



**BOARD OF COUNTY
COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA
FELLSMERE ROADS WORKSHOP
WORKSHOP MINUTES**

MONDAY, JUNE 27, 2016

City of Fellsmere Council Chambers at City Hall
~~Clarence F. Korker Center for the Performing Arts
 (Old Fellsmere School Auditorium)~~
 22 S. Orange Street
 Fellsmere, Florida 32948
 www.ircgov.com

COUNTY COMMISSIONERS DISTRICT

Bob Solari, Chairman	District 5	Present	Joseph A. Baird, County Administrator	Absent
Joseph E. Flescher, Vice Chairman	District 2	Present	Dylan Reingold, County Attorney	Present
Wesley S. Davis	District 1	Present	Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller	
Peter D. O'Bryan	District 4	Present	Terri Collins-Lister, Deputy Clerk	
Tim Zorc	District 3	Present		

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|----------------------|--|------------------------------|-------------|
| 1. | <u>CALL TO ORDER</u> | <u>6:04 P.M.</u> | |
| 2. | <u>INVOCATION</u> | Commissioner Wesley S. Davis | |
| 3. | <u>PLEDGE OF ALLEGIANCE</u> | Commissioner Tim Zorc | |
| 4. | <u>INDIAN RIVER COUNTY DEPARTMENT OF PUBLIC WORKS
STAFF REPORT</u> | | |
| 6:06
p.m. | A. Fellsmere Road Maintenance – Unincorporated Indian River County
 (memorandum dated June 20, 2016) | | 1 - 10 |
| | <p>Public Works Director Richard Szyrka gave a PowerPoint Presentation on the purpose of the Workshop: the number of miles of unpaved roadways County wide; options to be considered by the Board regarding the funding and upgrading of unmaintained and unpaved roadways that could be added to the County’s existing roadway maintenance program; legal limitations liability issues; and an update on the Fellsmere Water Control District (FWCD) Agreements.</p> <p>Director Szyrka emphasized that there are approximately 70 miles of unpaved roadways within the unincorporated area of Fellsmere that are located in or adjacent to the FWCD drainage and right-of-way, and the County does not control or have jurisdiction over the use of the FWCD</p> | | |

right-of-way.

Director Szpyrka detailed staff's recommendations of options for consideration by the Board:

- Option #1 – Grade all remaining unpaved roads
- Option #2 – Grade certain unpaved roads
- Option #3 – Create Municipal Services Taxing Unit (MSTU) or Municipal Services Benefits Unit (MSBU) Funding Source for entire unincorporated Fellsmere
- Option #4 - Create MSBU for qualifying individual unpaved roads

County Attorney Dylan Reingold reviewed the legal issues with maintaining the roads on private property and pointed out two parts of the Public Purpose Doctrine which states: 1) 100% of the cost for work on private property must be borne by the private property owners; and 2) if it is not 100% borne by the private property owners, then the public should be able to have access or the ability to use those roads through either a) the property being dedicated as right-of-way; b) easements being granted and recorded; or c) a way that the public knows they have the right to utilize those rights-of-way.

5. QUESTIONS, COMMENTS AND DISCUSSION FROM THE BOARD

6:26
p.m.

Individual Board Members posed questions and offered comments/suggestions on improving any unmaintained unpaved roadways to meet minimum roadway standards as part of expanding roadway maintenance of which were addressed by staff.

Commissioner Zorc wanted to hear from the FWCD and felt they played a vital role in regards to the right-of-way and the storm water discharge issues which may change the questions or the solutions proposed by the Board.

Commissioner Davis spoke on the four types of roads that he considered problematic in the unincorporated area of Fellsmere: 1) South of County Road (CR) 512 on the west side of Willow Street; however, on the east side of Willow Street the roads are maintained; 2) Circle Z, north of CR 512, west of Park Lateral; 3) 95th Street; and 4) 109th Street west of Park Lateral (no homes located on the street, but heavy traffic).

The Board sought and received information from staff on possible solutions on maintaining the unpaved roads in the unincorporated areas of Fellsmere, the FWCD, MSTU, MSBU, and legal liabilities.

6. **QUESTIONS, COMMENTS AND INPUT FROM THE PUBLIC**

7:00
p.m.

Michael O’Haire, the attorney representing the FWCD and other large Water Control Districts (WCD’s) in Indian River County, pointed out that all of the WCD’s were created for agricultural uses, with perhaps the exception of the Vero Lake Estates WCD, and that they were not intended to be urbanized areas or for residential purposes. He said the WCD’s rights-of-way being discussed were not road rights-of-way, but canal and ditch rights-of-way. He emphasized that WCD’s were not established to be road building or maintenance entities, and that the Florida Law prohibits WCD’s from getting into the road business and taxing property owners for road work.

Attorney O’Haire stated the FWCD had gone to Tallahassee to get broader powers enabled from the Legislature to go from a WCD or Drainage District to an Improvement District; however, it was vetoed by Governor Scott. He said the WCD’s have always been willing to work with the County and that there were maintenance agreements in place.

The Board sought and received information from Attorney O’Haire regarding access to rights-of-way, and going from a WCD to an Improvement District, which would be a long term solution. The Board added that staff could look into the following for a short term solution: 1) the additional mileage of roads that could be graded without adding a grader; and 2) whether the County could modify the Interlocal Agreement with the FCWD to incorporate the language that the County is to maintain select roads for canal, drainage and water management use.

The following individuals spoke in support of the County grading the unpaved roadways in the unincorporated areas of Fellsmere:

Karen Ledford, 14850 107th Street, Fellsmere, brought up that the Waste Management (WM) Trucks have created huge craters in the road and no emergency vehicles could access 107th Street.

Attorney Reingold replied that under the WM Contract, they should not be traveling on sub-standard roads with huge trucks. He asked the residents to contact County staff in regards to WM trucks traveling on sub-standard roads, so they could address the issue.

Kimberly Vecchio, 15355 95th Street, Fellsmere, voiced issue with the WM trucks and the inconvenience that no mail can be delivered on 95th Street. She expressed concern about the runoff from the unpaved roads

going into the canals and then into the Indian River Lagoon. She suggested allowing residents to install culverts for an outlet and to keep the runoff from flooding their properties.

Rodney Tillman, Superintendent, FWCD, stated that if the residents wanted to install a culvert on their property, the cost of the permit would be \$100 and the preferred culvert should be no smaller than 12 inches in diameter.

George Simons, Chief Engineer, Carter and Associates, and the Engineer on record for the WCD's, asked that those individuals interested in installing a culvert to create a grass filtration by grading a swale and putting grass on it to prevent erosion and turbidity from entering the canal.

A discussion ensued on the permitting, installation, and costs involved with installing a culvert; and adding culverts to the building permit process.

Sandra Allan, 12455 85th Street, Fellsmere, supported the grading of her neighbors' unpaved roads on the west side of Willow Street.

Charles Williams, 95th Street, Fellsmere, thanked the County for taking the time and the effort to look at the issues with the roadways. He asked if he could receive notification in the future on the status of the maintenance of the roadways. Chairman Solari asked Commissioner Assistant Misty Pursel to give an email list of the Fellsmere residents to Director Szyrka for future updates.

Wendy Austin, 12875 93rd Street, Fellsmere, wanted to get 93rd Street on the grading list and questioned why the County would fix the culverts on 93rd Street, but would not grade the road.

George Powers, Sr., 14225 85th Street, Fellsmere, stated that 85th Street was not being maintained consistently and asked if the County could grade the road every 60 days so the delivery trucks and customers' can have the ability to access his business.

The Board CONSENSUS was for staff to bring back a recommendation for the Board to vote on at the July 12, 2016 Board of County Commission Meeting.

Commissioner Davis noted that he had a conversation on the matter with Director Szyrka and summarized the following recommendation for a motion to be given at the July 12, 2016 Board Meeting: "...to move forward with a County policy to maintain certain unpaved roads in their current conditions, based on the percentage of developed lots necessary for the County to maintain in the unincorporated areas of Fellsmere;

notwithstanding the recommendation of staff concerning liability and the requirement for upgrading unpaved roadways to minimum standards, and requiring funds for hauling of stabilization material to grade the existing roadways...”

Commissioner O’Bryan said it was not County policy to maintain unpaved roads, and he expressed concerns that it might set a precedent for the County to have to maintain all unpaved roads. He wanted staff to amend the County’s Interlocal Agreement with the FCWD to include a contract that the County would maintain the certain unpaved roads to canal drainage levels.

Chairman Solari clarified that Director Szpyrka and Attorney Reingold would review what was discussed at the Workshop, and for legal sufficiency, and bring back to the July 12, 2016 Board Meeting for a vote: to direct Public Works to expand their grading schedule without the need of hiring of an additional person or purchasing an additional grader; and to provide a preliminary list of six or ten additional miles of roads in the FWCD that could be added to the grading schedule providing that the contract will sunset once the FWCD moves from a WCD to an Improvement District sometime within the next five years.

Vice Chairman Flescher added that there were some roads less traveled; however, he felt all residents deserved the same level of safety, security and access. He suggested adjusting the grading schedule so that the Board could address those streets that are not identified as the “hot” streets and that all streets needed some level of treatment.

Chairman Solari asked staff to consult with a few of the Fellsmere Road Committee residents and Rodney Tillman with the FWCD, and review the roads which have the most residents and traffic.

7.

ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at 8:21 p.m.

ATTEST:

Jeffrey R. Smith, CPA, CGFO, CGMA
Clerk of Circuit Court and Comptroller

Bob Solari, Chairman

By: _____
Deputy Clerk

Approved: August 16, 2016

BCC/TCL/2016/WorkshopMinutes