

OCTOBER 29, 1996

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Tuesday, October 29, 1996, at 9:00 a.m.

Present were Commissioners:

Stan Stephens, Chairman  
 Gwendolyn Y. Brown, Second Vice-Chairman  
 Lari Ann Harris, Third Vice-Chairman  
 John R. Gause  
 Maxine M. Hooper  
 Joe McClash entered during the meeting.

Absent was:

Patricia M. Glass, First Vice-Chairman (vacation)

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

Invocation by Reverend Ed Kelley, Suncoast Christian Church.

The meeting was called to order by Chairman Stephens.

**AWARDS**

**Meritorious Service Awards**

Meritorious Service plaques were presented to Barbara Blacketter, Cheri Coryea, Marion Dixon, Michael Neuges, Linda Paul, Jeanne Watkins, and Luz Wentling, staff of the Community Services Department, for their involvement in the Children's Services funding process. A plaque will be sent to Kathy Handra, former employee. Staff members Jo Boyle and Charlotte Davis were also commended.

**Retirement Award**

A retirement award was presented to James B. Gardner, Chief Equipment Operator, Transportation Department, honoring 30 years of service.

**PROCLAMATIONS**

Motion was made by Ms. Brown, seconded by Mrs. Harris and carried 6 to 0, designating November 10-17, 1996, as "Happiness House Rehabilitation Week." RECORD S45-1025

Colonel J. M. Williamson accepted the Proclamation.

**CITIZENS' COMMENTS**

**Tallevast Road**

Lisa Graham, representing Hunter's Grove Homeowners' Association, commented on the Tallevast Road improvement project.  
 (NOTE: Further action later in the meeting.)

**Manatee County Blood Center**

Diana Davis, Executive Director of the Manatee County Blood Center, requested financial assistance to provide a frozen blood program.

**Samoset Senior Place facility**

Maureen Kelly, Executive Director of West Central Florida Area Agency on Aging, addressed the continuation of Adult Day Care Services at the Samoset Senior Place facility, and the need for a licensed agency to provide the services.

(NOTE: Further action later in the meeting.)

**CONSENT AGENDA**

Upon motion by Mrs. Harris and second by Ms. Brown, the Consent Agenda dated October 29, 1996, was approved 6 to 0, with deletion of:

1) Health Insurance Administrative Management Services Agreement; 2) Purchase of Truck Mounted Sewer Cleaner from Southern Sewer Equipment; and deletion for separate action of:

1) Board of County Commission Meeting 1997 Schedule; 2) Traffic Signal Maintenance & Operation Order 94. Items APPROVED:

**CLERK OF THE CIRCUIT COURT**

**BONDS**

**Accept:**

**Pomello Park Subdivision:**

1. Agreement with Christine Bazemore, Inc., warranting required improvements (Right-of-Way Use Permit 242-95-02), \$13,300
2. Defect Security: \$13,300 (Cashier's Check 27440, First National Bank of Manatee)
3. Agreement with Christine Bazemore, Inc., warranting required improvements (Right-of-Way Use Permit 292-96-132), \$1,700
4. Defect Security: \$1,700 (Cashier's Check 27441, First National Bank of Manatee)
5. Agreement with Ralsun Corp., warranting required improvements (Right-of-Way Use Permit 292-96-133), \$5,500
6. Defect Security: \$5,500 (Official Check 860542519, Barnett Bank of Manatee County)

**REFUNDS**

Manatee Joint Venture - Impact Fee \$187.20

**WARRANT LIST**

Approve: October 24 through October 28, 1996

Authorize: October 29 through November 4, 1996

**AUTHORIZE CHAIRMAN TO SIGN**

**Emergency Medical Services/Nonplaintiff Settlements - Settlement Agreement and Release from David Byington and Lynn Henkel (approved 8/27/96) RECORD S45-1026 S45-1027**

**Satisfactions of Judgment:**

- Demetro Bacon, 96-885F (\$261)
- Robert Rawley, 92-2333F (\$78.56)
- Benjamin H. Walter, 95-713F (\$37.66)

**APPROVE, RATIFY AND CONFIRM**

**Clerk's Consent Calendar - Dated and distributed 10/24/96 (inadvertently omitted from the agenda)**

**ACCEPT**

**Lawsuits - Pending Litigation Transcript of meeting June 4, 1996, Gotay vs Moore, et al. (Sheriff), Case CA 95-48**

**COUNTY ADMINISTRATOR**

**AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM**

Interlocal Agreement with Sarasota County to develop and implement an automated fingerprint identification system. RECORD S45-1028

**ADVISORY BOARDS**

Accept 1996 Annual Report of Advisory Boards and Committees (31) as required by R-92-288. RECORD S45-1029

**ENTERPRISE ZONE DEVELOPMENT AGENCY**

**R-96-262 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING RESOLUTION 95-223, PROVIDING FOR THE RE-APPOINTMENT OF SEAT 3 OF THE ENTERPRISE ZONE DEVELOPMENT AGENCY (appointing Connie Ford, term to expire 11/7/99). RECORD S45-1030**

**HOUSING PRESERVATION GRANT**

Revised Statement of Activities (Attachment A) for the Housing Preservation Grant (approved 1/25/95) of the Rural Economic and Community Development Agency Grant for funds in excess of \$7,500 per unit for instances where extensive repairs are required to bring a home up to local building code standards. RECORD S45-1031

**CABLE TELEVISION**

Execute funding agreement with Manatee Educational Television Consortium (METV) for educational programming, Fiscal Year 1996-1997 (\$99,889). RECORD S45-1032

**MEDICAID WAIVER SERVICES**

Execute Home and Community Based Medicaid Waiver Services Referral Agreement with Common Sense, Inc., and West Central Florida Area Agency on Aging, Inc., to coordinate medicaid waiver services for companion, homemaker and respite (sitter) services (10/15/96 - 6/30/97). RECORD S45-1033

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**NON-PROFIT AGENCY FUNDING**

Execute Fiscal Year 1996-1997 agreements with:

Myakka City Community Center (Adult Activity)	\$10,000	S45-1034
Manatee Association for Retarded Citizens (Adult Day Training)	\$29,200	S45-1035
Our Daily Bread of Bradenton (Feed the Needy)	\$5,150	S45-1036
Volunteer Services (Volunteer Referral Program)	\$10,300	S45-1037
Hope Family Services, Inc. (Emergency Safe Shelter)	\$40,556	S45-1038

RECORD

**YOUTH SUBSTANCE ABUSE**

Execute Fiscal Year 1996-1997 Youth Substance Abuse Prevention Funding Agreements with:

Boys and Girls Club of Manatee County (Smart Moves)	\$35,959	S45-1039
Myakka City Community Center, Inc. (Camp Myakka/ASP)	\$20,000	S45-1040
Palmetto Youth Center (Intervention/Positive Futures)	\$40,266	S45-1041
13th Avenue Community Center (Achievers of Today and Tomorrow)	\$40,266	S45-1042

RECORD

**LAWSUITS - NEVINS, ET AL**

Final settlement with Watson and Wilda Hurst for expert's fees and costs, \$13,086.02, in the State Road 70 eminent domain matter of Manatee County vs. John J. Nevins, et al., Case CA 95-4342.

**BUFFALO CREEK PARK - GRANT**

**R-96-255** A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, ACCEPTING A GRANT FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, UNDER THE FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM FOR THE DEVELOPMENT OF BUFFALO CREEK PARK

(authorizing execution of documents by the Chairman or Vice-Chairman for the \$100,000 grant).

RECORD S45-1043  
S45-1044

**FINAL PLAT - HAWTHORN PARK, PHASE III**

- Final Plat
- Agreement with Neal Communities, Inc., warranting required improvements (\$12,640.20)
- Defect Security: \$12,640.20 (Letter of Credit 9617, SunTrust Bank, Gulf Coast, surety)
- Agreement with Neal Communities, Inc., guaranteeing completion of required sidewalks and bikeways (\$6,435)
- Performance Bond: \$6,435 (Letter of Credit 9618, SunTrust Bank, Gulf Coast, surety)
- First Amendment to Declaration of Covenants, Conditions and Restrictions for Hawthorn Park
- First Amendment to By-Laws of Hawthorn Park Community Association, Inc., including Fiscal and Budgetary Information for Hawthorn Park Community Association, Inc.

**FINAL PLAT - SUMMERFIELD VILLAGE, SUBPHASE D, UNIT 2**

- Final Plat
- Mortgagee's Joinder from Northern Trust Bank of Florida
- Joinder from Lakewood Ranch Community Development District 1
- Agreement with SMR Communities Joint Venture guaranteeing completion of required improvements (\$338,798.42)
- Performance Bond: \$338,798.42 (Bond 8020279, Fidelity and Deposit Company of Maryland, surety)
- Agreement with SMR Communities Joint Venture guaranteeing completion of required sidewalks and bikeways (\$12,855.96)
- Performance Bond: \$12,855.96 (Bond 8020280, Fidelity and Deposit Company of Maryland, surety)
- Agreement with SMR Communities Joint Venture for installation of private improvements
- Supplemental Declaration of Covenants for Summerfield Village

RECORD S45-1045

**MILL CREEK, PHASE 5-B**

Execute Participation Agreement with Pursley, Inc., for existing and off-site future developments of sanitary sewer installation, \$33,259.50.

RECORD S45-1046

**STATE REVOLVING FUND LOAN**

Execute Amendment 2 to Agreement with Department of Environmental Protection for collection, influent transmission, and reuse facilities adjusting the project costs and reducing the annual loan payments (Project CS120540170).

RECORD S45-1047

**MANATEE AGRICULTURAL REUSE SUPPLY AND STORAGE GRANT**

Execute Assistance Agreement/Amendment with Environmental Protection Agency for additional funding \$2,362,500 (\$2,500,000 Federal funds; \$112,500 County funds). RECORD S45-1048

**FEE WAIVER**

1. Place two, 20-yard roll-offs at 123rd Street/45th Avenue West; and two, 20-yard roll-offs at 4405 124th Street West for Florida Institute for Saltwater Heritage Clean-up on November 9, 1996; waive landfill service and tipping fees.
2. Place two, 20-yard roll-offs at 70th Avenue/28th Street East; and two, 20-yard roll-offs at 28th Street Court/71st Avenue East for New Pearce Neighborhood Clean-up on November 2 and 9, 1996; waive landfill service and tipping fees.

**TIME PAYMENT AGREEMENTS**

Execute and record agreements for FIF'S, connection and line extension charges with Lillian Frances Robinson and John Darryl O'Neill; Richard E. and Peggy L. McCormick; Richard J. Starr, Jr.; Ester J. Morganstern; Elizabeth Ann Southerland; and Adolfo and Rebecca A. Garza. RECORD S45-1049-

**DEEDS AND EASEMENTS - POMELLO PARK SUBDIVISION**

Accept and record Warranty Deeds and Affidavits of Ownership and Encumbrances from Robert B. Jr. and Patricia A. Hall; and James H. and Nancy L. Seals; Partial Release, and Satisfaction of Mortgage from Liberty National Bank for County Road 675 rights-of-way. S45-1054

**METROPOLITAN PLANNING ORGANIZATION**

R-96-257 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, SUPPORTING THE SARASOTA-MANATEE METROPOLITAN PLANNING ORGANIZATION PROCESS WITHIN THE SARASOTA-MANATEE URBANIZED AREA. RECORD S45-1055

**SOUTHWEST REGIONAL WASTEWATER TREATMENT PLANT**

Execute work Assignment 42 with Black & Veatch for aeration system improvement consulting services, not to exceed \$236,960. RECORD S45-1056

**MATERIAL AND SERVICES**

1. **Computer Maintenance** - Sole Source Purchase of mainframe, hardware, software, and firmware maintenance from AT&T Global Information Solutions, estimated annual cost of \$213,216.
2. **Debt Collection Services** - Authorize contract negotiations with the top-ranked firm, Mid Am Recovery Services, Inc., for County departments and agencies.
3. **Employee Assistance Program** - Authorize contract negotiations with the top-ranked firm, Behavioral Health Management Services, Inc., to administer and manage programs including behavioral disorder and substance abuse care.

**ENVIRONMENTAL MONITORING**

1. Execute a letter acknowledging consent to assignment of agreement with Engineering Science, Inc., Tampa, to Engineering Science, Inc., Gainesville, for monitoring services for the Four Corners Mine to comply with IMC Mining Development Order, Ordinance 95-41; and RECORD S45-1057
2. Execute Addendum 2 to agreement with Environmental Science & Engineering, Inc., for adjustment of fee schedule and key personnel with no change to contract, not to exceed \$550,000. RECORD S45-1058

**LANDFILL REFUSE COMPACTOR**

Award IFB 96-5233-DC to the lowest responsive, responsible bidder meeting specifications, Ringhaver Equipment Co., \$380,871; and simultaneously execute Total Cost Agreement and subsequently date Performance Bond. RECORD S45-1059

**FLORIDA PORTS REVENUE BONDS**

R-96-267 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, APPROVING THE PARTICIPATION OF THE MANATEE COUNTY PORT AUTHORITY IN AN AMOUNT NOT TO EXCEED \$15,000,000 IN A PLAN OF FINANCING RELATING TO THE ISSUANCE BY THE FLORIDA PORTS FINANCING COMMISSION OF ITS REVENUE BONDS (STATE TRANSPORTATION TRUST FUND), SERIES 1996, WITHIN THE MEANING OF SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1996, AS AMENDED. RECORD S45-1060

**SCRAP METAL SALE**

Execute Amendment 1 extending agreement for one year (9/12/97) under the same terms and conditions with Marco Industrial Salvage Brokers, Inc., for collection and purchase of scrap metals. RECORD S45-1061

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**SIDEWALK CONSTRUCTION**

1. **60th Avenue West** - Award IFB 96-5959-DC to the lowest responsive, responsible bidder meeting specifications, Frederick Derr & Company, Inc., \$49,910.51; and simultaneously execute contract for sidewalks. RECORD S45-1062
2. **El Patio Subdivision/Palmetto** - Award IFB 96-5960-DC to the lowest responsive, responsible bidder meeting specifications, MTM Contractors, Inc., \$125,513.20; and simultaneously execute contract and date Performance/Payment Bonds and accept insurance certificate for sidewalk construction. RECORD S45-1063

**BUDGET AMENDMENTS****ENVIRONMENTAL MANAGEMENT**

(B-97-009)

**Increase Revenue/Expenditure:** Appropriates additional monies received from the Florida Department of Environmental Protection for the Artificial Fishing Reef Grant. \$30,000

**FINANCIAL MANAGEMENT**

(B-97-010)

**Item Transfer:** Transfers monies from Reserves for Cash Balances in the General Fund for the matching funds for the EZDA Linked Deposit Program to be used for a certificate of deposit which will be matched by State Funds as approved by the Board on October 15, 1996. \$100,000

**PROJECT MANAGEMENT**

(B-97-011)

**Item Transfer:** Closes the Tideview Estates Rehab project as it has been moved into the "Outyears" in the Capital Improvement Program. \$125,000

(B-97-012)

**Item Transfer:** Establishes the project budget for the 33rd Street West Sewer Assessment project approved by the Board of County Commissioners on August 6, 1996 in R-96-125. \$242,749

(B-97-013)

**Item Transfer:** Establishes the design budget for the SW WWTP Fine Bubble Diffusion project as noted in the Project Status Reports dated September 30, 1996. \$258,500

**NON-DEPARTMENTAL**

(B-97-014)

**Item Transfer:** Appropriates funds to provide reimbursement to Rural Health Services, Inc., for renovations to their East Manatee Wellness Center as approved by the Board on October 15, 1996. \$178,425

(End Consent Agenda: jr/ag)

RECORD S45-1064-

S45-1069

**STATE HOUSING INITIATIVE PARTNERSHIP ANNUAL REPORT**

Karen Jackson-Sims, Community Affairs/Intergovernmental Relations Director, requested approval and acceptance of the State Housing Initiative Partnership (SHIP) Annual Report for Fiscal Years 1993-1996, and authorization for the Chairman to sign the Letter of Transmittal and required State forms, in accordance with Florida Statutes, Section 420.9075(8). A video entitled "Building Dreams" was shown.

Motion was made by Mrs. Harris, seconded by Ms. Brown and carried 6 to 0, to approve the request.

**CROSLY ESTATE (SEAGATE) LANDSCAPE PLAN**

Alan Garner, Florida Yards and Neighborhoods Program Coordinator, displayed a landscape plan for the Crosley Estate (Seagate). Funding will be provided by the Sarasota Bay National Estuary Program, the Manasota Basin Board, and indirect funding (in-kind services) by public and private entities, including County departments.

John Moody of Swan, Moody and Associates, Inc., displayed an updated preliminary landscape plan to replace the diagram in the agenda packet, and gave an overview of the plan. The project will be used as an educational garden for the Master Gardener's Program.

Motion was made by Mrs. Harris, seconded by Ms. Brown and carried 6 to 0, to approve the landscape plan for the Crosley Estate.

SAMOSSET SENIOR PLACE FACILITY LEASE

Fred Loveland, Community Services Director, stated that the Manatee Council on Aging, Inc. (MCOA) has a lease with the County to occupy the Samoset Senior Place facility to operate adult day care services. Staff was directed (10/15/96) to present recommendations on requests by MCOA and Meals on Wheels Plus of Manatee, Inc. (MOW) to operate at the facility and how the County should proceed with handling the lease.

MOW subcontracts with MCOA to provide adult day care services. MCOA may dissolve as a corporation on December 31, 1996, and all assets, contracts and personnel would be transferred to Neighborly Senior Services of Manatee, Inc. (NSSM). MCOA has requested a new lease be executed with NSSM.

MOW is a locally based, non-profit organization that receives all Older Americans Act funds as well as County general revenue funds. Since MOW is the recipient of all federal and local government funds at the local level for day care, it is the recommendation of staff that the lease at the Samoset facility be with MOW. MOW would then have the option of working with funding agencies to continue to subcontract with MCOA (soon to be NSSM) or implement a different service delivery plan.

Cathy Barnard, Executive Director of MCOA, stated that the merger of MCOA and NSSM will place MCOA in a position to attract new revenue sources and improve and expand services to elderly citizens. She stated that MCOA has occupied Samoset Senior Place since 1978, providing adult day care and other related services. MCOA has also made many improvements to the facility.

Robert Turgeon, Fiscal Director of NSSM, spoke in favor of the merger.

Fredric Buchholtz, President of NSSM, outlined details of the merger (10/28/96 letter) and stated that NSSM and the staff of MCOA are qualified to operate the adult day care program.

Ellen Campbell, Executive Director of MOW, requested that MOW provide the adult day care services. She stated that a prerequisite in obtaining licensure is to have a facility from which to operate.

Rev. James T. Golden and Kenneth D. Baar, MOW Board of Directors, requested MOW be given an opportunity to provide adult day care services.

Maureen Kelly, Executive Director of West Central Florida Area Agency on Aging (WCAAA), stated WCAAA is mandated by the Older Americans Act to oversee the planning and funding of coordinated systems of community based long-term care. WCAAA is also responsible for awarding service contracts to local public and private providers to deliver community based elderly adult services.

She expressed concern of MOW's interest to operate the adult day care program. She stated that WCAAA's present contract with MOW will expire in one year, at which time, WCAAA plans to go out to bid for Older Americans Act services. WCAAA does not desire to change the contractual relationship prior to the bidding process. It is the intent of WCAAA that adult day care services continue to be subcontracted from MCOA through the 1997 contract period.

Discussion: County can terminate the lease agreement at any time; productive dialogue between MOW and MCOA is necessary; status of the lease if the two agencies merge versus a dissolution of MCOA; scoring criteria to determine the bidding process.

Murray Kesten, MOW Board of Directors, addressed adult day care service licensure.

Mr. Loveland outlined the reasons for the recommendation of staff.

Discussion: Continue present arrangement of services until the services are bid; whether NSSM could maintain adult day care licensure as a subcontracted vendor and without a facility; further study is needed.

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Following discussion, motion was made by Mrs. Hooper and seconded by Ms. Brown, to approve the recommendation as presented by staff.

Discussion: Concern of assurance that the issue will be resolved and the provision of adult day care services will continue.

Motion carried 4 to 2, with Mr. McClash and Mrs. Harris voting nay.

#### CITRUS DAMAGE INVESTIGATION

Karen Collins, Environmental Management Director, presented a summary of the final report (memorandum 10/29/96) on an investigation into the citrus foliar damage which occurred during the winter seasons from 1991 to 1994. During this time, citrus groves and vegetable crops in northwest Manatee and southwest Hillsborough Counties exhibited sudden leaf burning, defoliation of branches and twig dieback. RECORD S45-1070

Mr. McClash asked if the recent modifications to the Florida Power and Light plant were permitted and if those changes could have had any effect on the citrus foliar damage.

#### AIR POLLUTION CONTROL TRUST FUND

Ms. Collins advised that the County has an opportunity to receive \$18,000 from the Florida Department of Environmental Protection resulting from the settlement of an enforcement case involving air quality violations by Cremation Systems. She recommended adoption of

R-96-272 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, CREATING A LOCAL AIR POLLUTION CONTROL TRUST FUND IN WHICH TO DEPOSIT MONIES TRANSFERRED FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION'S AIR POLLUTION CONTROL TRUST FUND AND IN WHICH TO DEPOSIT MONIES COLLECTED THROUGH ENFORCEMENT PROCEEDINGS AND TO BE USED TO ENHANCE MANATEE COUNTY'S LOCAL AIR POLLUTION CONTROL ACTIVITIES.

Motion was made by Mr. McClash, seconded by Mrs. Harris and carried 6 to 0, to adopt Resolution R-96-272. RECORD S45-1071

#### P.S. BEACH ASSOCIATES, INC. - BEACH CONCESSIONS

Dan Hopkins, Director of Parks and Recreation, stated that P.S. Beach Associates, Inc., has requested deferred lease payments for September, October, November and December 1996 (for the concessions at Manatee Beach and Coquina Beach) as presented in a Proposed Deferred Lease Payment and Repayment Schedule (dated 8/15/96); and approval to waive the interest on late payments, as required by the Lease, Article 4, Item 4.5, waiver to all approved, past, present and future deferred payments. A supplemental memorandum (10/29/96) was distributed to further explain the status of deferred payments by P.S. Beach Associates, Inc.

Motion was made by Mr. McClash to approve the item, noting Mr. Hopkin's backup material which states that all deferred payments must be paid prior to the conclusion of the current contract term. Motion was seconded by Mrs. Harris and carried 6 to 0. RECORD S45-1072

#### TALLEVAST ROAD

Janet McAfee, Project Management Director, stated the Board approved Work Authorization 19 with Wade-Trim, Inc. (3/19/96) for conceptual design engineering services for Tallevast Road. A public meeting was held with area residents to discuss the project. She presented a Conceptual Design Report for Tallevast Road prepared by Wade-Trim, Inc.

Jerome Gostkowski, Planning Department, addressed the project.

Jeff Trim of Wade-Trim, Inc., reviewed a series of maps in the Report illustrating the improvements from U.S. 301 to Lockwood Ridge Road, 1.6 miles, with an estimated cost of \$3.9 million dollars. The project schedule for final design is from January 1997 to March 1998. Construction is tentatively scheduled from July 1998 to July 1999.

Harry Mendenhall, Transportation, stated the concern raised during citizens' comments has been addressed.

Motion was made by Mr. McClash, seconded by Ms. Brown and carried 6 to 0, to approve the Conceptual Design Report from Wade-Trim, Inc.

**WORKERS' COMPENSATION AND LIABILITY CLAIMS SERVICING**

William Henry, Risk Management Attorney, recommended approval of Addendum Two to the Claims Servicing Contract (10/1/94) with Johns Eastern Company, Inc. He outlined the changes proposed by the addendum, noting that the major change is to include a managed care arrangement as mandated by the Florida Legislature to begin January 1, 1997.

Mrs. Harris moved approval (including authorization for the Chairman to execute Addendum Two). Motion was seconded by Ms. Brown and carried 6 to 0. RECORD S45-1073

**PENDING LITIGATION ASSESSMENT**

H. Hamilton Rice, County Attorney, announced a Pending Litigation Assessment meeting to be held today at 1:30 p.m. in private session for the purpose of settlement negotiations and strategy related to litigation expenditures in the case of Hilliard, et al. versus Manatee County, Case 95-729-CIV-T-17C. He announced those who would attend. (NOTE: Settlement approved later in the meeting.)

**MEDIATION CONFERENCE/ARBITRATION HEARING PROCEDURES**

Motion was made by Mr. McClash, seconded by Mrs. Harris and carried 6 to 0, to adopt

**R-96-250** RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO DESIGNATE COUNTY EMPLOYEES AS THE COUNTY'S MEDIATION OR ARBITRATION REPRESENTATIVE AT MEDIATION CONFERENCES OR COURT-ANNEXED ARBITRATION HEARINGS UPON THE REQUEST OF THE COUNTY ATTORNEY. RECORD S45-1074

**LAWSUITS: RED CEDAR CORPORATION**

Mr. Rice requested the appointment of a Board member to serve as mediation representative at a settlement conference in the case of Red Cedar Corporation versus Manatee County, et al., Case 95-2927. The conference will be held in Manatee County, but the date is uncertain.

Mrs. Hooper offered to serve as mediation representative. Mr. McClash volunteered as alternate, with Ms. Brown as second alternate.

**1997 BOARD OF COUNTY COMMISSION MEETING SCHEDULE**

Motion was made by Mrs. Harris, to adopt the 1997 Meeting Schedule for the Board of County Commissioners with the additional language that the Board adopt a policy of taking Commissioners' Comments during the land use meetings. Motion was seconded by Ms. Brown and carried 6 to 0. RECORD S45-1075

**TRAFFIC SIGNAL MAINTENANCE**

**U.S. 41/Tallevast Road**

Discussion was held regarding delayed delivery times of mast arms (support poles) for traffic signals, resulting in delays. Mrs. Harris asked that a memorandum be sent to Board members explaining the reason for the delays in installing the mast arms.

Motion was made by Mrs. Harris, to authorize the Chairman to execute Traffic Signal Maintenance and Operation Order 94 with Florida Department of Transportation to operate and maintain a new traffic signal installation on S.R. 45/U.S. 41 at Tallevast Road/Gaines Avenue. Motion was seconded by Ms. Brown and carried 6 to 0. RECORD S45-1076

**Ellenton-Gillette Road/Memphis Road**

Mr. Mendenhall responded to comments relating to traffic problems caused by the extended mast arm traffic signal at the intersection of Ellenton-Gillette Road and Memphis Road. He advised that curb adjustments are planned for this intersection.



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119 Street West/Cortez Road

Mr. McClash questioned the length of time it will take to install mast arm traffic signal poles at 119th Street West and Cortez Road.

Recess/Reconvene. All members present except Mrs. Glass.

LAWSUIT SETTLEMENT: HILLIARD, ET AL VERSUS MANATEE COUNTY

Mr. Rice requested a motion approving the payment of \$45,000 for attorney's fees in the case of Hilliard, et al versus Manatee County, Case 95-729-CIV-T-17C, and offer to pay that amount which would include costs in the action for 35 plaintiffs to whom offers of judgment have been made and accepted.

Mr. McClash moved approval. Motion was seconded by Mrs. Hooper and carried 6 to 0.

ORDINANCE 96-49: ENTERPRISE ZONE DEVELOPMENT AGENCY MEMBERSHIP

Public hearing (Notice in the Bradenton Herald 10/18/96) was held to consider

ORDINANCE 96-49 AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE 95-50, AS AMENDED BY ORDINANCE 96-39, WHICH ESTABLISHED AN ENTERPRISE ZONE DEVELOPMENT AGENCY (EZDA); AMENDING SECTION 1.B. PROVIDING FOR DESIGNATION OF MEMBERSHIP ON THE BOARD OF COMMISSIONERS; AMENDING SECTION 1.F. PROVIDING FOR REMOVAL OF COMMISSIONERS DUE TO DISABILITY AND THE APPOINTMENT OF COMMISSIONERS TO SERVE DURING SUCH PERIOD OF DISABILITY; AND PROVIDING AN EFFECTIVE DATE.

Patricia McVoy, Assistant County Attorney, stated Ordinance 96-49 provides a remedy for the two seats which can only be filled by a single individual. It also provides authority for the Board of County Commissioners to appoint a new member to the EZDA Board when the relationship of an EZDA member to the category he/she is appointed is terminated, either permanently or temporarily.

Charles Smith, suspended City of Palmetto Councilman representing Ward One and former EZDA Board member, stated that the Governor has suspended him pending misdemeanor charges. He stated concern that the provisions in the Ordinance will prevent him from continuing to serve on the EZDA Board as well. He also addressed the provision regarding misconduct.

Ms. McVoy stated the City of Palmetto has suggested (letter 9/25/96) an amendment to the EZDA ordinance to provide that the alternate for Ward One City Council be the Council member elected at-large. She stated the insertion of or for the period of the vacancy at the end of the paragraph in Section 2 would allow the County Commission to address the current vacancy on the Board and give interim representation to the City of Palmetto.

Without objection, the Board agreed to additional language to Section 1.B addressing voting alternates for the seats of District Two County Commissioner and the Palmetto City Council member from Ward One, as suggested by Mr. McClash and the City of Palmetto.

Motion was made by Mr. McClash, seconded by Mrs. Hooper and carried 6 to 0, to adopt Ordinance 96-49 (with the additions). RECORD S45-1077

SOLID WASTE RATE SCHEDULE

Public hearing (Notice in the Bradenton Herald 10/4/96) was held to consider

RESOLUTION R-96-242 A RESOLUTION OF MANATEE COUNTY, FLORIDA, ESTABLISHING NEW RATES, FEES AND CHARGES FOR MANDATORY SOLID WASTE COLLECTION AND DISPOSAL SERVICES BASED ON THE INCREASE IN THE CONSUMER PRICE INDEX (CPI); PROVIDING FOR LANDFILL TIPPING FEES; PROVIDING FOR ROLL-OFF BILLING; PROVIDING FOR THE HANDLING OF DELINQUENT ACCOUNTS; PROVIDING FOR SECURITY DEPOSITS AND SPECIAL CHARGES; ALLOWING FOR CHANGES IN SERVICE REQUESTS; PROVIDING FOR CHARGE ACCOUNTS; PROVIDING FOR MISCELLANEOUS RELATED MATTERS; RESCINDING ALL PRIOR SOLID WASTE RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Dave Brangaccio, Public Works, stated Resolution R-96-242 is mandated by the contractual obligation with the two waste haulers to adjust the rates annually, based upon changes in the Consumer Price Index.

Mrs. Harris requested a report on the value of the recyclables being captured and the revenues being collected by the waste haulers.

Ms. Brown moved adoption of Resolution R-96-242. Motion was seconded by Mrs. Harris and carried 6 to 0.

RECORD S45-1078

**ORDINANCE 96-22: AIR POLLUTION CONTROL CODE**

Mr. Rice advised that a telephone call was received in his office this morning from an official of Florida Power and Light (FP&L) with respect to Ordinance 96-22, the Air Pollution Control Code (adopted 10/22/96).

Jeffrey Steinsnyder, Assistant County Attorney, stated that Jerry Kirk, Senior Vice-President for FP&L, advised that the Manatee plant would not be able to meet the Specific Performance Standards outlined in Section XI of the Ordinance regarding nitrogen oxides (NOx), SO<sub>2</sub>, and/or particulate matter emissions.

It was the position of FP&L that because enforcement of Section XI would put the plant in violation, the plant would cease all operations. Additionally, Mr. Kirk indicated that should the County enforce the Specific Performance Standards or if the Standards remain in the ordinance, that FP&L would have no option but to challenge the ordinance and seek compensation for regulatory taking.

Mr. Stephens stated that an opinion should be rendered from the legal staff as to what effect this will have on the County in terms of property rights issues; whether this is considered a regulatory taking and the financial impact on the County if this were to occur.

Mr. Steinsnyder stated it has also been discovered that Section 11.D conflicts with another portion of the ordinance.

Mr. Rice requested the Board authorize staff to proceed to advertise a public hearing on the conflicting provisions of the Ordinance. He stated the hearing will be limited to only those sections.

He requested the matter be deferred to later in the meeting.

**COMMISSIONERS' COMMENTS**

**Saddle Creek Apartments**

Mrs. Harris (per memorandum 10/8/96 from Planning and Permitting) stated that the neighborhood to the south of Saddle Creek Apartments is experiencing problems with traffic and pedestrian access coming through 27th, 28th and 29th Streets West. These streets dead end into the apartment property, and there is no fence or buffering. She stated Resolution R-95-130 authorizes the County to erect fencing or other barriers along right-of-way to prohibit trespassing onto public property. She requested staff pursue the matter.

**Disposition:** Referred to the County Administrator.

**Red Barn Flea Market**

Mrs. Harris stated she has not received any information as to what is being done to assist the owners of the Red Bard Flea Market, which was recently destroyed by fire. Mr. Padgett advised that representatives of the Small Business Administration are already in the County and would be on the fifth floor of the Administrative Center.

**Capital Improvement Program Priorities**

Mrs. Harris asked that the Board revisit the Capital Improvement Program in order to discuss the prioritization of improvements to 9th Street East versus 15th Street East; and to examine the area of 9th Street East, between 53rd and 57th Avenues East, in light of the recent approval of the new Winn-Dixie grocery store.

**Myakka-Wauchula Road Project**

Mrs. Hooper stated she was pleased to see the Myakka-Wauchula Road Widening project included in the FY 1997-2001 CIP.

OCTOBER 29, 1996

(Cont'd)

15th Street East

Mr. McClash commended staff on the resurfacing of 15th Street East.

Staff Recommendations to the Board

Mr. Stephens stated concern of instances where staff has given a recommendation of a technical nature to the Board on an issue and the Board did not concur. He asked the County Administrator to review this matter with staff and report back to the Board.

ORDINANCE 96-22: AIR POLLUTION CONTROL CODE (Cont'd)

As to the ability to reconsider the Air Pollution Code Ordinance, Mr. Rice advised that the Board's Rules and Procedures indicate a motion for reconsideration must be made at the next regular meeting of the Board. He stated that reconsideration of the ordinance would require notice to all persons who might be affected by such action where a prospective rescission of a part of an ordinance were to be reconsidered.

He requested authorization for staff to advertise for correction of the ordinance to meet the intent of the Board, and eliminate the confusion that arose as a result of trying to adopt part of one proposal and part of another proposal.

Ed Rathke, representing Florida Power and Light, offered a temporary solution to delay implementation of the ordinance until legal staff has an opportunity to readvertise those provisions that are in conflict.

Motion was made by Mr. McClash, to authorize the Chairman to send a letter to those parties affected by the ordinance, specifically under Section 11., Specific Performance Standards, and inform them that this provision of the ordinance is not going to be enforced by Manatee County, and that the Board of County Commissioners will be setting a public hearing to address the nature of the specific performance standards in the future. Motion was seconded by Mrs. Harris.

Mr. Rice recommended the letter state that the Commission will not take steps to impose or enforce the rules on existing facilities until they are clarified.

Motion carried 6 to 0.

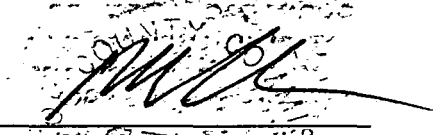
Motion was made by Ms. Brown, seconded by Mrs. Harris and carried 6 to 0, to advertise a public hearing on Section 11., Specific Performance Standards.

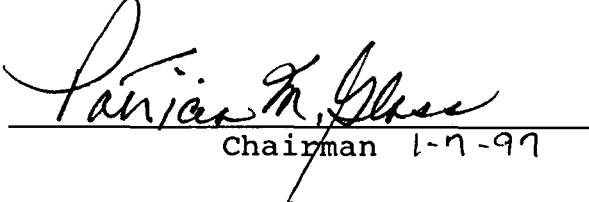
MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:

APPROVED:



  
Chairman 1-7-97

Clerk  
Adj: 3:00 p.m.  
/rlg  
SEAL  
MANATEE COUNTY  
COMMISSIONERS