

RESOLUTION NO. 96-82

A RESOLUTION OF NASSAU COUNTY, FLORIDA DECLARING THE COUNTY'S INTENT TO DEDICATE A PORTION OF THE HOST FEE TO GENERAL REVENUE; PROVIDING DEFINITIONS AND FINDINGS; DIRECTING THE CLERK OF COURT TO TRANSFER A PORTION OF THE HOST FEE TO A GENERAL REVENUE FUND; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Nassau County, Florida ("the County") owns and now operates a solid waste disposal landfill, known as the New West Nassau Class I Landfill ("the Landfill");

WHEREAS, under County Ordinance 91-17, as amended, the County imposes fees and special assessments for the solid waste generated within the County and disposed at the Landfill.

WHEREAS, the County has entered into negotiated contracts with private solid waste haulers which dispose of non-County generated solid waste at the Landfill. In exchange for the privilege of using the Landfill, these solid waste haulers pay a Host Fee to the County which is established and negotiated under these contracts; and

WHEREAS, the County, pursuant to Resolution No. 93-122, authorized the issuance of Bonds to finance the cost of constructing and acquiring additions, extensions and improvements to the County's solid waste system.

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

**SECTION 1. DEFINITIONS.** When used in this Resolution, the following terms shall have the following meanings, unless the context requires otherwise:

"Board" means the Board of County Commissioners of Nassau County, Florida.

"Bonds" mean the Series 1993 Solid Waste Revenue Bonds issued pursuant to County Resolution No. 93-122, according to its terms.

"Host Fee" means the negotiated rate which the County charges for each ton of non-County generated solid waste disposed at the Landfill pursuant to and established by a contract between the solid waste hauler and the County.

"County" means Nassau County, Florida.

"Gross Revenues" shall have the same meaning as is provided in Resolution No. 93-122.

"Landfill" means the New West Nassau County Class I Landfill.

**SECTION 2. FINDINGS.** The Board hereby ascertains, determines, and declares:

(A) The County is a non-charter county of the State of Florida, possessing all the home rule authority of local self-government granted under Article VII, section 1(f), Florida Constitution and Chapter 125, Florida Statutes.

(B) The County has exercised its home rule powers in addition to those granted by the Florida Legislature in Chapter 403, Florida Statutes, in owning and operating the Landfill.

(C) The County owns and operates the Landfill in a

proprietary capacity and is duly authorized to negotiate contracts and charge fees in exchange for the provision of the Landfill facilities and services. The County has negotiated a series of contracts with solid waste haulers allowing them to dispose of non-County waste at the Landfill in exchange for their payment of a Host Fee. As the proprietor of the Landfill, the County may realize a reasonable profit on the Host Fees charged for the disposal of non-County generated solid waste and the County may use that profit for non-solid waste, but other lawful and public purposes.

(D) The Host Fees are not governed by the provisions of Ordinance No. 91-17 as that Ordinance declares that the purpose of Ordinance No. 91-17 was to, among other things, "establish a schedule of fees and assessments for the disposition of solid waste from Real Property in the County[.]" Thus, the Board does not consider the Host Fees to be "fees" or "Tipping Fees" as used and defined in Ordinance No. 91-17.

(E) Pursuant to County Resolution No. 93-122, the County authorized the issuance of the Bonds to fund the cost of constructing and acquiring additions, extensions, and improvements to the County's solid waste system, pledging the Gross Revenues less operating expenses, among others, for the Bonds and declaring how the County must disburse the Gross Revenues.

(F) The Board acknowledges that the Host Fees are a part of the Gross Revenues under Resolution No. 93-122 and that the disposition of the Host Fees must comply with Resolution No. 93-

122. The Board finds that so long as the proceeds of the Host Fees are disposed of in accordance with all the covenants and provisions of Resolution No. 93-122, that any Host Fee proceeds remaining in the Surplus Reserve Account may be used for "any lawful purpose," as described in Resolution No. 93-122, section 4.05(B) (9).

(G) The County's provision of parks, preserves, playgrounds, recreation areas, and other recreation facilities and programs is a lawful public and county function and the expenditure of the Host Fee to assist in funding these facilities and programs serves a lawful and public purpose.

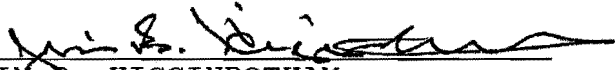
**SECTION 3. DIRECTIONS TO THE CLERK OF THE COURT.** The Board hereby directs the Clerk of the Court to perform the following with respect to the Host Fees:

(A) The Clerk shall maintain a separate accounting of the Host Fees paid by solid waste haulers which contract with the County for that fee and for the privilege to dispose of non-County generated solid waste at the Landfill.

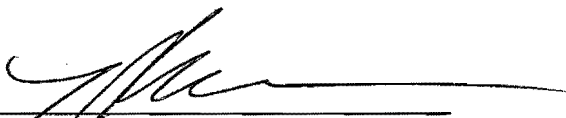
(B) The Clerk shall transfer such amount of the Host Fee as directed by the Board from the Surplus Reserve Account into a County general revenue fund to be used exclusively for recreational purposes or as the Board further directs by subsequent resolution. This transfer shall be exclusively made from Host Fee proceeds.

**SECTION 4. EFFECTIVE DATE.** This resolution shall take effect immediately upon its adoption, this 13th day of May, 1996.

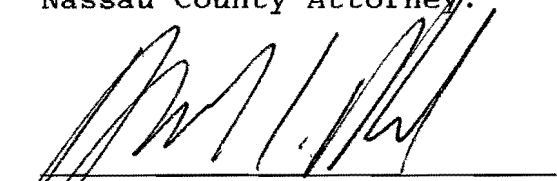
BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
\_\_\_\_\_  
JIM B. HIGGINBOTHAM  
Its: Chairman

ATTEST:

  
\_\_\_\_\_  
T. J. GEESON  
Its: Ex-Officio Clerk

Approved as to form by the  
Nassau County Attorney:

  
\_\_\_\_\_  
MICHAEL S. MULLIN