Environmental Regulation, indicating support for wasteload allocation studies and requesting consideration for funding of water quality studies by Manatee County as provided in Section 205 (j) of the Clean Water Act as Amended.

Mr. Randle stated he is opposed to the County spending County funds for this purpose as he is not in favor of allowing possible discharge into the river to accommodate new residents.

Motion was made by Mr. Fletcher, and seconded by Mr. McGavic, to authorize the Chairman to sign the letter to the Department of Environmental Regulation. Motion carried unanimously.

LAKE MANATEE DAM

Al Cogan, Utilities, provided a progress report on the purchase of frequently flooded properties below Lake Manatee Dam. He indicated that 35 letters were sent to area property owners and ten responses had been received from willing sellers. Three of the properties are now being appraised.

Mr Wilford advised that funds would be available for purchase of the properties.

AUGUST 3, 1982

Cont'd

ATTORNEY - UTILITIES DEPARTMENT

Mr. Wilford requested authorization to proceed with the hiring of an attorney, on staff of the County Attorney, to be assigned part-time to the Utilities Department to reduce need for outside legal services, reduce the cost of legal services, and provide quicker response to the needs of the department.

The County Administrator recommended this action and advised that funds for this purpose are available. He was requested to provide the Board with a figure analysis justifying the request.

LAKE MANATEE WATER LEVELS

Mr. Wilford advised that during his absence (vacation), the Utilities staff has been instructed to adhere as closely as possible to the schedule established for procedures regarding water levels of Lake Manatee.

CITY OF BRADENTON BOND VALIDATION HEARING

Ralph Altigriere, the attorney who represented the County in the City of Bradenton Bond Validation Hearing, enumerated the reasons for intervention by the County in the proceedings and its responsibility to challenge the decision in the Supreme Court.

Ms. Greenwood noted that Mudge Rose (bond counsel) feels very strongly that the County should appeal due to its responsibility under the covenants to the bond holders, and advised that Walter Green and Joan Palazzo from Mudge Rose will assist in preparation of appropriate documents for the appeal.

Mr. Altigriere advised that the County has 30 days in which to file a notice of appeal to decision which was signed on July 28th and it was mutually agreed that Mudge Rose, Bond Counsel, come before the Board to discuss the matter.

SARASOTA WATER RATE SUIT

Clinch Kavanagh, Attorney for Manatee County, appeared before the Board in connection with the Sarasota Water Rate Case. He advised that this is a hearing in which the Board is operating under the Florida Rules of Appellate Procedure and sitting as a lower tribunal.

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

Mr Kavanagh submitted a letter from Mudge Rose Guthrie & Alexander, dated April 28, 1982 to Mary Greenwood, County Attorney, regarding Manatee County, Water and Sewer Revenue Refunding and Improvement Bonds, series 1978: Certain Bond Resolution Covenants.

He reported that Sarasota County has filed a couple of motions objecting to this tribunal hearing the motion on the vacation of stay, and filed a motion to strike and defer to Circuit Court, and he requested this tribunal deny both motions at this point.

Motion was made by Mr. McGavic, and seconded by Mrs. Glass, to deny Sarasota's Suggestion of disqualification and Motion to Recuse, and the motion to Strike or Defer to Circuit Court. Motion carried unanimously.

Mr. Kavanagh referred to Sarasota's "Motion for Imposition of Condition or for Vacation of Stay, and called a witness to provide grounds and reasons why the stay should be vacated.

Diane Mills, Financial Coordinator for the Manatee County Utilities Department, was sworn in by Rick Ashley, Chief Deputy Clerk, Clerk Circuit Court.

Under oath Ms. Mills answered the questions by Mr Kavanagh, stating that

= As a result of a stay of the increase in rates of December 11, 1981, Manatee County Utilities Department would lose about \$633,000 on an annual basis (estimate based on previous water consumption)

= On a short term basis, it would create a deficit position as far as revenues are concerned, and a deficit budget.

- = On a long term basis, it would cause residential customers rates to go up in order to compensate for the loss of money.
- = On a short time basis it might mean reducing the budget in order to compensate for that loss.

Based on reasons listed in the letter from Mudge Rose to Ms. Greenwood, dated April 28, 1982, and the Florida Rules of Appellate Procedure 3.110 (b), Mr. Kavanagh requested the Board, sitting as a lower tribunal, move to vacate the automatic stay.

Mr. McGavic moved to vacate the automatic stay. Motion was seconded by Mr. Fletcher and carried unanimously.

#### PLANNING COMMISSION ROLE (DOLLY YOUNG)

In regard to the Planning Commission role as it concerns Mrs. Dolly Young, the County Attorney reported that after discussion with Mrs. Young and her attorney, it was determined that this is not a matter that should come to the attention of the full board, and she will advise Commissioner Chance individually on this matter. Further, Mrs. Young does not wish to appear before the Board, but if an ethics opinion is filed regarding a possible violation on her part, she will respond. Otherwise she is content to conclude the matter.

#### AGREEMENT RE: AIRPORT SITE SELECTION STUDY

Mr. Fletcher moved for approval of correction of a typographical error in the Participation Agreement with the Florida Department of Transportation on funding of the Airport Site Selection Study (approved earlier in the meeting) by inserting the words "shall be returned" in Exhibit "C", Part 2. Motion was seconded by Mr. McGavic and carried unanimously.

#### CLERK'S CONSENT CALENDAR

Upon motion by Mr. Fletcher, seconded by Mrs. Glass, the Clerk's Consent Calendar dated August 3, 1982 was unanimously approved as follows:

##### BONDS:

|                                     |           |
|-------------------------------------|-----------|
| H. M. Lee - Permit #3083            | \$ 300.00 |
| Wayne Ruppel - Permit #1687         | 100.00    |
| Ezra Layman - Permit #4503          | 250.00    |
| Wm. H. Rogers - Permit #2355        | 150.00    |
| John Finley - Permit #3340          | 100.00    |
| Wm. Vickers - Permit #5204          | 200.00    |
| Jerry Cutrona - Permit #3616-3617   | 300.00    |
| Thomas Danehy - Permit #3669 & 3707 | 300.00    |

##### BILLS FOR PAYMENT:

|   |           |
|---|-----------|
| Scarborough Const. - Anna Maria Wtr. Main (Est. #3)                                   | 85,891.91 |
| Zoller & Najjar - Settlement Checks (PSC)   | 120.00    |
| Gee & Jenson - Engineering Services   | 29,326.39 |
| CH2M Hill - 201 Plan Update (Est. #7)   | 989.36    |
| City of Bradenton - Wastewtr. Treated at Sugar Creek<br>Campground (Jan. - June 1982) | 4,895.92  |
| Camp, Dresser & McKee: Eng. of Rec. Renewal (Est. #5)                                 | 2,842.34  |
| Eng. Study Wtr. Syst. Phase II<br>(Est. #2)   | 9,188.26  |
| D. L. Porter Const. - Island Library (Est. #3)  | 36,619.20 |
| Edwin T. Mulock, P.A. - Pollution Control (4/20-6/30/82)                              | 171.50    |
| Refund: Tropicana Products (MCUD)   | 65.00     |
| Refund: Mrs. Judith Oakley (Library System)   | 1.95      |

##### WARRANT LIST:

Approve: July 27 to August 3, 1982  
 Authorize: August 3 to August 10, 1982

##### ACCEPT INTO RECORD:

Anna Maria Fire Control District - Statement of Estimated Revenues & Expenditures, FYE 9/30/82

#### MEETING ADJOURNED

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

Attest:

  
 Clerk

APPROVED:

  
 Chairman 12/7/82

Adj: 5:07 p.m.