

RESOLUTION NO. 04-122

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING SARASOTA BAY; AUTHORIZING THE COUNTY ATTORNEY TO PROVIDE LIMITED LEGAL SERVICES TO THE SARASOTA BAY ESTUARY PROGRAM; ESTABLISHING POLICIES FOR CONFLICTS OF INTEREST; AUTHORIZING THE COUNTY ATTORNEY TO EXECUTE AND ACCEPT A LETTER OF ENGAGEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (the "Board") has approved and authorized the execution of a Sarasota Bay Estuary Program Interlocal Agreement (the "Interlocal Agreement"), by and among the County, Sarasota County, the City of Bradenton, the City of Sarasota, the Town of Longboat Key, the Southwest Florida Water Management District and the Florida Department of Environmental Protection, pursuant to which the Sarasota Bay Estuary Program (as defined in the Interlocal Agreement the "NEP Entity") will be established as a special district for the purpose of implementing an estuary program for Sarasota Bay; and

WHEREAS, as a newly created legal entity, the NEP Entity will require legal advice in order to establish itself as a special district and commence operations, and the initial staff of the NEP Entity, currently employed by the City of Sarasota, has requested that the Board authorize the County Attorney to provide such legal services; and

WHEREAS, it is in the best interest of the County and the public for the Board to authorize the County Attorney to provide legal services to the NEP Entity, once created pursuant to the Interlocal Agreement, subject to and in accordance with the limitations set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORIZATION TO PROVIDE LEGAL SERVICES. The Board hereby authorizes the County Attorney to provide legal services to the NEP Entity. Except when otherwise specifically approved by the Board, the scope of such legal services shall be limited to:

A. Advising the NEP Entity in matters concerning its establishment as a special district, exercise of its powers and governance of its operations by its Policy Board, Management Board and staff, pursuant to the Interlocal Agreement and applicable law;

(5/4/04 Bcc)

Susan,

Please see
~~my~~ My e-mail to
you regarding
this item. DEJ

6/16/04

Called Pat Hennen
to check on the status
of the additional
original agmt. She
is out today. Will
try her again
tomorrow. DEJ

6/17/04

Pat Hennen checking
on status of
additional original.
DEJ

B. Advising the NEP Entity in matters concerning the commencement of its operations and establishment of policies and procedures concerning labor and employment and risk management;

C. Advising the NEP Entity in matters concerning procurement of goods and services, leasing or purchasing of real estate, and entering into agreements pertaining to the powers and duties of the NEP Entity; and

D. Advising the NEP Entity in matters concerning the exercise of its powers and the carrying out of its responsibilities as an estuary program pursuant to the Interlocal Agreement and applicable law.

Such representation, except when otherwise specifically approved by the Board, shall not include representation of the NEP Entity in any judicial or administrative litigation, mediation or other adversarial proceeding. Such representation shall be governed by the same rules and practices currently established for the provision of legal services to the County by the County Attorney. All legal services provided by the County Attorney shall be treated as in-kind contributions to the NEP Entity, to be credited against sums to be paid by the County pursuant to the Interlocal Agreement as the County's funding contribution to the NEP Entity, at a standard billable hour rate of \$125.00 per hour, plus reasonable costs incurred. Such services shall be limited to the services necessary for the initial establishment of the NEP Entity and commencement of NEP Entity operations, and shall terminate at such time as the NEP Entity separately retains general counsel.

SECTION 2. WITHDRAWAL FROM REPRESENTATION. Under the following circumstances, the County Attorney shall withdraw from representation of the NEP Entity:

A. In the event that any conflict of interest arises between the County Attorney's representation of the NEP Entity and the County Attorney's representation of the County, except when otherwise directed by the Board, and subject to the consent of all parties whose consent is required in order to waive such conflict, or

B. In the event that the County Attorney, in his sole judgement, concludes that continued representation of the NEP Entity would constitute a violation of any ethical rule, canon or standard of practice promulgated by the Supreme Court of Florida or the Florida Bar.

In such event, the County Attorney shall withdraw altogether from representing the NEP Entity in any matters whatsoever, unless the County Attorney, subject to approval by the Board, consents to limit such withdrawal to the specific matter or matters over which a conflict of interest or ethical violation exists.

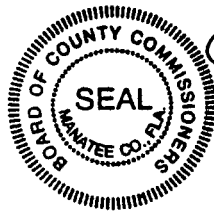
SECTION 3. LETTER OF ENGAGEMENT. The County Attorney is hereby authorized to execute and accept a letter of engagement to, and initialed by, the NEP Entity, reflecting the terms of this Resolution.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

ADOPTED THIS 4TH DAY OF MAY, 2004.

MANATEE COUNTY, FLORIDA

By: Board of County Commissioners



By: *Steve Nor Helman*
Chairman of the Board of County
Commissioners

ATTEST:

R.B. SHORE, Clerk of the Circuit Court

By: *Arsana D. Kominie*
Deputy Clerk

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