

**BOARD MANAGEMENT AND PLANNING COMMITTEE AGENDA**

MONDAY, OCTOBER 09, 2006

1:30 PM - 4:00 PM

COUNTY COMMISSION CHAMBERS

1. **STATUS OF CRIMINAL JUSTICE DIVERSION PROGRAMS**  
**PRESENTER:** David Bennett, Courts & Corrections Planning  
Circuit Judge Thomas Corbin  
**TIME REQUIRED:** 15 Minutes
2. **ESTERO BOULEVARD MAINTENANCE AND IMPROVEMENTS**  
**PRESENTER:** Scott Gilbertson, Department of Transportation  
**TIME REQUIRED:** 10 Minutes
3. **GRANDEZZA EASEMENT/BUFFERING**  
**PRESENTER:** Don DeBerry, Department of Transportation  
**TIME REQUIRED:** 10 Minutes
4. **DECORATIVE COMMUNITY SIGNS AND BANNERS IN COUNTY RIGHTS-OF-WAY**  
**PRESENTER:** Scott Gilbertson, Department of Transportation  
**TIME REQUIRED:** 10 Minutes
5. **ZEMEL ANNEXATION**  
**PRESENTER:** Paul O'Connor, Department of Community Development  
**TIME REQUIRED:** 10 Minutes

BOARD COMMENTS/DISCUSSION

ADJOURN

The Management & Planning Meeting is carried live on the following cable channels:

Comcast Cable	Channel 11
Time Warner Cable	Channel 16

Item #1

**MANAGEMENT & PLANNING COMMITTEE  
AGENDA REQUEST FORM  
COMMISSION DISTRICT #**

**PRESENTED BY:** David Bennett **REQUESTED BY:** BoCC  
Courts & Corrections  
Planning

**TITLE OF ITEM FOR AGENDA:** Status of Criminal Justice Diversion Programs

**1. DESCRIPTION AND OBJECTIVE OF THE ISSUE**

Per Board Direction, David Bennett, the county's Courts & Corrections Planning Consultant, and Circuit Judge Thomas Corbin will present an update of current county-funded jail diversion programs, including the recently funded Expanded Case Management/Drug Court Program, and potential future programs that are being considered.

**2. PROPOSED POLICY, PROCEDURE OR PLAN OF ACTION**

Back-up materials to be provided under separate cover.

**3. OPTIONS (List Advantages/Disadvantages of Each Option Listed)**

**4. FINANCIAL IMPACTS/FUNDING SOURCE**

**5. STAFF RECOMMENDATION AND JUSTIFICATION FOR RECOMMENDATION**

**6. MANDATED?    Y     N     BY WHAT AUTHORITY?**

DEPARTMENT DIRECTOR SIGNATURE	COUNTY MANAGER SIGNATURE	MEETING DATE	TIME REQUIRED
		9-28-06 09/06	15 minutes

# **PRETRIAL RELEASE/JAIL DIVERSION PROGRAMS**

## **EXISTING**

### **Early Intervention Docket (EID)**

**Purpose:** Experienced prosecutor and experienced public defender resolve non-violent felony cases through early pleas, usually where there is not a victim, and the defendant does not score out to prison; freeing up jail beds and allowing all of the parties to concentrate their time on the more serious cases.

**Board Approved:** April 2003

**County Cost:** \$138,368

**Performance Measure:** 50-to-100 cases per month

### **Expanded Pretrial Services (24/7)**

**Purpose:** Expand Pretrial Services to 24 hours/7 days a week to earlier and better evaluate/screen jail prisoners upon intake, increasing the number released on their own recognizance or through supervised programs, thus freeing up jails beds and delaying future jail system expansion costs.

**Board Approved:** February 2005

**County Cost:** \$531,233 (Sheriff funded 25% of this cost with inmate processing fees in the first year; has since withdrawn funding); \*Full cost for Pretrial Services for FY06-07 is \$1.8 million (excluding the expanded case management below), but does include intake and supervision

**Performance Measure:** Various measures; see attached

### **Real Time Transfers to Prison**

**Purpose:** Complete transfer packets in the courtroom immediately after sentencing, instead of the week delay (with sentenced inmate remaining in county jail) that currently occurs.

**Board Approved:** January 2006

**County Cost:** \$140,400

**Performance Measure:** Reduction of 900 weeks (transfers) at \$528 per week (475,200 annually)

### **Expanded Case Management/Drug Court**

**Purpose:** This two-phased program establishes an inter-agency case assessment team and expands treatment services available to the court to reduce recidivism in the most difficult target group of drug addicted and mentally ill offenders. The FY 06-07 Phase I cost includes the addition of nine new positions, three each for Court Administration, State Attorney, and Public Defender. Phase I program costs will target early diversion of 75-100 cases. If successful, the Phase II budget will request additional funds to handle a full capacity of 150-200 case diversions.

**Board Approved:** September 2006

**County Cost:** \$782,405 (Court Admin.), \$156,600 (State Attorney), \$147,150 (Public Defender) = \$1.09 million for FY06-07

**Performance Measure:** Various measures; see attached

### **Teen Court and Juvenile Arbitration**

**Purpose:** Usually for first-time misdemeanors – juveniles attend this program rather than appear before a judge if the State Attorney believes the case is suitable for juvenile arbitration.

**Cost:** The FY06-07 budget is \$278,974, of which the General Fund's portion is \$135,700.

### **Neighborhood Accountability Boards**

**Purpose:** Lee County Human Services receives funding from the Department of Juvenile Justice and the Lee County Sheriff's Office from fees to operate the Neighborhood and Restitution Accountability Boards. These programs promote restorative justice and serve as a diversion to traditional court based sanctions. While the Accountability Boards are primarily a criminal justice diversion program, they have also demonstrated a high success rate in preventing youth from re-offending.

**County Cost:** The total cost of the Accountability Board programs is \$263,037 annually, of which the General Fund supports \$44,598.

### **Juvenile Assessment Center**

**Purpose:** The county paid for the construction of the Juvenile Assessment Center with the understanding that the state would pay for the operating costs. As we all know, this has not come to pass. The Sheriff's Office operates the JAC with funds provided by Lee County's General Fund.

**County Cost:** The JAC has been in operation four years and now is completely county funded through the Lee County Sheriff's Office at a cost of \$393,026.

### **Jail Diversion for Mental Health Patients**

**Purpose:** Divert people with mental illnesses from jail to treatment programs. Lee County Human Services is coordinating potential for this program through a grant.

**Cost:** \$5,000 grant from NACO to provide training to Pretrial Services staff to better identify defendants with a mental illness.

### **Crisis Intervention Teams**

**Purpose:** Specially trained law enforcement units that respond to calls involving a person with mental illness. The program's focus is on the person receiving treatment rather than entering the criminal justice system, which reduces the number of inappropriate arrests.

**Cost:** \$6,000 pilot program grant; Fort Myers Police Department and Lee County Sheriff's Office involved in pilot program.

## **POTENTIAL FUTURE INITIATIVES**

### **In-House Jail Drug Treatment Program**

The drug and alcohol treatment program in the jail treats inmates who are addicted to drugs or alcohol. The program consists of group and individual counseling that teaches addicts how to recognize negative thoughts and behaviors and gives them the skills to stop thinking and acting destructively. This treatment should be available for both short and long periods because substance abusers come into the jail for short and long periods, and many of these are already in drug treatment programs outside of the jail, such as the State Attorney's Pretrial Diversion

Program, the Family Drug Court, the Felony Drug Court Program, or programs they have voluntarily entered. If treatment is available in the jail, the inmate can continue with the treatment he is receiving outside of the jail. Further, being arrested and in the jail confronts the addict with an undeniable consequence of negative behavior and gives the treatment provider in the jail a unique opportunity to force the addict to stop denying his addiction and its negative consequences. The current model for drug treatment in use by nearly all providers consists of persistent, long term efforts - through group and individual counseling - to educate addicts and teach them how to overcome the denial inherent in drug addiction, how to stop negative behaviors and how to make positive decisions in their lives. This takes a long time to accomplish and most addicts relapse, some many times, before they get into recovery and stay there. Treatment in the jail should be a continuation of their education, no matter how long they are in the jail, followed up with education outside of the jail.

In the past, the program has been limited to inmates who will be in the jail long enough to complete a 6 month program. As a result, the opportunity to treat addicts on a short-term basis was lost. Many of these short-term addicts ask for treatment while they are in jail. The goal for the new program will be to provide services to inmates who are in the jail for long or short periods of time.

Pretrial Services Officers, working with drug counselors from SWFAS and other providers and also the Drug Court Coordinator in the Public Defender's office, previously funded, will identify potential candidates for treatment when they interview newly arrested inmates. The Pretrial Services Drug Court Coordinator and Drug Court Pretrial Services Officer, previously funded, will coordinate treatment in the jail with treatment programs outside of the jail and will also coordinate all of the cases in which an inmate may be involved - felony, misdemeanor, divorce, paternity, domestic violence, dependency, Marchman - to make sure that the several judges assigned to an inmate's several cases and will be aware of all of the cases in which an inmate is involved and to insure that the orders in the various cases will be coordinated and consistent so that treatment resources are not wasted. The object will be to use the coercive power of the courts to motivate an addict to get into treatment and into recovery. If this is achieved, the addict should stop behaviors that lead to arrest and incarceration, which should reduce the jail population.

The program will work closely, therefore, with the State Attorney's Pretrial Diversion Program, the Family and the Felony Drug Court programs and also with treatment providers outside of the jail.

**Cost:** \$96,000 a year (funded with grant through 05-06; currently not funded)

### **Jail Work Program**

The proposed Work Program is designed for offenders to be punished by working in the community and not taking up a jail bed. An initial focus for the program will be on the average 30 weekend jail sentences. Rather than serve their weekend sentence in-jail, the offenders will be ordered to report to a site for staging the crews that will complete supervised needed public works projects in the community. Other short-term sentences (usually up to 60 days) will be eligible for the program. Offenders will be encouraged to complete the program through either reduced sentences and/or by receiving good time.

Offenders will be supervised in their work in the community. Failure to comply will result in a return to custody.

**Cost:** About \$100,000 a year (currently not funded)

**Notice to Appear (NTA) Citations Program**

See attached from Sheriff's Office.



**Proposal for Notice to Appear Citations**

In order to identify overcrowding issues with in the Lee County Jail system, this proposal will be directed at the intake process after arrest. It is within the authority of the Sheriff to release arrested individuals on "notice to appear citations". Current guidelines for NTA's are unclear. Specific guidelines need to be set in order to identify arrested individuals who would be eligible for release with out bond.

As an example, criteria for an NTA should be;

1. Non violent misdemeanor.
2. Local ties to the area.
3. Cooperative.
4. No serious felonious history.

In order to ensure the above process, certain programs need to be in place.

1. An easy way to identify the arrested person.
2. Ability to capture fingerprints.
3. Ability to capture photographs.
4. Capture demographic information for tracking purposes.

This proposal would include the purchase of;

1. Five (5) Printrac Livescan portable systems, one (1) for each district. This would give the Deputy the ability to capture a full fingerprint set of each arrested person. \$34, 472.00 each = **\$172,360.00**
2. Five (5) Two-Finger AFIS units for immediate identification of inmates that have previously been through the Lee County Jail System. \$5000.00 each = **\$25,000.00**
3. Five (5) Camera systems to capture a photograph into the Mug-Search system with grey back drop. \$2700.00 each = **\$13,500.00**
4. Access to the X-Jail Management system to initiate the demographic information capture and provide the appearance citation. N/C

Total Cost for this project would be estimated at **\$210,860.00**

Legalities need to be researched further to determine our boundaries for processing and release from the District Stations.

*\*Additional civilian personnel may need to be address mainly on night shifts at the districts.*



**Expanded Drug Court Diversion Project**

**PERFORMANCE INDICATORS**  
**MEASUREMENT AND MONITORING PLAN**

**October 2006**



**Expanded Drug Court Diversion Project Measurement & Monitoring Plan**

**OBJECTIVES/PERFORMANCE INDICATORS:**

**Objective # 1:** Increase the number of drug offenders diverted to the Drug Court program from the base level of 20-25 per year to 100-125 in the first year of operation.

**Objective # 2:** Implement in-custody drug court evaluation to occur within 3-7 days of admission or within 7 days if released on pretrial release/bond; SWAFAS evaluation of 400-500 cases per year.

**Objective # 3:** Improve quality of early identification and diversion of cases by weekly inter-agency team review of all potential Drug, Mental Health or Diversion cases.

**Objective # 4:** Long-term impact of reduced recidivism of inmates successfully completing Drug Court and Diversion programs as measured by a re-arrest rate of less than 21% for low risk and less than 41% for moderate/high risk cases over a 1 year follow up.

**Results Targeted:**

- Diversion of 100-125 Drug offenders from jail to community treatment
- Expedited Assessment and Diversion of Drug Offenders at earliest point possible
- Quality in-custody assessment to improve judicial decision making
- Improved utilization of drug and mental health treatment resources

<b>INDICATORS DESCRIPTION:</b>	<b>Year</b>	<b>Planned</b>	<b>Actual</b>
<b>1: Number of Inmates screened by SAO/PD/Pretrial, evaluated and entered into Drug Court program</b> Baseline year 2005-06: (40 full year/20 cases avg.) Target	2006 2007 2008	Actual (40) 100-125 150-200	
<b>2: Number of inmates assessed by SWAFAS or Mental Health provider for treatment, drug court and mental health court programs.</b> (Baseline 2005-06: Unk.)	2006 2007 2008	Actual (Unk) 400 600	
<b>3: Number of Drug Court Team and SAO/PD/Pretrial interagency diversion review meetings per year</b>	2006 2007 2008	Unk. 26 26	
<b>4: Long term impact of 10-20 % in recidivism rates</b>	2006 2007 2008	41% (Mod. Risk) 30% 25%	

Pete, here is some additional info from Court Admin:

The Pretrial Services unit is comprised of Intake Services, Release Supervision, and Pretrial Diversion (Criminal Case Mgmt/Felony Drug Court).

For FY 06-07, the total for Intake Services and Supervision is \$1,801,491. Court Admin is unable to break this down to the former 8 hour pre-trial service level compared to the expanded 24/7 service level.

Pretrial Diversion for FY 06-07 is \$782,405. The Budget on 10/1/06 will actually reflect a total of \$544,075, but Court Admin is moving three staff members (and the associated budget of \$238,330) at the start of the new fiscal year from Probation to Pretrial Diversion.

Performance targets are still being formulated for the Criminal Case Mgmt/Felony Drug Court. Performance measures relating to 24/7 Pretrial Services program are indicated below in this second Status Report that was provided to the Board in June 2006.

ATTACHMENT A  
PTS Second Status Report (10/1/05 – 3/31/06)  
Project/Measurement & Monitoring Plan 2005-2008

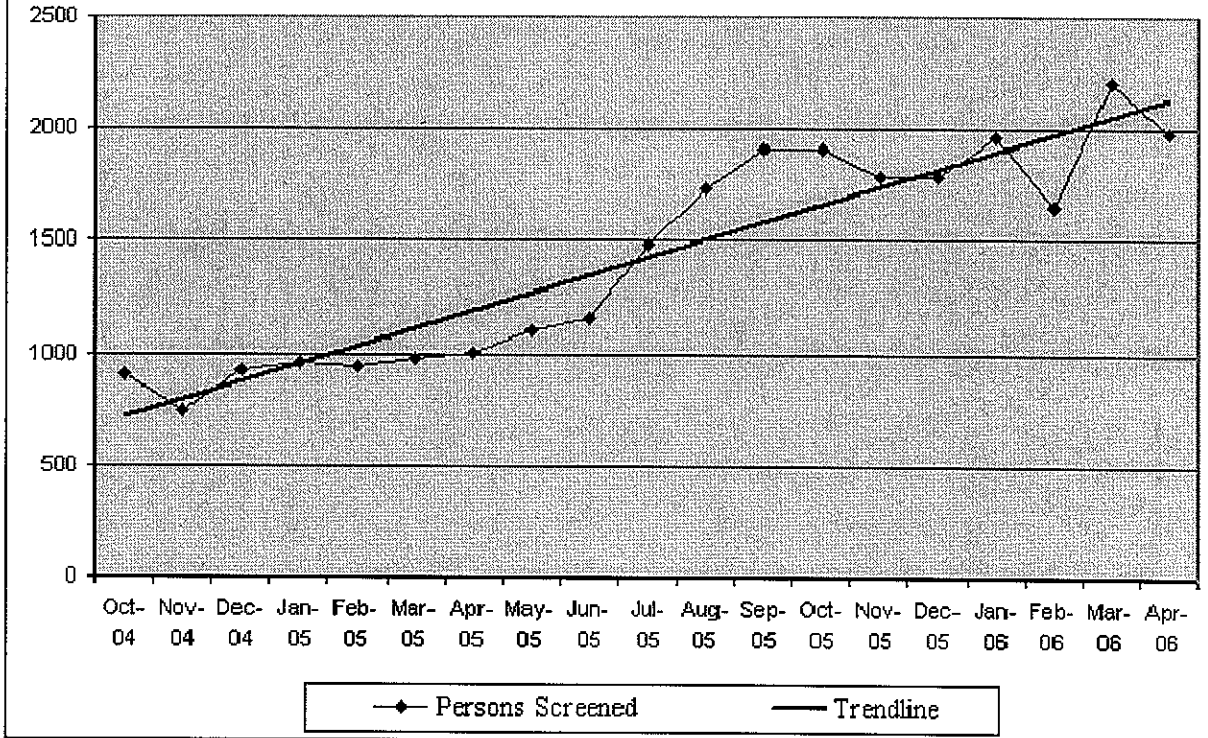
Indicator Description	Goal	Baseline October 1, 2004 – March 31, 2005	Actual October 1, 2005 – March 31, 2006
1. Number of defendants interviewed.  (Exceptions: Federal, court remands, civil, weekend sentenced and juvenile inmates.)	100% of those defendants eligible for First Appearance Court	A total of 5,461 inmates were interviewed.	<b>The Pretrial Services Jail Intake Unit interviewed a total of 11,314 inmates, which represents 107.2% more interviews conducted over the same period last year.</b>  Met the 100% interview standard from the 24/7 program's inception.
2. Percentage of Inmates screened within two (2) hours of booking.	2005 75% 2006 85% 2007 90% 2008 95%	5,461	100 % of the 11,314 inmates screenings were conducted within two hours of booking.  Exceeds 4-year performance target in the first year.
3. Number of inmates released on pretrial supervised release, and to drug court and mental health court programs.	2005 1,654 2006 1,819 2007 2,092 2008 2,511	1,004	1,131 defendants were released to Pretrial Services during October 2005 to March 2006.  A full-year projection based on the current rate will result in 2,262 pretrial releases, which is 24% over the performance target.

<b>4. Improved quality of the risk assessment to ensure compliance with release conditions and to minimize the number of FTAs.</b>	2005 90% 2006 95% 2007 96% 2008 98%	<b>Actual caseload success rate is 90% compliance with release conditions (see attached bar graphs).</b>	The Risk Assessment instrument has been validated by FGCU and Pretrial staff will begin using the instrument in June of 2006.
<b>5. Average length of stay in Lee County Jail.</b>	2006 18.0 days 2007 16.2 days	32.3 (Oct., Nov., Dec. of 2005)	19.3 (Jan., Feb., Mar. of 2006)  <b>Positive trend towards meeting 2006 goal of 18.0 days.</b>
<b>6. Number of RORs and/or other pleas (sentenced or given credit for time served) at first appearance.</b>	2005 3,675 2006 4,043 2007 4,650 2008 5,580	1,837	2,054 defendants were released from custody within 24 hours or less at first appearance during October 2005 to March 2006.  <b>Projected to a full year, 4,108 releases are anticipated or 11.7% over the 2005 target.</b>

**ATTACHMENT B**

PTS Second Status Report (10/1/05 – 3/31/06)  
Inmates Screened within Two Hours of Booking

### Number of Inmates Screened by PTS



**Sue Lange**  
**Budget Services Manager**  
**335-2810**

Item #2

MANAGEMENT & PLANNING COMMITTEE  
AGENDA REQUEST FORM  
COMMISSION DISTRICT - 1

PRESENTED BY: Scott Gilbertson/ Department of Transportation

REQUESTED BY: Board of County Commissioners

TITLE OF ITEM FOR THE AGENDA: Estero Blvd. Maintenance and Improvements

**1. DESCRIPTION AND OBJECTIVE OF THE ISSUE :**

Review status and proposed actions as described in attached memorandum.

**2. PROPOSED POLICY, PROCEDURE OR PLAN OF ACTION**

Provide additional direction on the nature and scope of the proposal.

**3. OPTIONS (List advantages/Disadvantages of Each Option Listed)**

N/A

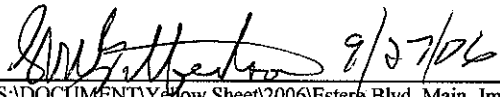
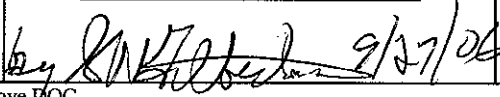
**4. FINANCIAL IMPACTS/FUNDING SOURCE**

Unknown--to be developed.

**5. STAFF RECOMMENDATIONS, AND JUSTIFICATION FOR RECOMMENDATIONS**

Continue with the proposal.

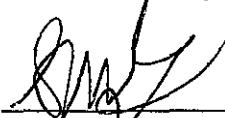
**6. Mandated: Y N BY WHAT AUTHORITY?**

<u>DEPARTMENT DIRECTOR SIGNATURE</u>	<u>COUNTY MANAGER SIGNATURE</u>	<u>MEETING DATE</u>	<u>TIME REQUIRED</u>
 9/27/06	 9/27/06	10/9/06	10 minutes

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# Memo

To: Board of County Commissioners

From:   
Scott Gilbertson, Director

Date: September 19, 2006

Subject: **Estero Boulevard / Town of Fort Myers Beach**

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This memorandum will serve to update you on the results of the meeting we had with the Town of Fort Myers Beach staff on September 13<sup>th</sup>, 2006 concerning desired improvements to Estero Boulevard and maintenance expectations. Following is a brief synopsis of the meeting.

1. **Transit Feasibility Study:**  
The Town presented a draft of a technical report on the feasibility of a "trolley only" lane for Estero Blvd. Lee County DOT and Lee Tran will continue to work with the Town in the review and development of the final study.
2. **Estero Boulevard Drainage Improvements:**  
Estero Blvd. has historically suffered from the lack of an adequate drainage system. Additionally, there are drainage improvements on the local streets which are desired by the town. Lee County DOT will continue to work with the town to identify desired drainage improvements for Estero Blvd. and adjacent areas on a continuing basis. These drainage improvements will likely cost in the millions of dollars and will be likely be conducted over a number of years, both for financial and physical reasons. We will continue to work with the town to develop a master drainage improvements strategy for future consideration by the town Council and Board of County Commissioners. The initial impetus for this study may be provided by a Local Mitigation strategy grant to the town from EOC.

Re: **Estero Boulevard / Town of Fort Myers Beach**

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3. **Pedestrian Crosswalk Improvements:**  
We also discussed the possibility of additional pedestrian crosswalks on Estero Boulevard and enhancing the crosswalks to provide a greater degree of safety for pedestrians. Lee DOT had previously done a pedestrian crosswalk study for Estero Blvd. and we will present that information to the town to serve as a basis for them to define their requests.
  
4. **Maintenance Expectations:**  
We explained our core level of service policy for our maintenance activities on Estero Blvd. and adjoining sidewalks. We are reviewing their list of requested maintenance activities and will advise them of which ones we will perform under our standard services. The town may then wish to identify additional maintenance services they wish to have done and are willing to pay for us to perform.
  
5. **Sidewalks Improvements:**  
We informed the town the Board of County Commissioners has approved a the sidewalk project to construct a new sidewalk on the Gulf side of Estero Blvd. extending from Palm Avenue at the Diamond Head Resort Hotel south down to School Street. This improvement will likely take a couple of years to design and then construct. We also proposed to develop a sidewalk rehabilitation project for next year similar to what we did in 1997. In that year we spent approximately \$85,000 on rehabilitating the existing sidewalk on Estero Blvd. and since it has now been 10 years, we will work with them to develop a similar plan for next year.

At this time we don't have a detailed proposal to present to the Management and Planning, but in the future we anticipate presenting the final feasibility study of a "trolley only" lane on Estero Blvd. and the drainage improvement strategy for Estero Blvd. for future considerations.

Board of County Commissioners  
Page -3-  
September 19, 2006

Re: **Estero Boulevard / Town of Fort Myers Beach**

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I trust these proposed actions adequately address the concerns that were raised last month at the joint meeting of the Town Council and the Board of County Commissioners; however, if you have additional concerns or questions, we will continue to work to address them.

SMG/kb

cc: Fort Myers Beach Town Council  
Jack Green Fort Myers Beach Public Works Director  
Don Stilwell  
Jim Lavender  
Steve Myers  
John Wilson  
Paul Wingard  
Harry Campbell  
Randy Cerchie  
Roland Ottolini  
Steve Boutelle



Item #3

MANAGEMENT & PLANNING COMMITTEE  
AGENDA REQUEST FORM  
COMMISSION DISTRICT - ALL

PRESENTED BY: Don DeBerry / Department of Transportation

REQUESTED BY: BoCC

TITLE OF ITEM FOR THE AGENDA: Grandezza easement/buffering

**1. DESCRIPTION AND OBJECTIVE OF THE ISSUE :** The property owners in the Grandezza community have requested the Board of County Commissioners provide an easement to allow an adequate buffer between their property and the future Estero Parkway Extension.

Staff presented to the BoCC on 9/19/2006, an easement from the County to Florida Development Partners, L.C. (the owner of the golf course and would be issuer of the complementary easement necessary to utilize the county easement). The Board asked why the easement was not given to the master Home Owners Association (HOA) and directed the issue to the October M&P meeting for discussion.

After further discussion between staff and the developer it was decided that the easement should be granted to the Master HOA since it has now been formally created and has a duly elected board of directors.

**2. PROPOSED POLICY, PROCEDURE OR PLAN OF ACTION**

Provide opportunity for Board to discuss this issue and provide staff direction.

**3. OPTIONS (List advantages/Disadvantages of Each Option Listed)**

- 1) Issue easement to Master HOA
- 2) Other.

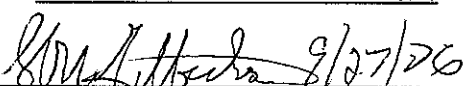
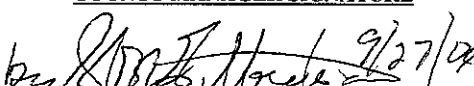
**4. FINANCIAL IMPACTS/FUNDING SOURCE**

None as proposed

**5. STAFF RECOMMENDATIONS, AND JUSTIFICATION FOR RECOMMENDATIONS**

Issue easement to Master HOA

**6. Mandated: Y N X BY WHAT AUTHORITY?**

<u>DEPARTMENT DIRECTOR SIGNATURE</u>	<u>COUNTY MANAGER SIGNATURE</u>	<u>MEETING DATE</u>	<u>TIME REQUIRED</u>
 9/27/06	 9/27/06	October 9, 2006	10 Min.

# Memo

To: Lee County Board of County Commissioners

From: \_\_\_\_\_  
Scott M. Gilbertson, P.E.

Date: October 6, 2006

Subject: **Grandezza Buffering Issues**

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DOT and County Lands staff met with members of the Grandezza Master Home Owners Association (GMHOA) on October 6<sup>th</sup>, 2006 to discuss outstanding issues with respect to buffering the Grandezza community.

There have been commitments (written and verbal) made by Stock Development to the residents of Grandezza as follows:

1. Work with Lee Co. to obtain a continuous 10' easement along northern boundary.
2. Grant easement to the HOA over the golf course (to supplement the 10' easement) up to 20' in width where there will be no impact to the golf course.
3. 40' easement along Trevi parcel – for landscaping buffering in areas other than those needed for golf course operations.
4. Grant access/maintenance easements to the HOA for the purpose of installing and maintaining the landscaping/buffer.
5. Provide funding (\$1 million) to the HOA for the purpose of installing landscaping/buffering and provide landscaping plans.

These items were discussed with GMHOA members to determine if they've been resolved to their satisfaction.

Item #1 is being resolved; GMHOA members expressed the desire to have the easement granted to their association rather than Land Development Partners, LLC. All parties are in agreement with this change and the request for BOCC action will be revised accordingly based upon direction from the BOCC at Management & Planning.

Item #3 is partially resolved. The 40' easement was granted to Land Development Partners, LLC as part of the purchase agreement for the Trevi parcel and it is understood that this easement is available to be used for buffering in areas other than those needed for golf course operations. However, GMHOA members advised that Stock has not conveyed the subsequent easement rights to GMHOA.

Lee County Board of County Commissioners  
October 6, 2006  
Page -2-

**Re: Grandezza Buffering Issues**

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Items #2, 4 and 5 have not yet been completed. Stock Development has promised to provide additional easements, landscaping plans and funding. Stock Development hired Wilson Miller to develop landscaping plans but the plans have not been completed to date (expected within two weeks). Therefore, GMHOA has not had a chance to review and comment on the plans nor can the additional easements be identified and granted until the landscaping plans are finalized.

Staff's discussion with the GMHOA members pointed out that the land purchase agreement did not include any obligation or requirement enforceable by Lee County that Stock Development provide buffering. There had been discussion during the purchase negotiations that Lee Co. did not intend to provide any funding for landscaping/buffering other than core level. Any buffering desired over and above core level would be others' responsibility. Therefore, the resolution of items 2, 4 and 5 is between the GMHOA and Stock Development. The GMHOA members acknowledged that Lee Co. is not a party to those issues and indicated they would pursue those items with Stock Development.

SMG/SC/kb

cc: Frank Mann, Commissioner Elect  
Donald D. Stilwell  
Jim Lavender

Item #4

MANAGEMENT & PLANNING COMMITTEE  
AGENDA REQUEST FORM

PRESENTED BY: Scott Gilbertson / Department of Transportation

REQUESTED BY: DOT

TITLE OF ITEM FOR THE AGENDA: Decorative Community Signs and Banners in County Rights-of-Way

**1. DESCRIPTION AND OBJECTIVE OF THE ISSUE :** There have been inquiries and requests from time-to-time to provide for decorative community identification signs and special event banners to be placed within County roads.

**2. PROPOSED POLICY, PROCEDURE OR PLAN OF ACTION**

Decide if such a service should be provided and, if so, by whom.

The attached white paper sets forth issues to be considered if such a service is provided.

**3. OPTIONS (List advantages/Disadvantages of Each Option Listed)**

Do not provide the service or provide the service. If provided, do so as county funded or as special funding from a MSTBU.

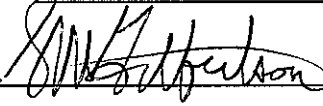
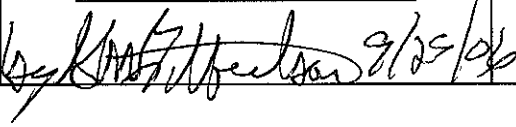
**4. FINANCIAL IMPACTS/FUNDING SOURCE**

If this service is provided, the cost would be approximately \$150,000 annually, not including initial capital costs.

**5. STAFF RECOMMENDATIONS, AND JUSTIFICATION FOR RECOMMENDATIONS**

This practice should not be established as a county core service. If desired by a community, it should be provided by a MSTBU as are other enhanced services.

**6. Mandated: Y N X BY WHAT AUTHORITY?**

DEPARTMENT DIRECTOR SIGNATURE	COUNTY MANAGER SIGNATURE	MEETING DATE	TIME REQUIRED
 9/29/06	 9/29/06	10/9/06	10 minutes

# BANNERS AND SIGNS IN COUNTY RIGHTS OF WAY

October 5, 2006

## Summary

Staff was asked to research this issue and the following discussion explains it in further detail. Staff does not recommend allowing permanent banners and decorative signs for a number of reasons, including legal liability, precedent, safety and structural limitations.

The Land Development Code currently does not permit banners. Traffic signs within county rights-of-way are regulated by Administrative Code AC-11-3, Traffic Regulations and Control Measures, the Manual on Uniform Traffic Control Devices (MUTCD) and Minimum Standards. Also, residential development identification signs are regulated by Section 30-152 of the Land Development Code.

Allowing banners and placement of decorative community signing is not recommended. If such service is directed by the Board, it should not be county funded but should be funded through a MSTBU to provide for proper installation, maintenance and bonding for removal or it could be set-up as an agreement with a Chamber of Commerce or other acceptable entity. The Chamber of Commerce or business community providing for the funding may be more cost effective as the local agencies can generally get voluntary assistance to install and remove the banners, and they are "on site" so to speak. The local Chamber and business community are generally the ones who directly benefit from the banners.

Banners and decorative signs within county rights-of-way present safety, aesthetic and liability issues. The exposure increases when signs or banners are placed or installed improperly or when not maintained. Signs can present fixed object hazards, and are therefore, more appropriately placed outside the right of way and/or only where permitted by Land Development Code Section 30-152.

The current prohibitions should continue. If they are to be exceptions considered, then direction from the Board of County Commissioners will be needed so that DRAFT revisions to the Land Development Code or an Administrative Code, might be written, as well as bonding requirements and conditions for an agreement can be developed.

## **Discussion – Banners and Decorative Signs**

Banners present precedents, safety, aesthetic, structural and liability issues. If one type of banner (Holiday) is allowed, then why not others for sporting events, demonstration marches, or other causes. The banner requestor may want the sponsor or the organization's name on the banner. Ultimately, advertising in the right-of-way may be promoted, which is contrary to County Code.

One example of a typical situation where banners become a public nuisance is the "Holiday Season" banners that were installed in the past years. These banners were placed on utility poles and apparently, there was no permit or approval issued. A lot of the holiday theme banners rotted or were in poor condition due to the impacts of being left outdoors for an extended period. Additionally, it is suspected that hurricanes and storms contributed to the tears. Complaints were filed and the responsible agency was either no longer organized or would not take responsibility for removal of the banners.

As with the Holiday banners, when no one claims responsibility and there is no one to contact to force removal or to perform necessary maintenance of a sign or banner, then the utility company or the county gets stuck with the removal and disposal cost. The owner of the pole that a banner is attached to incurs some liability if the banner was to come off the bracket or the bracket rod broke-away, and one or both caused injury or property damage. To staff's knowledge, the typical brackets and banners are really not designed for hurricanes winds and the lower quality variety brackets and rods may not with-stand storm events.

Normally if a utility company were to allow banners on their poles, the utility may have their crews do the install work to avoid damage to their poles and particularly to avoid the severe exposure to liability should an individual working for a private company, acting as an installer, make an error and injure himself/herself. Utility companies have been successfully sued and found liable even though the installer was in error. A hold harmless, significant insurance coverage and naming the pole owner as "Additional Insured" are standard practice because of the liability exposure.

While it is recognized that banners are perceived to provide some community value, the Department of Transportation recommends that banners not be attached to county owned street light poles, as these aluminum and steel poles are not designed for the banding brackets or for added wind loads. Banner brackets that are designed to break-away during sustained high wind can become fragile and fail over time, thus becoming a hazard. Additionally, the brackets may scar the street light pole finish. In addition, the actual costs to the requestor are likely not to be affordable. The group or agency may not have the insurance that the county requires, likely not be able to hold the county harmless, and may not have the resources to post a bond to cover removal or in case the pole is damaged.

If the County is involved in providing the service, then currently county staffing is not available to put-up, maintain, take down and replace banners. If this service were provided the cost could be approximately \$150,000 annually excluding initial capital costs. One option might include a Chamber of Commerce or business association entering into an agreement to post a removal and damage bond, provide insurance coverage, purchase specific banners, install them and maintain the banners. The other option is through formation of an MSTBU which could provide the necessary funding and administration through the MSTBU millage.

Banners over the road attached to poles are even more problematic. The Florida Department of Transportation (FDOT) regulations strictly prohibit poles in the FDOT rights-of-way that are strictly for banners. Banners attached to poles, overhanging the road should continue to be prohibited. If there is a compelling need for over the road banners, one option for discussion is to identify one or more locations where a banner would work over county roads, such as attachment to bridges. The county would need to do research and develop regulations, and develop a procedure in order to manage the approval and permit process.

Residential development identification signs are permitted under the regulations outlined in Land Development Code Section 30-152. The code provides for reasonable size and placement of signs as long as a homeowners association or similar entity will be responsible for maintenance. Placement of decorative signs within county rights-of-way should not be a permitted use as it could expose motorists to a fixed object on the roadside that is not of the break-a-way design for a traffic control or informational sign, and therefore is not an application provided for in the Minimum Design Criteria for Streets and Highways. When appropriate, a standard highway directional sign may be provided for within the right-of-way, if approved by the County Engineer. This would be looked at on a case-by-case basis.

MANAGEMENT & PLANNING COMMITTEE  
 AGENDA REQUEST FORM  
 COMMISSION DISTRICT # CW

INITIATED BY: Paul O'Connor  
 Division of Planning, Community Development

REQUESTED BY: Board of County Commissioners

TITLE OF ITEM FOR THE AGENDA

Zemel Annexation

1. DESCRIPTION AND OBJECTIVE OF THE ISSUE

The Board asked for an update on the status of the annexation. A meeting was scheduled with Cape Coral representatives on October 4, 2006. Staff will update the Board on the results of the meeting.

2. PROPOSED POLICY, PROCEDURE OR PLAN OF ACTION

3. OPTIONS (List Advantages/Disadvantages of Each Option Listed)

1. Maintain the formal objection to the proposed annexation of the Zemel properties into the City of Cape Coral.
2. Withdraw the formal objection to the proposed annexation of the Zemel properties into the City of Cape Coral.

4. FINANCIAL IMPACTS/FUNDING SOURCE

5. STAFF RECOMMENDATIONS, AND JUSTIFICATION FOR RECOMMENDATIONS

6. MANDATED? Y  N  BY WHAT AUTHORITY?

COUNTY ADMINISTRATION  
 08 SEP 27 PM 4:28

DEPARTMENT DIRECTOR SIGNATURE	COUNTY ADMINISTRATOR SIGNATURE	MEETING DATE	TIME REQUIRED
<i>Marybills</i>	<i>[Signature]</i>	10/9/06	10 mins