

**EMERGENCY RESOLUTION NO. 2008-166**

**RE: DECLARATION OF STATE OF EMERGENCY DUE TO THE THREAT OF HARM CAUSED BY TROPICAL STORM FAY; AUTHORIZING PREVENTATIVE OR REMEDIAL ACTIONS BY THE COUNTY ADMINISTRATOR; AUTHORIZING EXPENDITURE OF PUBLIC FUNDS; PROVIDING AUTHORIZATION TO APPLY FOR STATE AND FEDERAL FINANCIAL ASSISTANCE.**

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, IN PUBLIC MEETING ASSEMBLED:**

**SECTION 1. Findings.**

The Sarasota County Board of County Commissioners hereby finds and declares as follows:

A. Tropical Storm Fay is tracking in a direction that could bring it to the Sarasota County area within the next 24 to 48 hours.

B. The storm's potential for damage to and destruction of roads, homes, bridges, public facilities and businesses creates the threat of significant public and private financial loss and poses an immediate and present danger to the health and safety of the citizens of Sarasota County, necessitating the exercise of all reasonable preparatory, precautionary, and remedial measures.

C. This storm threatens and would constitute a natural disaster for Sarasota County warranting the declaration of an emergency pursuant to Section 252.38 (3)(a) 5, Florida Statutes.

D. It is the intent of the Board of County Commissioners that by declaration of this state of emergency, Sarasota County may invoke the powers granted to it pursuant to Section 252.38, Florida Statutes, and its adopted emergency management plan. It is further the intent of the Board of County Commissioners that by declaration of this state of emergency, Sarasota County, its citizens and municipalities may be eligible for financial assistance available through the state or federal government.

**SECTION 2. Declaration of a State of Emergency.**

Pursuant to Section 252.38 (3)(a)5, Florida Statutes, it is hereby declared that due to Tropical Storm Fay a state of emergency exists in Sarasota County. It is further declared that Tropical Storm Fay is a natural emergency, as defined in Chapter 252, resulting in substantial damage to or loss of property that has caused or threatens to cause injury or harm to the citizens of Sarasota County. By this declaration, Sarasota County hereby invokes the emergency management powers granted to it pursuant to Section 252.38, Florida Statutes, and its adopted emergency management plan.

### **SECTION 3. Authorization and Procedure.**

A. The Board of County Commissioners authorizes the County Administrator, or his designee, to implement a mandatory evacuation order, based on storm information from the National Hurricane Prediction Center and in compliance with the Sarasota County Peacetime Emergency Plan, to protect the citizens and visitors of Sarasota County, and to take any other necessary readiness actions in compliance with the Plan. The Board of County Commissioners further authorizes the County Administrator, or his designee, to establish reentry restrictions and to issue curfew orders as may be necessary.

B. The Board of County Commissioners authorizes the County Administrator, or his designee, upon finding that, due to the natural emergency, the condition of private roads, private bridges or other private facilities threatens the public health or safety, to take immediate steps to correct the situation and to remedy the public harm. The County Administrator or his designee shall, as soon as practical, provide written notification to the Board of County Commissioners regarding the nature of any emergency remedial action taken as to private facilities. The Board of County Commissioners further authorizes the expenditure of public funds to remedy such emergencies. No expenditure of public funds shall take place until the County receives consent to enter private property and an agreement indemnifying the County against all suits, actions, claims, demands and liability of any nature whatsoever which may arise out of performance of the remedial action.

C. The Board of County Commissioners authorizes the County Administrator, or his designee, to exercise those powers conferred upon Sarasota County pursuant to Section 252.38, Florida Statutes, together with those powers conferred upon Sarasota County pursuant to the Governor's Executive Order Number 08-170. The County Administrator or his designee shall, as soon as practical, provide written notification to the Board of County Commissioners of the nature and extent of actions taken on behalf of Sarasota County pursuant to this delegation of authority.

### **SECTION 4. Repayment.**

Prior to the expenditure of public funds to remedy damage to private roads, bridges or similar facilities serving a quasi-public purpose as provided in Section 3 hereof, either the individual property owner(s) to be benefited by these actions or the homeowners' association representing them, if the same is properly constituted, must agree to the plan of repayment of any funds expended hereunder. The County shall have the option to accept payment for a term of years or to require repayment in a lump sum. The County may agree to a repayment plan that is secured by a consensual lien against private property. Sarasota County reserves the right to collect some or all of the cost of the remedial action from property owners who benefit from such remedial action through any legal means available to it, including, but not limited to the creation of a Municipal Service Taxing or Benefit Unit or the establishment of a special assessment district.

### **SECTION 5. Severability.**

It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this Resolution be deemed severable, and if any phrase, clause, sentence, paragraph, or section of this Resolution is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Resolution.

**SECTION 6. Authorization to Apply for Federal and State Assistance.**

The Board of County Commissioners hereby authorizes Sarasota County to apply for any federal or state financial assistance to assist in recovering from the property damage, financial losses or bodily harm sustained as a result of the natural disaster Sarasota County has experienced.

**SECTION 7. Effective Date, Duration and Area.**

This Resolution shall take effect immediately and shall be effective throughout Sarasota County, including its municipalities. The state of emergency declared herein shall remain in force for seven days from the date hereof, unless extended pursuant to Section 252.38, Florida Statutes.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this \_\_\_\_ day of August, 2008.

BOARD OF COUNTY COMMISSIONERS OF  
SARASOTA COUNTY, FLORIDA

BY: \_\_\_\_\_  
Shannon Staub  
Chair

ATTEST:

KAREN E. RUSHING, Clerk of the  
Circuit Court and Ex-Officio Clerk  
of the Board of County Commissioners  
of Sarasota County, Florida

BY: \_\_\_\_\_  
Deputy Clerk