

OCTOBER 22, 1996

The Board of County Commissioners, Manatee County, Florida, met in SPECIAL SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Tuesday, October 22, 1996, at 6:02 p.m.

Present were Commissioners:

Stan Stephens, Chairman
 Patricia M. Glass, First Vice-Chairman
 Gwendolyn Y. Brown, Second Vice-Chairman
 Lari Ann Harris, Third Vice-Chairman
 John R. Gause
 Maxine M. Hooper
 Joe McClash

Also present were:

Ernie Padgett, County Administrator
 H. Hamilton Rice, Jr., County Attorney
 Judy LaMee, Director of Communications and Development,
 representing R. B. Shore, Clerk of Circuit Court

The meeting was called to order by Chairman Stephens.

ORDINANCE 96-22: AIR POLLUTION CONTROL CODE

Public hearing (Notice in the Bradenton Herald 10/6/96) was held to consider (advertised in general terms)

ORDINANCE 96-22 AN ORDINANCE OF MANATEE COUNTY, FLORIDA, ADOPTING AN AIR POLLUTION CONTROL CODE PROVIDING FOR A DECLARATION OF INTENT; PROVIDING FOR POWERS AND DUTIES OF THE DIRECTOR; ADOPTING CERTAIN PROVISIONS OF THE FLORIDA ADMINISTRATIVE CODE PERTAINING TO AIR QUALITY BY REFERENCE AND PROVIDING FOR CERTAIN MORE STRINGENT LOCAL STANDARDS; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITED ACTS; PROVIDING FOR PERMITS; PROVIDING FOR PREVENTION OF SIGNIFICANT DETERIORATION; PROVIDING FOR ANTI-TAMPERING; PROVIDING FOR GASOLINE VAPOR CONTROL; PROVIDING FOR STATIONARY SOURCES EMISSION LIMITING AND PERFORMANCE STANDARDS; PROVIDING FOR SPECIFIC PERFORMANCE STANDARDS; PROVIDING FOR SOURCE SAMPLING AND MONITORING; PROVIDING FOR COMPLIANCE REPORTING; PROVIDING FOR RIGHT OF ENTRY AND INSPECTIONS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING FOR AN ORDER FOR CESSATION OF OPERATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SUCCESSOR AGENCIES; AND PROVIDING FOR AN EFFECTIVE DATE.

Karen Collins, Environmental Management Director, stated the County has been without a local air rule since the sunseting of the Environmental Action Commission (EAC) in 1995.

She reported on: History of prior air rules (1974 Ordinance and 1993 EAC rule); limited resources for adequate protection by the Department of Environmental Protection (DEP); authorities and benefits of a local ordinance providing for compliance review, inspections, monitoring and enforcement.

Ms. Collins outlined options for consideration:

Option 1 - Restates the 1974 Code prohibition against any fuel containing more than 1 percent sulfur.

Option 2 - Restates the 1993 EAC rule language that prohibits the burning of fuels containing more than 1 percent sulfur unless certain conditions are met i.e., emission limits on what comes out of the stack rather than the type of fuel going into the process. This option would require a link from a facility to the Environmental Management Department for monitoring emissions.

Option 3 - Repeats the prohibition against higher sulfur fuels, but would allow a facility to change fuels (with DEP permit approval) so long as certain specific performance standards are met. This option builds upon Option 1 and 2 with recognition to problems with NOx effect on surrounding waters and regional ozone problems. The Environmental Management Director would review fuel changes with a final decision by the Board of County Commissions to FDEP.

OR

Option 3 - Prohibition of off specification fuel classified in Rule 62-210.200(173), F.A.C. as a Major Source of Air Pollution or a Title V Source with review by the Board and a public hearing is held prior to recommendations to permitting authority.

She referred to graphics depicting Florida Power and Light (FPL) annual pollutant load and emission comparisons, and recommended adoption of the Ordinance containing language in Option 3.

Dick Eckenrod, Tampa Bay National Estuary Program (NEP) Director, referred to air pollution nitrogen oxide (NOx) loading into local waters and the need for flexibility to protect and to meet goals for seagrass restoration. He noted consistency with the NEP and Option 3 noting the option could allow new businesses if code is met.

Julie Ross recommended continuing with existing State and Federal regulations and do not add more government control.

Alan Prather, attorney representing Tropicana, submitted a letter opposing local rules deemed excessive or inconsistent with existing regulations, i.e., fuel base standards as opposed to emission based standards.

Ernest Marshall supported Option 1 and submitted a letter to Governor Chiles regarding a hearing officer's determination on FPL's request to burn orimulsion.

Harry Wright, Democratic Executive Committee, requested other forms of generating electricity be investigated, and fossil fuel burning for electricity be prohibited after the year 2003 with large fines if not complied.

Speaking in favor of Option 1 or status quo were: **Donald Hunter**, Federation Manatee County Community Association; **Arlene Flisik**, Manatee County Audubon Society; **Amy Stein**; **Mary Sheppard**, Manatee Sarasota Fish & Game Association; **James Stein**; **Albert Johnston**, North River Republican Club; **Howard Perley**; **Clarence Troxell**, Parrish Civic Association; **Ernie Norris**, North Manatee Community Association; **Thomas Reese**, Manasota 88; **Gloria Rains**; **Dan Kumarich**; **Doris Schember**, Manatee Save Our Bays; **Carl Parks**; **Janet LaChance**; **Jal Bharucha**; **Jane vonHahmann**; **Bethany Hollar**; **Ken Hadow**; **Maryann Hubbard**, King Middle School student; **Barbara Hair**, VOCAL; **Hildegard Bell**; **Joan Hodges**; **Victor Coveduck**; **Linda Francis**; **Dorothy McChesney**; **Arlene Sweeting**, Manatee Sarasota Sierra Club; **Wes Hackett**; **Beverly Sufall**.

Items addressed: Control emissions; holding sulfur content of fuel; findings of State siting board regarding orimulsion; establishing task force to review options/new fuels; burn clean fuel; postpone Ordinance until new Commissioners are seated; England has banned orimulsion; computer monitoring; disclosing costs for enhanced emission equipment; Pinellas and Hillsborough Counties ozone violations; need for staff with extensive scientific background; use referendum to decide allowable fuels; Tropicana pollution; requiring fuel content disclosure; protecting natural resources; regional pollution; protecting public health.

Speaking in favor of Option 2 or 3 were: **Carl Schuck**; **Gene Joyce**; **Bryan Olnick**; **John Clarke**, Schroeder Manatee Ranch; **Joe Parent**, Florida Power & Light power plant manager; **Robert Wakefield**; **Michael Hofer II**; **Don Ross**; **Carl Black**, International Brotherhood of Electrical Workers Local 820.

Items addressed: Options 2 and 3 more environmentally and economically sound; allowing industries to use alternative fuels with enhanced emission control; restraints could discourage new businesses; allow for new technology; regulate emissions not fuel; need to encourage growth; undue rules costly.

Ms. Collins submitted correspondence.

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(Cont'd)

Mr. Stephens referred to Environmental Control/FS 1993 and 1995; a letter from Charles Collette, DEP, responding to questions regarding Florida's power plant siting law; information from Town of Dalhousie, N.B., favoring burning of orimulsion; and internet information.

Discussion: Whether Clean Air Act supersedes local regulations; seeking opinion from Attorney General; adopting Option 1 with Specific Performance Standards and a review option; work session to address Specific Performance Standards; including public review for any fuel changes; off-specification fuel; understanding emission limits; FPL currently burns at 30 percent capacity/has permit for 100 percent which could cause additional pollution; restricting FPL to historical emission data; monitoring emissions.

Mrs. Glass moved to authorize Mr. Rice to seek an opinion from the Attorney General regarding the letter to Mr. Stephens from Mr. Collette, DEP. Motion was seconded by Mrs. Harris and carried 7 to 0.

Recess/Reconvene. All members present.

Jeff Steinsnyder, Assistant County Attorney, recommended the following language: "Adopt Ordinance 96-22 with changes shown in Karen Collins' October 22, 1996, memorandum, adding a reference to Chapter 62-243, Florida Administrative Code in Section III A; including in the **Prohibitions Section V**, language shown in Option 1 as subphase D of that Section; including **Special Performance Standards** as Section XI and renumbering all subsequent sections." He also recommended that establishment of an advisory committee be placed on a future agenda.

Motion was made by Mrs. Glass and seconded by Mr. McClash to adopt Ordinance 96-22 as stated by Mr. Steinsnyder.

Discussion: This Option could allow FPL to burn/pollute more; forcing FPL to add scrubbers.

Motion carried 4 to 3, with Mr. Gause, Mrs. Hooper and Mr. Stephens voting nay.

RECORD S45-1010

Advisory Committee

Motion was made by Mr. McClash and seconded by Ms. Brown, to establish an advisory committee with criteria to be established at a separate Board meeting. Motion carried 6 to 1, with Mr. Gause voting nay.

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:

[Signature]
Clerk
Adj: 10:01 p.m.

APPROVED:

[Signature]
Chairman 1-7-97