

NOVEMBER 5, 1996

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Tuesday, November 5, 1996, at 9:02 a.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

Invocation by Rev. John Henry, Church of the Cross.

The meeting was called to order by Chairman Stephens.

All witnesses/staff giving testimony were duly sworn.

EMPLOYEE OF THE MONTH

Employee of the Month award (plaque) was presented to Keith Lynch, Wastewater Treatment Plant, Public Works Department.

Len Bramble, Public Works Director, and Ed McAdam, Public Works Supervisor, were present to present the award.

PROCLAMATIONS

Farm-City Week

Upon motion by Mrs. Hooper and second by Mrs. Harris, a Proclamation was unanimously adopted designating November 17-24, 1996, as Farm-City Week.

RECORD S45-1079

Dick Aalberg, Agriculture and Natural Resources Director, and members of the Farm-City Week Committee were present. Ralph Garrison, President of the Committee, distributed coffee mugs.

Veteran's Day

Upon motion by Mr. Gause and second by Mrs. Harris, a Proclamation was unanimously adopted designating November 11, 1996, as Veteran's Day.

RECORD S45-1080

CITIZENS' COMMENTS

William R. Wheeler addressed the Board regarding yard trash pickup.

Bob Gill and Paul Blucher, attorneys representing property owners in the S.R. 70 Improvement/Eminent Domain settlement issues, referred to a letter (11/1/96) from Brigham, Moore, Gaylord, et al, and requested the Board include them in the discussions regarding the details of the settlement due to concerns regarding an easement.

(Note: Discussion/action further in meeting.)

John Patterson addressed issues relating to the Downtown Development Authority/CRA Funds (discussed later in the meeting) and stated that no funding should be given to the City of Bradenton.

Ernest Marshall addressed issues relating to the Air Pollution Control Code (Ordinance 96-51), to be discussed later in the meeting. He stated that Florida Power and Light cannot turn off electric to the County.

Raymond Frye requested Ordinance 95-11, relating to solid waste pickup, be enforced in South County in relation to trash/debris.

Charles Loiselle, Town of Longboat Key Commissioner, advised of Longboat Key's support in acquiring additional conservation land in the watershed in connection with the CARL Program.

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CONSENT AGENDA

Upon motion by Mrs. Harris and second by Ms. Brown, the Consent Agenda was approved unanimously, with the deletion of the **Health Insurance Administrative Management Agreement with Robey-Barber**. Items APPROVED:

CLERK OF CIRCUIT COURTBILLS FOR PAYMENT

Bradenton Herald - 1996 VAB Notice of Tax Impact \$ 560.18

REFUNDS

HRS Office of EMS - Unused Public Education Grant Funds 551.52
Dr. Govin T. Rajan - Impact Fees 6,159.00

WARRANT LIST

Approve: October 24, 1996 through October 28, 1996

Authorize: October 29, 1996 through November 4, 1996

MINUTES FOR APPROVAL

August 27, 1996 - Regular Meeting
September 4, 1996 - Special Meeting

AUTHORIZE CHAIRMAN TO SIGNSatisfactions of Judgments:

James Burnside, Case 88-385F (\$255)

Matthew Mock, Case 96-998T (\$50)

Partial Releases of Special Improvement Assessment Liens:

Projects 3007-2508; 3009-5147 (2); 5147; 3010-5148; 3100-2509;
3106-5144; 5144; 4102-3904 (2)

APPROVE, RATIFY & CONFIRMP & R Special Interest Classes Instructor's Agreements:

C. Michelle Hurt - Drawing & Crafts

Robert Conforte, Jr. - Golf

RECORD S45-1081

S45-1082

ACCEPT

Automated Fingerprint Identification System - Certification of Acceptance of Subgrant Award from Department of Community Affairs (authorized by R-96-128 on 6/4/96) for the Sheriff's regional drug control program with Sarasota County. RECORD S45-1083

Southport Dredging Contract Claim - Transcript of BCC meeting (10/15/96) on a claim for additional funds for services to dredge Bayshore Canal.

Emergency Medical Service/Emergency Management - Memorandum (9/11/96) from E. Michael Latessa, EMS Director, responding to Commissioner Comments (9/10/96) on EMS technician/paramedic staffing and training.

Tax Collector Reports - Combined Statement of Position (Form DBF-AA-402) and Revenues and Expenditures/Expenses (Form DBF-AA-403) for Fiscal Year ending September 30, 1996.

Lakewood Ranch Community Development - Minutes of the Board of Supervisors meeting for District 1 (9/5/96); District 2 (8/8/96, 9/5/96 and 9/11/96); and District 3 (8/20/96).

ADOPT PROCLAMATIONS

James M. Quinn in recognition of Longboat Key Beach Nourishment Project.

James Patterson in recognition of Solutions to Avoid Red Tide.

RECORD S45-1084

S45-1085

COUNTY ADMINISTRATORPROCLAMATIONS

- National Animal Shelter Appreciation Week - November 3-9, 1996.**
- Shrine Hospital Days - November 14-16, 1996.**
- Key Club Week - November 3-9, 1996.**

RECORD S45-1086

S45-1087

S45-1088

MEDICAL EXAMINER FACILITY

Execute letter to Dr. Pearson Clack, District 12 Medical Examiner, approving the FY 1996-1997 budget of \$126,200 for the medical examiner autopsy facility in Manatee County.

NON-PROFIT AGENCY FUNDING

Execute FY 1996-1997 non-profit agency general revenue funding agreements for the following community centers and agencies:

Anna Maria Island Community Center, Inc. - T.L.C. \$33,990 S45-1089

Boys and Girls Clubs of Manatee County, Inc. - Funtastic \$5,768 S45-1090

Manatee Children's Services, Inc. - Emergency Shelter \$45,613 S45-1091

Palmetto Youth Center, Inc. - After School/Summer Camp \$42,488 S45-1092

Rubonia Community Center, Inc. - After School/
Summer Program \$31,364 S45-1093

Tallevast Community Center, Inc. - After School/ Summer Program	\$26,832	S45-1094
Myakka City Community Center, Inc. - Teen Club	\$11,279	S45-1095
Town of Longboat Key/Bayfront Park Recreation Center - Mother's Morning Out	\$3,245	S45-1096
13th Avenue Community Recreation Center, Inc. - After School/Summer Program	\$42,488	S45-1097
	<u>RECORD</u>	

NON-PROFIT AGENCY FUNDING

Execute FY 1996-1997 funding agreements for the following non-profit agencies:

Suncoast Center for Independent Living - Transportation; Equipment Loan and Repair	\$7,725	S45-1098
	\$7,725	
Meals on Wheels Plus of Manatee, Inc. - Adult Day Care	\$42,445	S45-1099
League of Women Voters - Citizens Guides	\$500	S45-1100
	<u>RECORD</u>	

BAD DEBT WRITE-OFF

Information Services Department to write-off three bad checks (non-sufficient funds) from September and October, 1994; \$156.20 total.

LIBRARY AND INFORMATION SERVICES GRANT

R-96-298 RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR ENHANCED CONNECTIVITY ASSISTANCE TO THE FLORIDA DEPARTMENT OF STATE, DIVISION OF LIBRARY AND INFORMATION SERVICES (Authorizing execution of grant application; \$30,000 for period ending 9/30/97). RECORD S45-1101

PARKS AND RECREATION - PERMITS

R-96-271 A RESOLUTION OF MANATEE COUNTY, FLORIDA, AUTHORIZING THE PARKS AND RECREATION DEPARTMENT DIRECTOR, OR HIS DESIGNEE, TO EXECUTE DOCUMENTS OF A MINISTERIAL NATURE ASSOCIATED WITH OBTAINING LOCAL, STATE AND FEDERAL PERMITS FOR CONTEMPLATED PROJECTS WITHIN COUNTY OWNED PROPERTY. RECORD S45-1102

FINAL PLATS

DeSoto Woods Subdivision

1. Final Plat.
2. Mortgagee's Joinder from Liberty National Bank.
3. Mortgagee's Joinder and Consent to Declaration of Protective Covenants, Conditions and Restrictions from Liberty National Bank.
4. Agreement with Harry Bakker, warranting required improvements, \$16,103.
5. Defect Security: \$16,103 (Letter of Credit 46, Liberty National Bank, surety).
6. Agreement with Harry Bakker, guaranteeing completion of required sidewalks and bikeways, \$13,059.
7. Performance Bond: \$13,059 (Letter of Credit 47, Liberty National Bank, surety).
8. Declaration of Protective Covenants, Conditions and Restrictions.
9. Declarant's Certification of Statements.

Edgewater Village, Subphase A, Unit 4A

1. Final Plat.
2. Mortgagee's Joinder from Northern Trust Bank of Florida.
3. Mortgagee's Joinder from Lakewood Ranch Community Development District 2.
4. Agreement with SMR Communities Joint Venture, guaranteeing completion of required improvements, \$130,519.30.
5. Performance Bond: \$130,519.30 (Bond 08064610, Fidelity and Deposit Company of Maryland, surety).
6. Agreement with SMR Communities Joint Venture, guaranteeing completion of required sidewalks and bikeways, \$4,221.36.
7. Performance Bond: \$4,221.36 (Bond 08064611, Fidelity and Deposit Company of Maryland, surety).
8. Interlocal agreement with Lakewood Ranch Community Development District 2. RECORD S45-1104
9. Supplemental Declaration for Declaration of Covenants for Country Club/Edgewater Village.
10. Agreement with SMR Communities Joint Venture for installation of private improvements. RECORD S45-1105

Glenn Lakes, Phase 3

1. Final Plat.
2. Agreement with 2728 Holding Corporation guaranteeing completion of required sidewalks and bikeways, \$63,648.

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3. Performance Bond: \$63,648 (Letter of Credit 00382153, First National Bank of Chicago through NationsBank, Miami).
4. Agreement with 2728 Holding Corporation guaranteeing completion of required improvements, \$969,536.69.
5. Performance Bond: \$969,536.69 (Letter of Credit 00382154, First National Bank of Chicago through NationsBank, Miami).
6. Third Supplement to Declaration of Covenants, Restrictions and Easements.
7. Agreement with Centex Real Estate Corporation (nka 2728 Holding Corporation) for installation of private improvements. RECORD S45-1106

Perkins Subdivision

1. Final Plat.
2. Agreement with John Lawrence, agent for developer, to defer completion of required sidewalks. RECORD S45-1107

Wentworth Subdivision

1. Final Plat.
2. Mortgagee's Joinder from Island Investment Properties, Ltd. and Killin Corporation.
3. Mortgagee's Joinder from William T. Harrison, Jr.
4. Mortgagee's Joinder from Suntrust Bank, Gulf Coast.
5. Declaration of Restrictions.
6. List of Holdings.
7. Fiscal and Budgetary Information.
8. Maintenance Program.
9. Notice to Buyers.
10. Agreement with Northern Capital Group to defer completion of required sidewalks. RECORD S45-1108
11. Conservation Easement from Northern Capital Group.

STREET NUMBERING

1. Waive numbering in Snead Island West Subdivision to change 48th Avenue Circle West to Amberwynd Circle West.
2. Waive numbering on a private street located on the south side of Clay Gully Road, and change name from 425th Street East to Gibson Road.
3. Waive numbering on a private street in Myakka City, and change the name from 135th Avenue East to Miarcachee Road.

PARTICIPATION PROJECTS - ASSESSMENT MODIFICATIONS

1. R 96-265 A RESOLUTION MODIFYING SPECIAL ASSESSMENT ROLLS FOR ROAD ASSESSMENT PROJECT 5148/ONECO (Oneco Community Baptist Church; Assembly Christian Church). RECORD S45-1109
2. R 96-266 A RESOLUTION MODIFYING SPECIAL ASSESSMENT ROLLS FOR SEWER ASSESSMENT PROJECT 5235/ELLENTON, PHASE I-A (William E. and Colleen Manning). RECORD S45-1110
3. R 96-270 A RESOLUTION MODIFYING SPECIAL ASSESSMENT ROLLS FOR SEWER ASSESSMENT PROJECT 5144/RIVERDALE SUBDIVISION (Estate of David Altman, Tr; Manatee County). RECORD S45-1111
4. R 96-269 A RESOLUTION MODIFYING SPECIAL ASSESSMENT ROLLS FOR SANITARY SEWER ASSESSMENT PROJECT 5152/WASHINGTON PARK (Willie and Betty Wiggins). RECORD S45-1112

9TH STREET EAST IMPROVEMENTS

Execute agreement with CSX Transportation, Inc., for relocation of storage tracks and replacement of a crossing at 9th Street East (S.R. 64 to New 301); \$580,404. RECORD S45-1113

MATERIALS AND SERVICES

1. 1997 Calendar/Annual Report - Award IFB 971063KK to the lowest bidder, Interprint Web & Sheetfed, for 90,000 copies; not to exceed \$38,059.56.
2. Fleet Service Facility Expansion - Negotiate architectural and engineering services with the top-ranked firm, Richard Bedford Architects, Inc.
3. PBX Spare Parts Kit - Award IFB 966959AA to the lowest bidder, Vision Communications Services, Inc., for the corrections complex at Port Manatee Stockade; \$33,173.
4. Transportation Engineering - Negotiate with the top ranked firms chosen by the Selection Committee for professional services by order of ranking: 1) Post, Buckley, Schuh and Jernigan, Inc.; 2) Parsons Brinkerhoff; 3) Wade-Trim, Inc.; 4) Lombardo & Skipper.

5. **White Goods/Scrap Metal Purchase and Collection** - Award IFB 96-7520-DC to the highest bidder, Marco Industrial Salvage Brokers, Inc., on an as required basis, at the current American Metal Market Price minus 60.7 percent; and authorize simultaneous execution of contract. RECORD S45-1114
6. **Crosley Estate** - Emergency purchase from William F. McDonough Plumbing, Inc., to provide and install a fire sprinkler system in accordance with the emergency purchase procedures; \$38,500.

ECONOMIC DEVELOPMENT COUNCIL

Execute Fiscal Year 1996-1997 funding agreement with Economic Development Council/Manatee Chamber of Commerce, \$100,000 (including \$20,000 for the Tampa Bay Partnership). RECORD S45-1115

RECYCLING DROP OFF SITE SERVICES

1. Execute Addendum 1 to agreement with Browning-Ferris Industries Waste System, for an additional six months; \$4,506. RECORD S45-1116
2. Execute Addendum 2 to agreement with Waste Management of Manatee and Sarasota Counties, to renew for an additional six months; \$16,515.36. RECORD S45-1117

BUDGET AMENDMENT RESOLUTIONS

NON-DEPARTMENTAL

(B-96-225)

Item Transfer: Reappropriates a transfer from the Transportation Trust Fund to the Transit Capital Grant Fund as the County's grant match for the FY 1995 FTA Capital Grant. \$205,400 S45-1118

(B-97-015/1&2)

Items Transfer: Advances funding for the Crosley project for improvements to the facility which are necessary to allow public use as approved by the Board September 10, 1996. \$255,000 S45-1119

Increase Revenue/Expenditure. \$255,000 S45-1120

FINANCIAL MANAGEMENT

(B-97-016/1-6)

Item Transfer: Reappropriates monies from FY 95-96 primarily for items funded and/or encumbered or planned for purchase in FY 95-96 which will not be purchased or delivered until FY 96-97. \$1,034,383 S45-1121

Item Transfer: \$673,796 S45-1122

Item Transfer: \$680,893 S45-1123

Item Transfer: \$30,000 S45-1124

Increase Revenue/Expenditure; \$27,219 S45-1125

Item Transfer: \$407,050 S45-1126

RECORD

ENTERPRISE ZONE DEVELOPMENT AGENCY

Execute Amendment 2 for Consulting Services Agreement with Florida Planning Consortium, Inc., and the Palmetto/North Manatee Enterprise Zone Development Agency for services October 1, 1996, through September 30, 1997; \$14,500. RECORD S45-1127

(NOTE: Agreement is with Manatee County pursuant to Ordinance 96-39)

STATE HOUSING INITIATIVE PROGRAM

Execute Amendment 2 to the non-profit agreement with Manatee Bankers for Affordable Housing for program administration of the SHIP acquisition/demolition/construction strategy. RECORD S45-1128

COPS MORE GRANT PROGRAM

Approve, ratify and confirm submission (execution by Sheriff Wells and the County Administrator) on October 31, 1996, of the U.S. Justice Department/COPS MORE 1996 funding application; \$156,829.

LIEN RELEASES

County Attorney or designee to release liens created by final judgments in Circuit Court Case 95-148JP, recorded in O.R. Book 1455, page 2629, and O.R. Book 1482, page 3018, public records of Manatee County (juvenile dependency case).

LAWSUITS - SIEMIONKO V. MANATEE COUNTY

Reject demand for judgment in the amount of \$65,000 in Case CA-95-1203, Anthony and Karen Siemionko v. Manatee County, for an alleged injury Mrs. Siemionko suffered at G.T. Bray Park.

(End Consent Agenda/JR & AG)

UNLICENSED CONSTRUCTION ACTIVITIES PANEL

George Devenport, Building Department Director, requested appointment of one member to the Unlicensed Construction Activities Panel. He noted that Richard Fulwider is requesting reappointment.

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Nominations: Lynne Nolan - by Mrs. Harris
Richard Fulwider - by Mr. McClash

Motion was made by Mr. McClash, seconded by Mrs. Harris and carried unanimously, to close nominations.

By show of hands, Ms. Nolan received the majority vote.

Motion was made by Mrs. Glass, seconded by Mrs. Harris and carried unanimously, to cast a unanimous ballot for Lynne Nolan.

ADMINISTRATIVE CENTER - FINANCING

Jim Seuffert, Financial Management Director, proposed modifying the Interlocal Agreement with City of Bradenton for financing of the Administrative Center to provide additional funds for downtown redevelopment. He reviewed Exhibits 1-3 (excerpts from the interlocal agreement) in the staff report.

Discussion: Privatization of Manatee Memorial Hospital; forgo some of County's future increases to benefit downtown development activities, i.e., City Center; hold a work session; staff to come back with a recommendation; continue dialogue with City; difference in funding levels for improvements.

CITY OF BRADENTON - COMMUNITY REDEVELOPMENT AGENCY TAX REVENUES

David Rothfuss, Assistant County Administrator, recommended adoption of

R-96-278 A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, CONSENTING TO USE OF INCREMENT TAX REVENUES HELD BY THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BRADENTON FOR CONSTRUCTION OF A BRADENTON CITY HALL AND/OR POLICE AND FIRE DEPARTMENT FACILITIES; PROVIDING AN EFFECTIVE DATE.

Motion was made by Mr. McClash, seconded by Mrs. Glass and carried unanimously, to adopt Resolution R-96-278. RECORD S45-1129

PLANNING COMMISSION

Bob Pederson, Planning Department, requested appointment of two persons to the Planning Commission. He noted that Richard Bedford and Patrick McGinnis are requesting reappointment.

Nominations: Patrick McGinnis - by Mrs. Harris
Linda Thomas - by Mrs. Harris
Richard Bedford - by Ms. Brown

Motion was made by Mr. McClash, seconded by Mrs. Harris and carried unanimously, to close the nominations.

By show of hands, Mr. Bedford and Mr. McGinnis received a majority vote.

Motion was made by Mrs. Glass to cast a unanimous ballot for **Richard Bedford** and **Patrick McGinnis**. Motion was seconded by Mr. McClash and carried 6 to 1, with Mrs. Harris voting nay.

OFF-SITE DIRECTIONAL SIGNS - PUBLIC FACILITIES

Mr. Pederson requested direction regarding a proposal by River Wilderness to place a directional sign south of the intersection of Old Tampa Road and U.S. 301 in Ellenton that contains directions to both the subdivision and to the Buffalo Creek Golf Course. Question arises as to whether having the information about the non-county subdivision meets the intent of Section 724.7.2.9 of the Land Development Code (LDC) regarding exempt signs for public information giving directions to public facilities.

Motion was made by Mrs. Glass, seconded by Mrs. Harris and carried unanimously, to approve the item with the County to review the information.

Discussion: Interpretation of the LDC needs to be clear; directional sign subject to County approval; small signs leading to Erie road; staff to review the sign prior to being installed; etc.

BRADENTON MIDDLE SCHOOL - RENOVATIONS

Mr. Rothfuss requested approval of the planned renovations and improvements to the former Bradenton Middle School real and improved property; and authorization for the Chairman to execute a letter to the Executive Director of the Police Athletic League (PAL) of Manatee County, approving the planned renovations and improvements.

Lloyd Hagaman, Executive Assistant to the Sheriff, addressed specific improvements, i.e., skateboard and roller hockey facilities, etc.

Motion was made by Mrs. Harris, seconded by Mrs. Glass and carried unanimously, to approve the request.

LAWSUIT: PINEY POINT PHOSPHATES, INC. V. DEP

Jeffrey Steinsnyder, Assistant County Attorney, requested authorization for the County Attorney to either direct special counsel to continue to monitor or to direct the County Attorney to engage special counsel to intervene in Case 96-3926 and 96-3927, Piney Point Phosphates, Inc. v. Department of Environmental Protection (DEP). If the Board chooses to engage special counsel to intervene, he recommended adoption of

R-96-275 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FINDING THAT THE PENDING PERMIT CHALLENGE BY PINEY POINT PHOSPHATES, INC., INVOLVES THE SUBSTANTIAL INTERESTS OF A SIGNIFICANT NUMBER OF RESIDENTS OF MANATEE COUNTY.

Discussion: County support DEP position; increase cost of special counsel; intervention.

Motion was made by Mr. McClash, seconded by Ms. Brown and carried unanimously, to authorize the County Attorney to engage special counsel to intervene in Piney Point Phosphates, Inc. v. DEP, Case No. 96-3926 and 96-3927 and adopt Resolution R-96-275.

RECORD S45-1130

S.R. 70 IMPROVEMENTS - EMINENT DOMAIN SETTLEMENTS

As a result of citizen's comment earlier in the meeting, Mitchell Palmer, Assistant County Attorney, amended the recommendation regarding the S.R. 70 Improvements and Eminent Domain Settlements to reflect the following four recommendations (Parcels 107 and 108):

1) Approval of a settlement with property owners Burt K. Rogers, as Trustee, and tenants ATCO, Inc., and PASS of Sarasota, Inc., for payment by Manatee County of the aggregate sum of \$619,294.80, inclusive of expert's fees and all other costs and expenses, but exclusive of attorney's fees, for the taking of Parcel 107 in the eminent domain matter of Manatee County v. Burt K. Rogers, et al, Case CA-95-2480.

2) Approval of a settlement with property owners Clayton and Diane Sutton and tenant Country Garden Patch, Inc., for payment by Manatee County in the aggregate sum of \$45,000 in the eminent domain matter of Manatee County v. Burt K. Rogers, et al, Case CA-95-2480, for the taking of Parcel 108, plus the statutory required attorney fee of \$13,252.80, but excluding the fees of the only expert they have hired to date (Lloyd Morganstern's fees will be addressed separately).

3) ATCO, Inc. and Burt K. Rogers and Clayton and Diane Sutton will negotiate with each other for the reconfiguration of the Sutton's existing access easement with no involvement or liability on the part of Manatee County and the easement shall comply with all applicable County regulations.

4) Mr. Rogers and ATCO, Inc., agree that the existing Amoco sign will remain in its present location, and furthermore, that Mr. and Mrs. Sutton will not object if ATCO, Inc., should choose to relocate the propane tank to its original position within the Sutton's easement.

He noted that ATCO, Inc., has agreed to accept \$6.50 a square foot for value of the land actually taken. The operator of the convenience store/deli (PASS of Sarasota) agreed to accept a settlement of \$110,000. All parties have decided to forgo the necessary 30-foot easement that was to be placed on Mr. Sutton's property resulting in a net savings to the County of \$50,000.

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Bob Gill, attorney for the Suttons, and Paul Bucher, attorney for ATCO, Inc., stated they agree with the amended recommendations.

Motion was made by Mrs. Glass, seconded by Ms. Brown and carried 6 to 0, to approve recommended items 1 through 4. Mr. McClash declared a conflict of interest and abstained from voting.

S.R. 70 EMINENT DOMAIN - OFFER OF JUDGMENT

Motion was made by Mrs. Harris, seconded by Ms. Brown and carried unanimously, to authorize the County Attorney's Office to extend a formal Offer of Judgment to property owner Tara-Manatee, Inc., in the sum of \$415,000 exclusive of attorney's fees and costs, in the eminent domain matter of Manatee County v. John J. Nevins, et al, Case CA-95-4342 (Project 2516/Parcel 101), S.R. 70 Improvements.

TRANSPORTATION DISADVANTAGED - PLANNING OPTIONS

Motion was made by Mrs. Harris, seconded by Ms. Brown and carried unanimously, to adopt

R-96-277 RESOLUTION OF THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS ENCOURAGING THE STATE COMMISSION FOR THE TRANSPORTATION DISADVANTAGED (CTD) TO DELAY ACTION ON THE PROPOSED PLANNING OPTIONS. RECORD S45-1131

AIR POLLUTION CONTROL CODE - AD HOC TECHNICAL ADVISORY COMMITTEE

Karen Collins, Environmental Management Department Director, recommended adoption of

R-96-276 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, ESTABLISHING A SEVEN-MEMBER TECHNICAL ADVISORY COMMITTEE FOR THE PURPOSE OF SETTING LOCAL PERFORMANCE STANDARDS FOR EMISSIONS FROM MAJOR AIR POLLUTION SOURCES; PROVIDING FOR COMMITTEE MEMBERSHIP AND TECHNICAL QUALIFICATIONS OF THOSE MEMBERS; PROVIDING FOR PROCEDURES; PROVIDING FOR A STAFF LIAISON; PROVIDING FOR THE FORMULATION AND PRESENTATION OF RECOMMENDATIONS TO THE BOARD OF COUNTY COMMISSIONERS; AND PROVIDING FOR DISSOLUTION OF THE COMMITTEE ONCE THE BOARD HAS TAKEN ACTION ON THE COMMITTEE'S RECOMMENDATIONS.

Discussion: Members comprising committee; technical qualifications; alternative fuels; stack emissions; economic impact study; air quality expert on committee; performance standards; 1974 air rules; burning coal; review permits of other plants (Tampa); defer action until hold a seminar with Tampa Bay National Estuary Program (NEP); Pinellas, Hillsborough and Sarasota Counties' performance standards; seminar available to the public.

Motion was made by Mrs. Glass, and seconded by Mrs. Harris, to host, along with the NEP, a conference on Air Quality.

Discussion: Representatives from Department of Environmental Protection and Environmental Protection Agency; seminar on a state and national level; open for public comment; etc.

Motion carried unanimously.

(Depart Mr. Gause)

SCHOOL BUS STOP RELOCATION

Motion was made by Mrs. Harris, seconded by Mr. McClash and carried 6 to 0, to authorize the Chairman to send a letter to the Chairman of the School Board requesting the bus stop at U.S. 41 and Braden Avenue be moved to a safer location due to prostitution in the area.

(Enter Mr. Gause)

COMMISSIONERS' COMMENTS

57th Avenue East (15th Street East/14th Street West)

Mrs. Harris requested a speed limit reduction on 57th Avenue East from 15th Street East to 14th Street West.

Disposition: Referred to the County Administrator and the Community Safety Action Team.

Tampa Bay Regional Planning Council - License Tags

Ms. Brown noted she has a petition for anyone wishing to sign regarding a specialty automobile tag (silver kingfish tag).

Landfill Regulations/Fees

Mr. Stephens relayed a complaint from individuals who were charged double fees at the Landfill for not providing a cover (tarp) for items such as a refrigerator and stacks of pallets.

Disposition: Referred to the County Administrator and Landfill staff.

PLANNING MEETING - DATE CHANGE

Mr. Stephens noted that a full Board will not be present at the November 21, 1996, Board meeting due to Commissioners attending the National Association of Counties (NACo) meeting.

Motion was made by Mrs. Harris, and seconded by Mr. McClash, that the items from the November 21, 1996, agenda be continued to November 26, 1996. Mrs. Harris noted that she will be available to open and continue the items on the 21st agenda. Motion carried unanimously.

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

ORDINANCE 96-51: AIR POLLUTION CONTROL CODE AMENDMENT

H. Hamilton Rice, Jr., County Attorney, recommended adoption of

R-96-274 A RESOLUTION OF THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS DECLARING AN EMERGENCY EXISTS AND THAT AN IMMEDIATE ENACTMENT OF AN AMENDMENT TO ORDINANCE 96-22 IS NECESSARY.

AND

ORDINANCE 96-51 AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE NO. 96-22, THE AIR POLLUTION CONTROL CODE, TO REPEAL SECTION XI PROVIDING SPECIFIC PERFORMANCE STANDARDS AND RENUMBERING SECTION XII THROUGH XIX; AND PROVIDING FOR AN EFFECTIVE DATE.

Submitted was a letter (11/5/96) from Alan Prather, attorney representing Tropicana Products, Inc., supporting adoption of the Resolution R-96-274 and Ordinance 96-51.

On October 29, 1996, the Board was informed that Florida Power and Light Company (FP&L), as well as several other industries, could not meet the Specific Performance Standards in Ordinance 96-22. The Board indicated that it was not the intent to apply these standards to existing industries operating under valid Department of Environmental Protection permits.

Mr. Rice stated that six Board members must vote to adopt the resolution declaring an emergency in order to waive the 10-day advertising requirement.

(Enter Mrs. Harris)

Motion was made by Mr. McClash, and seconded by Mrs. Hooper, to adopt Resolution R-96-274 declaring that an emergency exists and that an immediate enactment of an amendment to Ordinance 96-22 is necessary. Motion carried 6 to 1, with Mr. Gause voting nay.

RECORD S45-1132

Public comment was opened to consider Ordinance 96-51. Addressing the Board were: **Tom Reese**, ManaSota 88, who stated no objection to the Resolution; **Howard Perley** distributed recommended air quality actions; **Linda Francis** stated standards should be protected; **Ron Allen**, Manatee Chamber of Commerce Chairman, spoke in favor of the new ordinance and noted the process of how this problem occurred should be reviewed.

Joe Parent, FP&L Plant Manager, stated they cannot operate the plant under the current Ordinance and be in compliance. The only option they would have would be to shut the plant down. He reviewed a history of the plant including the permits under which they operate.

Discussion: Clarification of who ordinance affects; 1993 performance standards; conflicts within the ordinance; technical staff needed.

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John Coate, Flowers Baking Company, supported the views of the Mr. Allen; Karen Magee, Magee Sign Service, addressed the economic impact of Ordinance 96-22 and stated the entire Ordinance needs to be reconsidered; Jim Lamm, Ohio Transformers, requested Ordinance 96-22 be repealed in its entirety and be brought back for discussion; Lloyd Williams supported the removal of Section XI; Jal Bharucha submitted a letter (11/5/96) with suggestions; Harry Wright, Palm Bay Mobilehome Park, submitted his comments regarding the environment; William Wheeler, suggested the date of implementation of the current ordinance be 180 days from adoption.

Karen Collins, Environmental Management Director, addressed the 1993 performance standards with corresponding options given at that time. She stated it was not the intent to apply new performance standards for emissions to already permitted facilities.

Mary Sheppard, Manatee/Sarasota Sierra Club, addressed enforcement of emission standards and spoke in favor of the action proposed today; Alan Prather, attorney representing Tropicana Products, Inc., addressed the need for further review of the entire Air Quality Ordinance by means of public hearings. He supported adoption of Ordinance 96-51; Amy Stein spoke in favor of the ordinance; Carl Black, International Brotherhood of Electrical Workers Local Union 820, requested relief from the existing ordinance.

Jerry Kirk, FP&L, stated that it is not their desire to shut down the plant, they only wish to be in compliance with County standards. No threats were made to the County, only facts of being in non-compliance.

The Chairman submitted a letter from St. Armands Baking Co. (11/5/96) and a letter from Charles Loiselle, Longboat Key (11/6/96).

Motion was made by Mr. McClash, and seconded by Mrs. Glass, to adopt Ordinance 96-51 repealing Section XI of the Air Pollution Control Ordinance.

Discussion: Review after presentation by NEP; grandfathering language; fuels; municipalities adopt ordinance in their own district.

Motion carried unanimously.

RECORD S45-1133

STREET VACATION: HARBOR HILLS SUBDIVISION

Public hearing (Notice in the Bradenton Herald 10/16/96) was held to consider

R-96-182-V RESOLUTION ON APPLICATION BY CURTIS D. AND JANICE R. HAMLIN AND JOHN D. AND RITA S. RODDENBERRY TO VACATE A NON-CONSTRUCTED PLATTED STREET (MIDWAY PARK) IN HARBOR HILLS SUBDIVISION.

Jim Staples, Land Acquisition, submitted a letter (10/23/96) from Nancy and Robert Dean in favor of the request.

Motion was made by Mrs. Harris, seconded by Mr. Gause and carried unanimously, to adopt Resolution R-96-182-V.

RECORD S45-1134

ORDINANCE 96-44: CABLE TELEVISION - FRANCHISE FEE AMENDMENT

Public hearing (Notice in the Bradenton Herald 10/19/96) was held to consider

ORDINANCE 96-44 AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING SECTION 2-7-13(h) OF THE CABLE TELEVISION ORDINANCE OF MANATEE COUNTY, CODIFIED AS CHAPTER 2-7 OF THE MANATEE COUNTY CODE OF LAWS; PROVIDING THAT FRANCHISE FEE PROCEEDS SHALL BE RECEIVED BY THE COUNTY AND EXPENDED IN THE MANNER OUTLINED BY THE COUNTY ADMINISTRATOR AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS IN THE BUDGET PROCESS; AND PROVIDING AN EFFECTIVE DATE.

Karen Jackson Sims, Community Affairs/Intergovernmental Relations Director, recommended adoption of the ordinance.

Motion was made by Mrs. Glass, and seconded by Mrs. Harris, to adopt Ordinance 96-44. Motion carried 6 to 1, with Mr. McClash voting nay.

RECORD S45-1135

ORDINANCE 96-48: PARKS AND RECREATION

Public hearing (Notice in the Bradenton Herald 10/25/96) was held to consider

ORDINANCE 96-48 AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING AND SUPPLEMENTING THE PROCEDURES AND REQUIREMENTS RELATING TO VENDING AND PEDDLING AND ADVERTISING WITHIN COUNTY PARKS; AMENDING AND SUPPLEMENTING THE PROCEDURES AND REQUIREMENTS RELATING TO THE DISTRIBUTION OF HANDBILLS, CIRCULARS AND OTHER WRITTEN MATERIALS; PROVIDING FOR LICENSED CONCESSIONAIRES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mr. Rice submitted a memorandum (11/1/96) from Patricia McVoy, Assistant County Attorney, outlining amendments to the proposed ordinance.

Danny Hopkins, Parks and Recreation Director, recommended adoption.

Motion was made by Mrs. Harris, seconded by Ms. Brown and carried unanimously, to adopt Ordinance 96-48.

RECORD S45-1138

ZONING

(Carol Cason, court reporter, was present)

Public hearing (continued from 10/15/96) was held to consider

PDR-95-11(P) PALMA SOLA BAY ASSOCIATES (PALMA SOLA BAY CLUB)

Request: Revised Preliminary Site Plan to allow 200 multi-family units at a density of 9.4 du/acre located at the terminus of 40th Avenue West 1,250 feet west of 75th Street West and bounded on the west by Palma Sola Boulevard on 21 acres zoned PDR.

If approved, staff recommended 11 Stipulations;

RECORD S45-1137

Grant Specific Approval for an alternative to Section 603.7.4.5, greenbelts within the PDR district.

Approve and authorize execution of the proposed Settlement Agreement and associated documents.

Mark Barnebey, Assistant County Attorney, recommended approval of the Preliminary Site Plan and authorization for the Chairman to execute the proposed Settlement Agreement with Palma Sola Bay Associates (aka Palma Sola Bay Club Associates and P.S.B. Associates) and The Palma Sola Corporation.

The settlement agreement is a result of the Board denying the site plan on April 16, 1996, and the applicant petitioning the Circuit Court for a writ of certiorari to overturn the action (Case CA-96-1808). The Settlement Agreement, if approved, authorizes execution of a Notice of Voluntary Dismissal with Prejudice and a Release of All Claims by the petitioner. He recommended the record of the prior hearings (3/28/96 and 4/16/96) be incorporated into this hearing (copy of minutes).

A letter (11/5/96) was submitted from Selma Zislis stating proper notice was not issued for this hearing.

Mr. Barnebey stated adequate notification was provided. He reviewed the revisions proposed to the original site plan and referred to the site plan used in a previous hearing (3/28/96). A new site plan was submitted/reviewed. An aerial and a Land Information Systems map were referred to depicting the proposed use and surrounding uses.

Bob Pederson, Planning Department, submitted various letters into the record and a revised motion incorporating Findings for Specific Approval etc., if the plan is approved. He noted the height of the buildings is proposed at 36 feet and staff finds the request to be compatible with the recommended stipulations.

Caleb Grimes, attorney representing the applicant, stated he was available to answer questions.

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Speaking in opposition to the request were: Charlotte Bell, Palma Sola Bay Homeowners Association President; Mary Sturges; Selma Zislis; Ed Gulash, Homestead Homes; Joyce Ellis, submitted a handout entitled Manatee County's Response to Request for Dispute Resolution and referred to two boards outlining LDC and Comprehensive Plan sections/policies; Patricia Petruff, Cortez Peninsula Board of Associates; Bill Markell, Cortez Peninsula Board of Associates; Sandy Nagy, San Remo Shores; Jane vonHahmann, Village of Cortez, submitted 3 photos; Bela Kerper; John McGee, Waterways Condominium Association.

Issues addressed were: Traffic; density; proper notice; value lowered for adjacent properties; size of buildings; wetlands; compatibility; transitioning; number of buildings; access; deed restrictions; precedent setting; growth of Manatee County; school capacity; etc.

Mr. Grimes noted the Future Land Use Category for this property is RES-16 and it is currently zoned PDR. He stated access has been taken off of Palma Sola Boulevard with this proposal. He addressed traffic and stated the request is consistent and compatible with the Comprehensive Plan and the LDC. He requested approved of the revised site plan and approval of the settlement.

Based upon the staff report, evidence presented, comments made at the public hearing, Mr. McClash moved to deny the settlement offer and remand it back to the dispute resolution process and affirming the action previously taken by the Board on PDR-95-11(P) at the prior meeting (4/16/96). Motion was seconded by Mrs. Glass.

Discussion: Special Master will make a determination if the County unduly burdened the property owner and then make a recommendation to the County; if the recommendations are not acceptable to the applicant, then the matter will go to court.

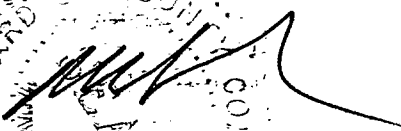
Motion carried 6 to 1, with Mr. Gause voting nay.

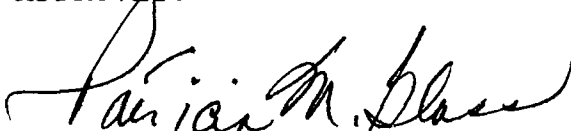
MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:

APPROVED:


Clerk


Chairman 1-7-97

Adj: 5:40 p.m.
/gbl

