

FEBRUARY 2, 1999

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Tuesday, February 2, 1999, at 9:05 a.m.

Present were Commissioners:

Stan Stephens, Chairman
Gwendolyn Y. Brown, First Vice-Chairman
Joe McClash, Second Vice-Chairman
Jonathan Bruce, Third Vice-Chairman
Patricia M. Glass
Lari Ann Harris participated via telephone.
Amy Stein

Also present were:

Ernie Padgett, County Administrator
Teddy N. Williams, Jr., County Attorney
Susan G. Romine, Board Records Supervisor,
representing R. B. Shore, Clerk of Circuit Court

Invocation by Rev. Mario Cimbaro, Christian Missionary Alliance

CONSENT AGENDA

Upon motion by Mr. Bruce and second by Mrs. Stein, the Consent Agenda dated February 2, 1999, was unanimously approved. Items APPROVED:

CLERK OF CIRCUIT COURT

CONSENT CALENDAR

BONDS

Accept:

Creekwood, Phase II, Subphase G & H

Agreement with Wilma-Creekwood (West) Joint Venture guaranteeing completion of required sidewalks and bikeways (\$16,406).

Old Grove at Greenfield Plantation, Phase II

1. Agreement with River Road Plantation Partnership warranting required improvements (\$40,651.90).
2. Defect Security: \$40,651.90 (Letter of Credit 941157, NationsBank, N.A.).

River Pointe, Unit 2 (A & B)

1. Agreement with Centex Homes warranting required improvements (\$127,524.77).
2. Defect Security: \$127,524.77 (Surety Bond 5977307, Safeco Insurance Company of America).

Peridia Isle Subdivision

Letter of Credit 9904, \$23,553.50, SunTrust Bank, Gulf Coast

GulfCoast Corporate Park, Phase I

Amended Defect Security: \$31,111.85 (Amended Letter of Credit 65, American Bank).

Release:

Creekwood, Phase II, Subphase G & H

Agreement (dated 2/6/96) with Wilma-Creekwood (West) Joint Venture guaranteeing completion of required sidewalks and bikeways (\$16,406).

Old Grove at Greenfield Plantation, Phase II

1. Agreement with River Road Plantation Partnership guaranteeing completion of required improvements (\$223,739.23).
2. Performance Bond: \$223,739.23 (Letter of Credit 941054, NationsBank, N.A.).

River Pointe, Unit 2-A

1. Agreement with Centex Homes guaranteeing completion of required improvements (\$1,255,710.30).
2. Performance Bond: \$1,255,710.30 (Surety Bond 5936580, Safeco Insurance Company of America).

River Pointe, Unit 2-B

1. Agreement with Centex Homes guaranteeing completion of required improvements (\$402,612.60).
2. Performance Bond: \$402,612.60 (Surety Bond 5936582, Safeco Insurance Company of America).

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(Continued)

Peridia Isle Subdivision

Letter of Credit T514123 \$23,553.50, Barnett Bank of Manatee County, N.A.

Summerfield Village, Subphase D, Unit 2

1. Agreement with SMR Communities Joint Venture guaranteeing completion of required improvements (\$11,070.41).
2. Performance Bond: \$11,070.41 (Surety Bond 109908, Frontier Insurance Company of New York).

Lakewood Ranch Country Club Village, Subphase C, Unit 2

1. Agreement with SMR Communities Joint Venture guaranteeing completion of required improvements (\$9,805.25).
2. Performance Bond: \$9,805.25 (Surety Bond 112216, Frontier Insurance Company of New York).

Lakewood Ranch Country Club Village, Subphase D, Unit 2

1. Agreement with SMR Communities Joint Venture guaranteeing completion of required improvements (\$9,520.88).
2. Performance Bond: \$9,520.88 (Surety Bond 109990, Frontier Insurance Company of New York).

Lakewood Ranch Country Club Village, Subphase C, Unit 1A

1. Agreement with SMR Communities Joint Venture guaranteeing completion of required improvements (\$15,617.88).
2. Performance Bond: \$15,617.88 (Surety Bond 109871, Frontier Insurance Company of New York).

Lakewood Ranch Country Club Village, Subphase C, Unit 1B

1. Agreement with SMR Communities Joint Venture guaranteeing completion of required improvements (\$13,900.25).
2. Performance Bond: \$13,900.25 (Surety Bond 109875, Frontier Insurance Company of New York).

Longpond at Mote Ranch (aka Mote Ranch, Phase III)

1. Agreement with Lennar Mote Ranch, Ltd. warranting required improvements (\$31,485.92).
2. Defect Security: \$31,485.92 (Letter of Credit SM-03330-096 with Amendment 1, NationsBank, N.A. South).

REFUNDS

Wilma A. Thomas - Impact Fees \$1,564

WARRANT LIST

Approve: January 26, 1999, through February 1, 1999

Authorize: February 2, 1999, through February 15, 1999

AUTHORIZE CHAIRMAN TO SIGNSatisfactions of Judgment:

Robert and Vickie Heminger, Case 97-2081JD
Deidra and Jeff Duffell, Case 98-1265JD
Thomas F. Race, Case 97-1977F

Partial Releases of Special Improvement Liens:

Projects 3004/2507; 3005/5235; 3006/2505; 3007/2508; 3009/5147 (4); 3010/5148; 3100/2509; 3102/2502 (3); 3106/5144; 4102/3904; 5031; 5064; 5130; 5147 (5); 5152; 5254

Tropical Shores Sewer and Road Improvements

Agreement with Woodruff & Sons, Inc., \$1,110,961.25; date performance/payment bond; accept insurance certificate (approved 1/5/99).

RECORD S46-1695

Telecommunications Towers

Pursuant to Section 704.59.3.12.6, Land Development Code, Irrevocable License to Enter Real Property And Remove Abandoned Telecommunications Tower with Owner/Operator of Telecommunications Facility and Owner/Lessor of Real Property:

1. Bell South Mobility/Anna Maria Fire Control District, 10350 Cortez Road (AP-98-73). RECORD S46-1696
2. Bell South Mobility/Clifford F. Snuffin, Jr., and Stan Brower, 10308 North U.S. 301 (AP-98-65). RECORD S46-1697
3. Bell South Mobility/Evelyn C. Balon and John Balon, 1507 Florida Boulevard (AP-98-58). RECORD S46-1698

ACCEPT

Anna Maria Fire Control District - Audited Financial Statements and Independent Auditor's Report for Fiscal Year ended September 30, 1998.

Court Improvement Fund Revenue - Fiscal Year 97-98 Annual Financial Report.

West Coast Inland Navigation District - Audited Financial Statements and the Annual Local Government Financial Report for Fiscal Year ended September 30, 1998.

COUNTY ADMINISTRATOR
ARTICLE V TRUST FUND GRANT

Execute the Grant-in-Aid Agreement with the State Courts Administrator for \$25,758; and letter transmitting a detailed spending plan for the grant funds to be used for expert witness fees in criminal cases. RECORD S46-1699

LAWSUITS

1. Deny settlement offer of \$80,000 in the case of Thomas R. Hannan, III, vs. Manatee County, Case CA-98-3380.
2. Settle landowner's (Diocese of Venice) experts' fees for \$15,000 to the appraiser (Woodward Hanson) and \$23,750 to the engineering and land planning firm (George F. Young, Inc.), in the S.R. 70 eminent domain matter of Manatee County vs. John J. Nevins, et al., Case CA-95-4342 (parcel 2512/109).

ENTERPRISE ZONE DEVELOPMENT AGENCY

R-99-29 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING R-96-158, PROVIDING FOR THE APPOINTMENT OF SEAT 7 AND SEAT 10 OF THE ENTERPRISE ZONE DEVELOPMENT AGENCY, AMENDING R-95-223, PROVIDING FOR THE REAPPOINTMENT OF SEAT 9 OF THE ENTERPRISE ZONE DEVELOPMENT AGENCY (appointing **Major Keith Stewart**, Manatee County Sheriff's Office, to Seat 9; **Fedora Ford**, Bradenton Job ETC, to Seat 7, and **Lt. Garry Lowe**, Palmetto Police Department, to Seat 10). RECORD S46-1700

STATE HOUSING INITIATIVE PARTNERSHIP

Agreement with Manatee Bankers for Affordable Housing for services relating to State Housing Initiative Partnership (SHIP) program strategies (1/1/99-9/30/99), not to exceed \$71,193. RECORD S46-1701

PERSONNEL STAFFING LEVELS

R-99-39 A RESOLUTION ESTABLISHING STAFFING LEVEL CHANGES BY JOB CLASSIFICATION FOR THE DEPARTMENT UNDER THE JURISDICTION OF THE BOARD OF COUNTY COMMISSIONERS (Decrease: **Community Services** 133 to 132; Increase **Court Administration** 14 to 15). RECORD S46-1702

TRANSIT

1. Execute the Florida Agency for Health Care Administration electronic claims submission agreement (and application) to allow the Transit Division to bill **Medicaid** electronically for transportation. RECORD S46-1703
2. **R-99-38** A RESOLUTION OF THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS AUTHORIZING THE SUBMISSION OF A 49 U.S.C. 5311 **RURAL OPERATING ASSISTANCE** (FORMERLY SECTION 18) GRANT APPLICATION TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (\$18,183 local and \$18,183 federal from 10/1/99-9/30/00; authorizing the Chairman or, in his absence, the Vice-Chairman to execute all documents for submission of the grant). RECORD S46-1704
S46-1705

AIR MONITORING SERVICES

Execute agreement with the Department of Environmental Protection for ambient air monitoring. RECORD S46-1706

COQUINA BOAT RAMP

Execute Joint Application to the Department of Environmental Protection, Southwest Florida Water Management District, and U.S. Army Corps of Engineers for the environmental resource permit, and pay fees for maintenance dredging to remove shoaling at the end of the south Coquina Boat Ramp. RECORD S46-1707

BUDGET AMENDMENT (B-99-016)

Various Departments

Transfer of Funds; Unanticipated Revenue Appropriations Supporting description and detail attached RECORD S46-1708

BUDGETS

R-99-40 RESOLUTION ESTABLISHING BUDGET SUBMISSION DATE FOR CERTAIN CONSTITUTIONAL OFFICERS (establishing 5/1/99 as the due date for FY 1999-2000 budget requests from the **Clerk of Circuit Court, Sheriff, and Supervisor of Elections**). RECORD S46-1709

ANNA MARIA LAW ENFORCEMENT SERVICES

Execute agreement with the City of Anna Maria and Sheriff to provide services from 10/1/98-9/30/99 (City shall pay the County \$323,749). RECORD S46-1710

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(Continued)

MATERIALS AND SERVICES

1. **Advertising Delinquent 1998 Property Taxes** - Select the lowest responsible, responsive bidder meeting specifications, Manatee Herald-Tribune, \$10,080; and authorize the Chairman to sign a letter notifying the Tax Collector of the action.
2. **Computer-Aided Mass Appraisal System File Server** - Purchase via State contract from Oracle Corporation (software and maintenance) and Gateway Computer Associates (hardware and maintenance) for the Property Appraiser (CAMA System), \$143,421.
3. **Computers and Software** - Purchase via State contract from Compag Computer Corporation (computers) and from Compucom (software) for the State's Attorney, \$31,065.
4. **Networking Hardware** - Purchase via State contract from Anixter, Inc., for the Public Works Department, \$47,735.61.
5. **Land Information System Hardware and Software Maintenance** - Sole source purchase from Gateway Computer Associates, Inc., \$34,178.
6. **Euromach Excavator** - Sole source purchase of one Euromach hydraulic excavator from Globe Trailers of Florida, Inc., for the Transportation Department, \$160,850.
7. **Forklift** - Purchase via State contract from Coastline Equipment Co., Inc., for Public Works, \$34,532.
8. **Pump Repair Services** - Award IFB 98-6064MP on an as-required basis, to the lowest responsive, responsible bidder meeting specifications, Regional Engineering & Service, Inc., for an annual amount of \$75,000.
9. **Wellpoint Pump Rental** - Approve, ratify, and confirm emergency purchase (rental) from Coastal Dewatering, Inc., for stormwater ditch improvements, \$31,750.
10. **Vehicles** - Purchase three chassis-cabs via State contract from Ernie Haire Ford, for the Transportation Department, \$88,162.

LOCKWOOD RIDGE ROAD - APPRAISAL SERVICES

Execute Change Order 2 to Work Assignment 6 with R & W Enterprises, Inc., for an increase of \$18,400 and adjusted amount of \$106,940, for Lockwood Ridge Road improvements. RECORD S46-1711

UNIVERSITY PARKWAY RIGHT-OF-WAY - MOWING

Issue Change Order 2 to Purchase Order 8001436 with Southern Land Services of Manasota, Inc., for services (1/1/99-3/31/99), for an additional \$11,985 and total not to exceed \$33,957.50.

PARKS - ARCHITECTURAL/ENGINEERING SERVICES

Execute agreement with Wade-Trim, Inc., on an as-required basis for one year with two, one-year extension options. RECORD S46-1712

DONATIONS - PARKS AND RECREATION

1. Accept batting cages for Lakewood Ranch Park from Braden River Little League, valued at \$5,000.
2. Accept renovations to a pavilion at Blackstone Park for a concession and storage area from the Manatee Fast Pitch League, valued at \$500.
3. Accept \$10,000 from the North River Little League, to be used if needed, along with budgeted County funds, to install backstops and fencing at Buffalo Creek Park.
4. Accept \$1,160 in value from the business community for the East Bradenton Outreach Program (Albertson's, \$40 value; Aldrich Rug Interiors, Inc., \$160 value), 1998 Easter Egg Hunt (Bill Graham Ford, \$250), Ho Ho Hotline (GTE Mobilnet, \$300 value; Dominos Pizza, \$60 value), and Winter Wonderland; also Bradenton Herald, \$300 value and Target, \$50 value.

YOUTH AFTERSCHOOL PROGRAM

Execute Florida Department of Children and Families Fiscal Year 1998-1999 licensing application for the program at G. T. Bray Park; and authorize the Parks and Recreation Director, or designee, to execute the Affidavits. RECORD S46-1713

FINAL PLAT**Summerfield Village Subphase C, Unit 10 - Revised**

1. Plat
2. Mortgagee's Joinder with Amresco Commercial Finance, Inc.
3. Mortgagee's Joinder with Northern Trust Bank of Florida, N.A.
4. Mortgagee's Joinder with Lakewood Ranch Community Development District 1.

TIME PAYMENT AGREEMENTS

Execute and record agreements for facility investment fees connection and line extension charges with Country Retreat, Inc.; Bullett Enterprises (William W. Smith, Tr.); Linda Young; Richard C. McMillan and Celeste Bohayczyk; Michael C. Wesley; and Tamara Hogan. RECORD S46-1714-
S46-1719

DEEDS AND EASEMENTS

1. 63rd Avenue at 15th Street East - Warranty Deed from Elm Lakes Apartments, Ltd., for 10 feet of right-of-way; Affidavit of Ownership and Encumbrances; Partial Release from First Union National Bank.
2. Trail Security Storage/U.S. 41 - Utility Easement from Robert J. Amsdell, Trustee, for a watermain; Affidavit of Ownership and Encumbrances.

CROSLY ESTATE - U.S. 41 ACCESS

R-99-31 A RESOLUTION OF MANATEE COUNTY, FLORIDA, REQUESTING THAT THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT FUND OF THE STATE OF FLORIDA, GRANT TO MANATEE COUNTY, A ROAD RIGHT-OF-WAY EASEMENT FOR CONSTRUCTION OF A DECELERATION AND TURN LANE ALONG U.S. 41, IN MANATEE COUNTY (requesting conveyance of a roadway easement for construction of a deceleration and turn lane into the Crosley Estate). RECORD S46-1720

FLOOD MITIGATION ASSISTANCE PROGRAM

Execute Department of Community Affairs, Division of Emergency Management, grant applications to retrofit the homes of Dean A. and Ellen Jorgenson, 1107 32nd Street Court East, Bradenton (total \$156,228); and Earl W. Jr., and Geraldine M. Harvill, 802 39th Avenue West, Bradenton (total \$127,225), pending review by the County Administrator or designee. RECORD S46-1721-
S46-1722

(End Consent Agenda)

AWARDS

Employee of the Month

A Certification of Appreciation plaque was presented to **Charles Terry**, Transit Operator, as February 1999 Employee of the Month.

Fred Loveland, Community Services Director, and Carl Gaites, Transit Manager, outlined Mr. Terry's 13 years of service to the County and dedication to the bus riders.

PROCLAMATIONS

College Fund/UNCF Day

Upon motion by Mrs. Glass and second by Mrs. Stein, a Proclamation was unanimously adopted designating February 4, 1999, as College UNCF Day.

Members of the United Negro College Fund accepted the Proclamation. RECORD S46-1723

Gulf Coast Senior Games Week

Mr. Bruce moved to adopt a Proclamation designating February 15-21, 1999, as Gulf Coast Senior Games Week. Motion was seconded by Mrs. Stein and carried unanimously.

Accepting the Proclamation was Bill Ward, Parks and Recreation Department. RECORD S46-1724

Shrine Hospital Days

Motion was made by Mr. McClash, seconded by Ms. Brown, and carried unanimously to adopt a Proclamation designating February 4-6, 1999, as Shrine Hospital Days.

Proclamation was accepted by a Manatee Shrine Club member. RECORD S46-1725

Manatee County Girls and Women in Sports Day

Upon motion by Mrs. Glass and second by Mrs. Stein, a Proclamation was unanimously adopted designating February 4, 1999, as Manatee County Girls and Women in Sports Day.

Marge Kinnan, representing Manatee County American Association of University Women, accepted the Proclamation. RECORD S46-1726

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(Continued)

TRANSIT - FIXED ROUTES

Public hearing (Notice in the Bradenton Herald 1/22/99) was held to consider proposed changes to the Manatee County Area Transit (MCAT) fixed route bus system.

Mr. Loveland advised that the Transit Task Force held public meetings. He referred to the recommendations: (1) add a tenth bus; (2) add a "tripper" service from Cortez Plaza to the Tallevast/Whitfield employment centers (Monday-Friday); and (3) increase service for all regular routes to begin and end at the same time.

He reviewed an updated MCAT route proposal map depicting service additions and deletions/re-routing.

Speaking regarding the bus service were **Mark Kauble, Thelma Steiner, Patricia Orr, Florence Mallory** (representing Trailer Estates), **Thomas Miller, Paul Welch** (representing Supported Employment Community Review Board), **Vanita Parker**, and **Arthur Robbins** (member Transit Task Force).

Items addressed: Appreciation for bus service; whether drivers had input; holding meetings at time when working people can attend; effect of changes on those walking to bus stops, i.e., 53rd Avenue, Orlando Avenue, 5th Street, and Southeast High School; good transit service and drivers; service on 9th and 14th Streets West; need for "tripper" route; hospital route; routes studied for two years.

Discussion: Target date of April 1999 for implementation; Route 3 turnaround at Woodbury Apartments.

ZONING

Public hearing (continued from 1/26/99) was held to consider

PDPI-98-03 (Z) (G) SCHOOL BOARD OF MANATEE COUNTY
(LEE MIDDLE SCHOOL)

AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY, ORDINANCE 90-01 (THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF MANATEE COUNTY PROVIDING FOR THE REZONING OF CERTAIN LAND FROM PDR TO PDPI; PROVIDING AN EFFECTIVE DATE; AND APPROVAL OF A GENERAL DEVELOPMENT PLAN TO ALLOW A 160,000-SQUARE-FOOT MIDDLE SCHOOL; ON 40.48 ACRES LOCATED ON THE SOUTH SIDE OF 53RD AVENUE WEST, 200 FEET WEST OF 34TH STREET WEST AT 4000 53RD AVENUE WEST.

Planning Commission recommend approval with eight stipulations.

RECORD S46-1727

(Note: Motion is on the floor to deny the request.)

Mark Barnebey, Chief Assistant County Attorney, stated the Board must determine whether the site and site plan are consistent with the Comprehensive Plan and the Land Development Code, or to ensure compliance by adding stipulations.

Norm Luppino, Planning Department, submitted letters (11) in support and clarified that the site plan for the new Bayshore High School (PDPI-96-04) indicated the old high school building would be used as a middle school. He addressed concerns of pedestrian safety and compatibility, and referred to additional Stipulations 8 to 18 addressing the concerns.

RECORD S46-1728

Jerome Gostkowski, Planning Department, addressed transportation issues referring to Stipulations 8 through 15. He reviewed photographs depicting pedestrian and traffic impacts at Sugg and King Middle Schools (12/1/99) during dismissal of students, i.e., parking, stacking of cars, signage, etc. Mr. Gostkowski pointed out stormwater retention options on an aerial (two on the Winn Dixie Marketplace site and one on the north side of 53rd Avenue West).

Discussion: Retention location; bus access right-in/right-out and left-in only; providing adequate queuing area for student drop-off and pickup; western access; need for traffic analysis now to address 34th Street and 53rd Avenue West; coordinating 53rd Avenue improvements with School Board prior to school opening; School Board funding related

improvements to 53rd for tie-in to County improvements; speed zones and signalization; whether Morton Village residents are aware of stipulations; submitting copy of the Bayshore High School General Development Plan (PDPI-96-04 dated 8/16/96); impact on Lincoln Middle School construction.

(Depart Mrs. Stein)

Frank Brunner, School Board Vice-Chairman, responded to concerns regarding Lincoln Middle School construction (referenced in letters submitted). He advised that the school priority list to meet State compliance is as follows: Lee Middle, two new elementary schools, Ballard, Samoset, Lincoln Middle, and Manatee Technical Institute. Design plans for Lee Middle will be used for Lincoln Middle for a substantial savings.

Mr. Brunner concluded that Lee Middle is designed for 1,154 students with an opening enrollment of 908. He advised it would relieve overcrowding at Harllee, Sugg, and King Middle Schools, which have over 1,300 students, and noted that State funds could be lost if the time line for opening the school was not met. Letters and a petition in favor of the school on the site (instead of the old Bayshore High School building) were submitted.

Mike Pendley, representing the School Board, submitted a list of Comprehensive Plan objectives and policies responding to staff's review of the application regarding compatibility. He referred to the revised plan noting that play fields have been moved away from residential areas. He addressed density, floor area ratio, building height, and noted the County approved a high school (297,000 square feet) for this site in 1994 [Rosenthal, PDR-94-05(Z)(G)]. He concluded the request was compatible with building height, setbacks, buffers, and lighting.

Recess/Reconvene. All members present.

Bob Agrusa, transportation engineer with Dames & Moore, outlined a traffic review on conditions at 53rd Avenue and 34th Street West, and roadway segments on each leg of the intersection. He concluded that traffic generated by the school will operate at or above the adopted Level of Service D on existing public roads, including the scheduled 53rd Avenue widening, without additional off-site improvements. He noted this report does not include analysis of the driveways.

Alan Prather, School Board attorney, stated that if Florida Statute allows for the stipulations, and the School Board agrees after review, the stipulations will be followed.

Beverly O'Brien, Assistant Superintendent of School Board, was present to answer questions.

Discussion: Conceptual approval; decision needed today; whether a two-story building was considered regarding traffic, use of portables and open space; school scheduled to open in August 2000; need for traffic analysis; 53rd Avenue improvements and widening scheduled by County in the year 2000; working out stipulations with School Board later, etc.

Rick Fawley, project architect, addressed the design of the building.

Robert Lucas, Morton Village resident, stated the plan presented today was better than prior plans, however, recommended use of the old Bayshore High School Building.

Recess/Reconvene. All members present except Ms. Brown and Mr. McClash.

The public hearing was continued until later in the meeting.

CHILDREN'S SERVICES EMERGENCY FUNDING

Public hearing (Notice in the Bradenton Herald 1/23/99) was held to consider funding for the Myakka City Community Center, Inc., Project Smart Program, not to exceed \$21,450, beginning January 4, 1999, and ending September 30, 1999 (pursuant to Section 9 of Ordinance 91-42 as amended).

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(Continued)

Cheri Coryea, Community Services, stated the Children's Services Advisory Board recommended allocating Children's Services dedicated millage funds for an after school tutoring of migrant students.

Mr. Bruce moved to approve the recommendation. Motion was seconded by Mrs. Stein and carried 5 to 0.

Funding Agreement

Motion was made by Mrs. Glass, seconded by Mrs. Stein and carried 5 to 0, to execute an agreement with the Myakka City Community Center, Inc., for Children's Services funding to implement Project Smart, a migrant and immigrant tutoring program (1/4-9/30/99), \$21,450.

RECORD S46-1729

ZONING - LEE MIDDLE SCHOOL (Cont'd)

Ms. Clarke presented and reviewed Stipulations 1 through 21, which were revised by staff and the School Board.

RECORD S46-1730

(Enter Ms. Brown and Mr. McClash)

Discussion: Interlocal agreement to address retention ponds/drainage issues; require parties to agree that 53rd Avenue improvements from 34th to 43rd Streets be coordinated and completed prior to school opening; whether landscaping requirements pursuant to Chapter 235 are sufficient; allowing fields to be lit until 10:00 p.m., or deleting requirement (Stipulation 6); alternative to the five-foot-high fence or wall (Stipulation 13); deletion of Stipulation 4 since the playing fields have been moved; require landscaping rather than a wall behind Morton Village since a wall could hinder maintenance of the ditch, etc.

Motion on the floor (1/26/99) to deny the request was substituted with the following motion: Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Mrs. Glass moved to adopt Manatee County Zoning Ordinance PDPI-98-03(Z)(G); and approve the General Development Plan with 19 stipulations (as submitted by Ms. Clarke today and to be renumbered) and with additional revisions to Stipulations 6 (deleting 9:00 p.m.); 13 (...a fence or wall at least 5 feet high, a non-mountable curb, or other design alternative, which is acceptable to the Planning Director, shall be provided...to insure no pickup or drop-off of students is feasible.); 20 (In order to pursue the goal of completing the four laning of 53rd Avenue West prior to school opening, the School Board and Board of County Commissioners shall coordinate to establish the phasing...of improvements on 53rd Avenue West, which may be adjusted...). Motion was seconded by Mr. McClash and carried 6 to 1, with Mrs. Harris voting nay.

RECORD S46-1731

ORDINANCE 99-03 - WATER VESSEL REGULATIONS

Public hearing (Notice in the Bradenton Herald 1/22/99) was held to consider

ORDINANCE 99-03 AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING MANATEE COUNTY ORDINANCE 87-01 RELATING TO VESSEL CONTROL, WATER SAFETY, ENVIRONMENTAL PROTECTION, AND NOISE ABATEMENT; PROVIDING FOR DEFINITIONS; ESTABLISHING RESTRICTED AND REGULATED AREAS; PROVIDING FOR SPEED AND PRUDENT OPERATION CRITERIA; PROVIDING FOR EXEMPTIONS, PENALTIES, PROCEDURES, SEVERABILITY AND AN EFFECTIVE DATE.

William Henry, Assistant County Attorney, advised that the County had 15,425 vessels in 1997, of which 1,439 (9 percent) were personal watercraft or airboats, which were involved in 60 percent of accidents and 70 percent of injuries.

Mr. Henry referred to Florida Statute 327.65, which regulates boat engine noise above 90 decibels (dBA); however, a study by a University of Florida student was only able to obtain a reading of 81 dBA at a distance of 50 feet. He stated that, based on this information, the County Attorney recommended further review of the Ordinance and that the hearing be continued to March 16, 1999.

Discussion: Need enactment of Ordinance to control skiers on inland lakes, erosion, safety, etc.; depth limits.

Speaking in favor of the Ordinance were: **John Schillingford, Dana Cessna, Virginia Pittman** and **Bill Meador** of Perico Bay Club, and **William Wheeler**.

Items addressed: Airboat noise affecting residents; threat to birds and wildlife; need for enforcement; agency to contact for violations; Ordinance would not affect airboats operating within guidelines.

Warren Smith, airboat owner residing in Flamingo Cay, stated that County regulations are already in place and should be enforced.

Richard Cremaschi, Manatee Airboat Tours, Inc., stated that he operates his boat in accordance with regulations and has addressed noise concerns. He submitted a letter and copy of an advertisement from the telephone directory for the airboat at Myakka River State Park.

John Kintz, Longboat Key Police Chief, stated that Longboat Key has received numerous complaints regarding noise from watercraft. He supported adoption of the Ordinance, which would also enable regulation/enforcement of speeding and safety within restricted areas.

(Depart Mrs. Stein)

Discussion: Regulation inclusive of stormwater ponds; Ordinance does not prohibit watercraft on lakes, etc.

Mr. McClash moved adoption of Ordinance 99-03 amending Ordinance 87-01. Motion was seconded by Ms. Brown and carried 6 to 0.

RECORD S46-1732

(Court Reporter, Elsa Rohow, was present)

ORDINANCE 99-18 (F/K/A 98-51) - PUBLIC NUDITY

Public hearing (Notice in the Bradenton Herald 1/20/99) was held to consider

ORDINANCE 99-18 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MANATEE, STATE OF FLORIDA, TO BE KNOWN AS THE MANATEE COUNTY PUBLIC NUDITY ORDINANCE; STATING THE INTENT OF THE ORDINANCE; PROVIDING THE DEFINITION OF NUDITY AS PROHIBITED BY THIS ORDINANCE AND PROVIDING OTHER DEFINITIONS; PROVIDING LEGISLATIVE FINDINGS; PROHIBITING NUDITY IN CERTAIN PUBLIC PLACES; PROVIDING FOR ENFORCEMENT AND PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Jim Minix, Assistant County Attorney, stated this is the first public hearing on this Ordinance. He advised that the Planning Commission recommended approval (1/14/99) with an amendment 5(d) **"This Ordinance shall not apply to duly licensed adult entertainment establishments."** (transcript of meeting in agenda package.) He clarified the maximum imprisonment in the County jail shall not exceed 60 days.

He stated this Ordinance would prohibit nudity in all public places in the unincorporated areas of the County, and is not directed at any specific individual or business. He submitted approximately 800 letters in favor of the Ordinance and 2 in opposition.

Tedd Williams, County Attorney, advised that the Ordinance for consideration this date does not include Section 5(d).

Discussion: Whether existing County nudity ordinances had been challenged; Ordinance 99-18 contains language from other Florida county ordinances, which have been upheld on appeal.

Speaking in favor of the Ordinance without Section 5(d) were: **Tom McGlade; Pat Slate; Bruce Davis; Dr. Lee Oesch** (submitted 137 letters); **Dorothy Nathan**, representing Whitfield/Ballantine Homeowners Association; **David Caton**, President of Florida Family Association

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(Continued)

(submitted a manual "Evidence of Secondary Adverse Effects of Sexually Oriented Businesses"); Karen Frazier; Linda McGlade; Celeste Lawson; Carolyn Cimbaro; Sharon Eddy; Lou Holden; Mrs. McGlade; Jeannie Wilkinson; and Delores Redmon.

William Wheeler questioned whether the Ordinance contains more regulations than already exists.

Items addressed: Allowing nudity increases degradation/exploitation of women; crime; protecting children; need for enforcement of ordinances; destruction of family values; nudity clubs encourage drugs, prostitution, violence, immorality, etc.; adult businesses attract problems; economic deterioration and health risks caused by nude establishments; protecting community, etc.

(Depart Mrs. Harris during discussion)

Steve Mason, attorney representing Peek-a-Boo Lounge and Temptations II, referred to Appendix Volumes I and II (1/14/99) and Appendix (2/2/99) opposing Ordinance 98-51 (n/k/a 99-18), affidavits, and petitions with over 800 signatures.

He clarified that nudity does not occur at either business owned by his clients and that they are regulated by an existing ordinance. He stated the businesses have not caused harm to the community and outlined information in the Appendixes to substantiate this claim.

Mr. Mason referred to various court cases and legislation affecting the prohibition of adult businesses and stated that adult dancing is a form of entertainment not obscenity.

Discussion: Whether the new ordinance would affect the businesses.

Luke Lirot, attorney also representing Peek-a-Boo Lounge and Temptations II, stated that nude dancing is protected by the First Amendment. He pointed out the government has a limited legitimate purpose to restrict nudity for people who do not wish to see it; however, if exemptions are not included for businesses which deal with the protected aspect of nudity, licensed businesses such his client's become targets of the ordinance.

(Depart Mrs. Glass)

The Chairman announced the second public hearing will be held on March 16, 1999, at 5:00 p.m., with a decision to be made at the following County Commission meeting.

Recess/Reconvene. All members present except Mrs. Glass, Mr. McClash, and Mrs. Harris.

JOHN MARBLE RECREATION COMPLEX

Daniel Hopkins, Parks and Recreation Director, stated the YMCA has requested use of the gym at the John Marble Recreation facility on Thursday evenings for basketball.

William Henry, Assistant County Attorney, advised that the Board previously revoked the licenses of Our Family Ranch and the South County Youth Center, which were using the facility on Thursday and Saturday nights for bingo.

(Enter Mr. McClash)

Discussion: Whether County plans to schedule programs; term of basketball leagues; YMCA programming; renovation schedule, etc.

(Enter Mrs. Glass)

Motion was made by Mr. Bruce, seconded by Ms. Brown and carried 6 to 0, directing staff to negotiate with the YMCA for use of the facility.

ANIMAL SPAY/NEUTER PROGRAM

Karen Windon, Public Safety Director, requested approval to allocate funding of a no-cost spay/neuter program for control of unwanted newborn animals and animal overpopulation.

Kris Weiskopf, Animal Control Supervisor, stated the program would also decrease the number of animals at large and aggressive animals. He requested \$24,000 in addition to the \$6,000 already approved for this year, and approval of \$30,000 annually. The program is for animals of low income families as well as animals redeemed from animal control.

Following discussion of funding sources, Mr. Bruce moved approval of the request. Motion was seconded by Mrs. Stein and carried 6 to 0.

EMERGENCY COMMUNICATIONS CENTER

Ernie Padgett, County Administrator, reported that staff investigated the Public Safety Complex as an interim location of the Emergency Communications Center (ECC). It was determined there is not sufficient space to accommodate the ECC, direct support communications and computer equipment, and the Emergency Operations Center (EOC). The costs for relocation would be \$1,459,000.

He recommended that temporary improvements summarized in the Agenda Memorandum (2/2/99) be made to the fifth floor of the Administrative Center to accommodate the new 911/CAD system until a new ECC/EOC facility is operational. The cost to expand the current location would be \$145,000. Additionally, if approved, window film rated to withstand a Category 4 hurricane force wind to secure the area is estimated to cost \$364,600.

Motion was made by Mr. McClash and seconded by Ms. Brown to approve the recommendation for temporary improvements.

Discussion: Price of window film includes all windows in the building; assuring exact type/cost of film to come back for Board approval, etc.

Motion carried 6 to 0.

LAWSUITS

Thomas R. Hannan, III

The Chairman appointed Mrs. Stein to attend a mediation conference on April 7, 1999, at 1:30 p.m., in the case of Thomas R. Hannan, III vs. William D. Reed and Manatee County, CA-98-3380. This case resulted from a personal injury case when an automobile drove into a County street sweeper.

Nordic of Florida Development, Inc.

The Chairman appointed Mr. McClash to attend a mediation conference on February 11, 1999, at 9:00 a.m., in the inverse condemnation case of Nordic of Florida Development, Inc., et al. v. Manatee County, CA-97-343.

COMMISSIONERS' COMMENTS

Lincoln Park - Mrs. Glass requested that discussions be held with the City of Palmetto to determine how the Lincoln Park will be completed since the loss of the one cent sales tax revenues (referendum for continuation of sales tax was defeated).

Disposition: Referred to the County Administrator.

Gulf Coast Heritage Trail Reception - Mrs. Glass relayed a request from the Sarasota Bay Estuary Program requesting assistance from the Sheriff to direct traffic for the event at the Crosley Estate.

Disposition: Refer to the County Administrator

Traffic Signal U.S. 301 at Ohio Transformer - Ms. Brown requested that staff notify Florida Department of Transportation (FDOT) to remove the vehicle detector timer in order for the signal to operate continuously for traffic entering and leaving the Ohio Transformer Plant and the Harllee packing house.

Disposition: Letter to FDOT authorized.

Civic Center - Ms. Brown requested that Larry White, Civic Center Director, report on the Civic Center as a whole, i.e., how the Center is supported and functions.

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(Continued)

Emergency Operation Communication Center - Mr. Bruce requested review of a site provided by the Tara development for a new location for the EOCC and a possible Sheriff substation in East County away from coast.

Discussion: Location of an EOCC must be carefully considered, i.e., convenience for decision makers, ability to get to the location; bring back discussion.

Sunset Estates Mr. McClash relayed a complaint from a resident of Sunset Estates whose property is receiving water from the new development, Laurel Oak, which is elevated four feet above his lot.

Discussion: Site investigation; reviewing plans to address problem.

Area Code Changes - Mrs. Stein recommended a letter be sent to the Public Service Commission concerning a public hearing (2/5/99) to consider dividing the 941 area code, requesting that Manatee, Sarasota and Polk counties not be split.

Disposition: Staff will be attending the hearing.

75th Street West Building - Mr. Stephens relayed a request from the Anna Maria Island Community Center to use materials from a building, which will be demolished for road right-of-way, for use by the Center to comply with the Americans with Disabilities requirements.

Disposition: Referred to the County Administrator.

Recess/Reconvene. All members present except Mrs. Harris

ZONING

Public hearing (continued from 1/26/99) was held to consider

PDR-98-19(Z) (P) + ERNEST S. MARSHALL/RIVER'S EDGE

ZONING ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE, RELATING TO ZONING WITHIN THE UNINCORPORATED AREA OF MANATEE COUNTY; PROVIDING FOR THE REZONING OF CERTAIN LAND FROM RDD-4.5 TO PDR, RETAINING THE WP-E/ST OVERLAY DISTRICTS; PROVIDING AN EFFECTIVE DATE; AND APPROVAL OF A PRELIMINARY SITE PLAN TO ALLOW A 124-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION AT A GROSS DENSITY OF 3.1 DU/ACRE ON 38.97 ACRES LOCATED AT THE SOUTHWEST CORNER OF LINGER LODGE ROAD AND 65TH AVENUE EAST (BRADEN ROAD).

Planning Commission recommended APPROVAL;

If approved, staff recommended eight stipulations. **RECORD 846-1733**
GRANTING Special Approval for a project located in the Watershed Overlay;

ADOPTION of the Finding for Specific Approval; and

GRANTING Specific Approval of an alternative to Section 907.9.4.2 of the Land Development Code.

(Advertised as 124 lots; plan revised to 119 lots.)

Robert Pederson, Planning Department, distributed stipulations, a revised motion, and copies of the original and revised site plans. He submitted correspondence from William Merrill, representing the proposed developer, relating to the 25- and 100-year flood capacity of the stormwater retention facilities and the berm elevations. He referred to both plans noting changes: 60-foot lots have been eliminated; applicant proposed a 6-foot-high wooden fence along Quonset Road, Pine Road and 67th Avenue East; connection to Quonset Road has been eliminated; and open space has increased to 32 percent.

He reviewed staff recommendations: (1) Stipulations 1-3 agreed to at last meeting; (2) lots shall be a minimum of 70 feet in width; (3) recreational area should be centrally located (66th Avenue and 67th Street East) and increased so the entire project contains 35 percent upland open space; (4) access on Linger Lodge Road be brought into compliance with Land Development Code (LDC); (5) 6-foot-high fence/wall surround development and (6) specific approval for cul-de-sac.

Discussion: Landscaped buffer; maintenance of buffer; rights-of-way available on all sides of property; place landscaped buffer outside of wall/fence; 20-foot landscaped buffer along all perimeter roadways.

William Merrill, representing the applicant, stated the applicant concurred with all stipulations except 4 and 8. He advised that the 60-foot lots have been eliminated; 66-foot lots have decreased from 81 to 48; and 70-foot lots have increased from 29 to 71. Referring to revised site plan, he pointed out the interior location of the 66-foot lots and the alternate location for the recreational area (Lot 8).

He requested the recreational area remain at the original location, due to the proposed fence and landscaping, as well as the elimination of the southern access. He advised open space has increased to 32.9 percent and requested specific approval for the additional 2.1 percent. He noted the project entry will be redesign to comply with LDC. He stated a wall is cost prohibitive to the project and not compatible with the neighborhood.

Bo Medred, Genesis Planning and Development, referred to the revised plan discussing the surrounding development and density. He noted with the reduction to 119 units, the gross density is 3.05 du/acre. He stated the proposed fence, in addition to the 20-foot landscaped buffer, will keep the character of the existing area.

Discussion: Aesthetics of fence; fence and landscaping maintenance could be included in homeowners documents; fence/wall must include 65th Avenue.

Speaking in opposition were: **Dan Lobeck** (attorney retained by group of neighbors); **James Holmes** (representing Marineland Homeowners to Save the River); **Ray Manning**; **Michael Johnson** (representing neighbors); **Anna Fraker**; and **Angela Dukeman**.

Items addressed: Enforcement of fence maintenance; endorse block wall; development is out of character; neighborhood compatibility; applicant has not complied with minimum 70-foot lot widths; 75-foot lots should be considered; does not meet 35 percent upland open space requirement; central relocation and safety concern of playground; elimination of secondary access; setbacks; include wall along 65th Avenue; revised plan eliminates only 3 lots; questioned calculation of density; applicant has not responded to all issues; development detrimental to the river; fenced playground; LDC Section 604.1.2.13 requires that upland open space in the WP-E overlay is at least 35 percent; Section 603.20.5.2 requires open space in the WP-E is at least 40 percent.

Mr. Pederson clarified that the entry at Linger Lodge Road will be revised to a boulevard section and read amended stipulations:

2. The developer shall provide a 20-foot landscaped buffer along all exterior or perimeter roadways.
8. A 6-foot-high solid wood fence **or** (concrete block wall with stucco finish) shall be constructed along Quonset Road, Pine Road, 67th Avenue East, and 65th Avenue with the required landscaping to be placed on the outside of the fence **or** (wall).

Mr. Pederson reviewed calculations for density and indicated if the recreational area was increased in size so the entire project contains 35 percent of the upland acreage as open space, along with the redesign of the entry, a reduction of at least six lots would result. He noted the requirement for a minimum of 70-foot-wide lots will result in an additional decrease in lots and this will be defined by the plan submitted in compliance with stipulations.

Discussion: Former approval of less than 35 percent open space for PDR only; must meet requirements for specific approval; elevation of berms and lots.

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Jerome Gostkowski, Planning Department, addressed the required berm and lot elevations and stated construction of the wall/fence would be measured from the berm.

Carol Clarke, Planning Director, clarified the requirement for open space stating 35 percent of the predevelopment upland acreage must be maintained as open space, and that open space must meet the LDC standards of which a certain percentage can be water bodies. She noted Section 603.20.5.2 of LDC (referred to in public comment) relates to Planned Development-Agriculture.

Mr. Medred, in rebuttal, submitted photographs (3) of lots fronting Quonset Road. Referring to the site plan, he noted these lots have fences, primarily chain link, that abut the proposed development. He addressed right-of-way, buffers, walls or fences, elimination of southern access, recreational area in original location, etc.

Larry Lippert, representing the applicant, responded to a question regarding the elevation of Lot 20, stating it would be no more than 6-8 inches above natural ground.

Mr. Merrill objected to Stipulations 4 and 8. Regarding Stipulation 5, he stated the recreational area will be fenced and placed at the specified location. He proposed a compromise for Stipulation 8, to include a 6-foot-high wood fence with 2x2 block pillars spaced every 24 feet on center.

Motion

Based upon the revised staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be consistent with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Mr. McClash moved to adopt Manatee County Zoning Ordinance PDR-98-19(Z)(P); approve the preliminary site plan, with Stipulations 1, 2 (as amended), 3, 4, 6, 7, 8 (to include the 6-foot-high solid concrete block wall with stucco finish and as read by Mr. Pederson); adopt the Finding for Specific Approval as identified in the revised staff report; grant Specific Approval to an alternative to Section 907.9.4.2 of the Land Development Code and grant Special Approval for a project located in the Watershed Overlay. Ms. Brown seconded the motion for discussion.

Discussion: Stipulation 5 deleted; relocation of playground not required due to construction of block wall and fencing; Stipulation 7; importance of wall and landscaped buffer; residential subdivision that has less density than the two surrounding subdivisions; development turned into a fortress with the wall, etc.

(Enter Mrs. Harris during discussion)

Amended Motion - Failed

Motion to amend was made by Mrs. Stein to eliminate Stipulation 4 and amend Stipulation 8 to read: A 6-foot-high wood fence with 2x2 concrete pillars spaced 18 feet on center shall be constructed along Quonset Road, Pine Road, 67th Avenue East and 65th Avenue with the required landscaped buffer on the outside between the road and the fence.

Discussion: Differences of surrounding area; transition between old Florida neighborhood and a modern subdivision is preserved; block wall provides security; wall enclosing the project is out of character.

Amended motion **failed** 2 to 5, with Mrs. Glass, Mrs. Harris, Mr. McClash, Mr. Bruce, and Ms. Brown voting nay.

Vote - Motion

Original motion carried 6 to 1, with Mr. Stephens voting nay. RECORD S46-1734

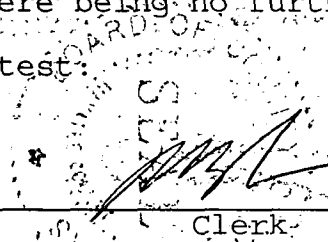
Mark Barnebey, Chief Assistant County Attorney, requested a revised site plan in compliance with amended stipulations (as approved this date) and including the cover sheet with details.

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:

APPROVED:



[Handwritten signature]

Clerk

[Handwritten signature]

Chairman 4/6/99

Adj: 6:25 p.m.
/jr/njh