

**MINUTES
WEST HIGHLANDS COMMITTEE MEETING
WEDNESDAY, MARCH 28, 2007
6:30 PM
THOMAS C. KELLY ADMINISTRATION BUILDING
COUNCIL CHAMBERS
123 WEST INDIANA AVENUE
DELAND**

A meeting was held with the West Highlands Committee members on Wednesday, March 28, 2007 at 6:30 p.m. at The Thomas C. Kelly Administration Building, Council Chambers, 123 West Indiana Avenue, DeLand.

➤ **Volusia County Staff Present at meeting included:**

Public Works Administration

George Recktenwald - Public Works Director
John Angiulli - Operations Manager
John Gamble - Special Projects Coordinator
Arden Fontaine - Special Projects Coordinator
Eileen Fyfe - Administrative Aide

Road & Bridge

Travis Davidson, Road & Bridge Director
Ginger Nogueira – Support Services Manager
Dave Millard - Services Supervisor
Marvin Jones - Materials and Equipment Supervisor
Bill Bishop – Supervisor IV
Amanda Vandermaelen - Staff Assistant
Megan Wenk – Accounting Clerk

Construction Engineering

David Kraft – Registered Land Survey Manager
Todd Buckles – Construction Manager
Chris Fox - Engineering Specialist
Marcia Naber – ROW Specialist

Traffic Engineering

Jon Cheney, Director, Traffic Engineering

Also present at the meeting was Deputy A. Foti, Kathy Weaver, Fire Services, Cheryl Olson, Purchasing Director. Councilman Andy Kelly was present at the meeting to listen and observe.

Meeting commenced at 6:35 pm.

Mr. Recktenwald introduced Travis Davidson, the new Road & Bridge Director and other county staff. He acknowledged that Cheryl Olson, Purchasing Director, Jon Cheney, Traffic Engineer and Andy Kelly, County Councilman were all present.

Mr. Recktenwald presented a quick overview. He stated that the pre-solicitation bid advertisement went out December 13, 2006. A pre-solicitation meeting was held with the various contractors on December 16, 2006. The solicitation advertisement went out January 27, 2007. The bid closing was March 8, 2007. He stated that this meeting is the bid update. The three options are as follows:

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| Option 1) | Shell/Clay Base | 8" minimum thickness |
| Option 2) | Limerock Base | 6" minimum thickness |
| Option 3) | Asphalt Millings Base | 4" minimum thickness |

Mr. Recktenwald had buckets with samples of the above materials brought in for the residents to inspect. He explained that the low bid came in for \$2,124,350.00. This would be for the shell/clay material. He explained that shell/clay is essentially what is used at the present time for the maintained dirt roads. He then proceeded to describe the other options.

The second option is limerock. He explained that this is another material used in road building. It is a hard surface and can be driven on but that it would typically need an additional covering because when it rains it becomes slippery.

The third option is the asphalt millings. He emphasized that this is not asphalt paving but asphalt millings. He then described the process to create asphalt millings.

Mr. Recktenwald proceeded to explain that the County Council had set a cap for 2.4 million dollars at the December 21, 2006 Council meeting. Initially it was thought that only Option One would fit under that cap, as submitted by Halifax Paving. Staff believed shell/clay would be the best option. This was going to be the recommendation presented to the County Council at their April 5, 2007, meeting. However, because of the residents' concerns staff decided to delay this item to the April 19, 2007, Council meeting so staff can study the residents' request for the asphalt millings.

Mr. Recktenwald discussed various maintenance requirements and costs. He stated that he had some discussion with the low bid asphalt millings contractor (P & S Paving). The contractor agreed to go back and look and see if there is anything he can do to reduce the 3.4 million dollar price. However, legally he doesn't have to because he had submitted a legal bid.

At this time Mr. Recktenwald asked for input from the residents.

One of the residents stated that he lived in Seminole County and never had to pay for signage. Said he moved here four years ago. He stated that he did not understand why he has to pay \$60,000 for signage for all the roads.

Mr. Recktenwald stated that the funding for the signs will come out of the MSD (Municipal Service District). It is not coming out of the Special Assessment District. It is coming from another funding source that is contributing to the project.

One of the residents questioned if that money can be subtracted from the 2.1 million?

Mr. Recktenwald responded that other things need to be added in such as the cost for the inspectors to go out and for surveyors to lay it out.

One of the residents questioned who was paying for the paving of Lawton Avenue.

Mr. Recktenwald stated that Lawton Avenue is maintained under the dirt road reduction program.

One resident stated that the biggest issue he is dealing with is that he lives on a non-maintained portion of 4th Street and after all the work is done it will still not be up to County standards. Therefore if the residents decide to go up to a County standard road then they would have to go through this process again.

Mr. Recktenwald responded that this is correct. This had been discussed earlier in the process and no one wanted to pay the cost. To build to County standards it would come somewhere in the neighborhood of \$40,000 a buildable lot. That is what the cost was for Capri Drive.

He reemphasized that the purpose of this meeting is to decide what direction the residents want to go, not to go backwards.

Question – Have you driven down the maintained roads after and during a rain storm?

Mr. Recktenwald – Yes.

The resident stated that she is asking this because she lives on 4th Street on the maintained section. Said shell/clay is trash. She does not like it. Said you slip and slide down the road.

Mr. Recktenwald stated that shell/clay is what is used on all of the county maintained roads.

Someone questioned whether or not the meeting was being recorded and minutes taken.

Mr. Recktenwald stated that it was.

One resident questioned which material percolated the best, shell/clay or asphalt millings.

Mr. Recktenwald stated that the shell/clay would be slightly more pervious.

Someone stated that swales won't survive two years.

Mr. Recktenwald explained that will be part of the ongoing maintenance and will have to be graded out, probably every 2 or 3 years.

One of the residents requested that the swales be omitted because it will percolate better. He thought the asphalt millings would be the better option.

Mr. Recktenwald explained that if the millings are used swales will be needed because it will be more like a paved road.

Question – The roads that are maintained now are being paved correct?

Mr. Recktenwald explained that was the intent. However it is subject to funding. Maintained roads will eventually get paved through the dirt road reduction program. If the cost keeps going up we will not be able to do as much.

Question - What are you paying for a ton of asphalt right now?

Todd Buckles, Construction Manager, replied that it is \$87.50. He explained that for free on board (where the county picks it up in their dump truck) cost is \$58.00 for Type “S”.

Question – What about a bond?

Mr Recktenwald responded that the cost of the bond is in the project.

One of the residents stated that probably everyone in the Highlands had been surveyed twice in the last five years.

Mr. Recktenwald explained that what he is referring to is called project layout survey. The survey team goes out and stakes the centerline, and edges of the roads so they can fit the road in the right spot. Some of the dirt roads aren’t necessarily even on the right of way. That will need to be established.

A resident William Brown stated he didn’t understand how costs are so inflated for West Highlands. He stated that the County is paving a one mile dead end road, next to the ACE Hardware in Pierson with Federal Grant money for \$140,000. Why is there such a difference?

Mr. Recktenwald asked if \$140,000 was the final cost or what the CDBG people are paying.

William Brown responded that the \$140,000 included the swales along the road and the sod. Mr. Recktenwald stated that he will look into it.

One of the residents questioned how much of the area is undeveloped?

Dave Millard from Road & Bridge responded that there are 1.9 miles of unopened roads in the West Highlands district.

One of the residents stated that he doesn't want to spend 2 million dollars and have the roads fall apart.

Mr. Recktenwald explained that is why a maintenance district is needed. Once the residents invest in the clearing and putting the material down it needs to be maintained.

A resident - Karol Costello – Stated that she did not want to pay for clay/shell. She asked why the county can't work with the contractor they brought in. She explained that he wasn't bonded but stated that the residents could pay for that.

Mr. Recktenwald explained that the county is bound by Purchasing Regulations. He then deferred the question to the Cheryl Olson, Purchasing Director.

Ms. Olson explained the process and stated that it would have to go before the County Council. Council would have to waive the bond requirements if they have the authority to such. Florida Statutes state that road projects over \$200,000 must be bonded. Waiving of a Florida Statute would have to go through the Legal Department to determine if we can, and then before Council.

One resident stated that in 1985 there was a utility tax that was to be used for more law enforcement in the area and for maintaining rural roads.

Mr. Recktenwald explained that the Transportation Trust gets \$750,000 a year for utility taxes which is used like the gas taxes on the rural roads that the county maintains. Part of the money goes into that. However there is more than \$750,000 in utility taxes collected. That money is used in other areas of county government.

Question - How was it determined who has to pay?

Arden Fontaine, Special Project Coordinator, addressed the question and explained that if a parcel was adjacent to a county maintained road then they were exempt from the special assessment fee.

One resident stated that five years ago the county put in a shell/clay mixture on Orange Street which is the 2nd street off of Lake Winnemisett Drive. He said that it lasted over 5 years with no maintenance and is still in good shape.

Mr. Recktenwald responded that sometimes when shell/clay is motor graded it crushes and destroys the shell/clay over time. That is why every so often it has to be rejuvenated by adding more material. If the residents don't mind some ruts and grade it less often it will actually last longer. That is why the maintenance number based on the normal grading the County does may be reduced. The amount of travel on the road also impacts durability. West Highlands will have many construction vehicles that will tear the road up quicker.

Resident - Patti Barnes - Thanked Andy Kelly for being at the meeting. Said she filed the protest against the County. Is very upset that the County is not accepting the bid protest. She stated that it falls under Florida Statutes 120.57, paragraph 3, item b. She would like to make a formal statement that she is upset that the county is not accepting the bid protest. She also wanted to know why the County is not coming back and answering the 15 issues she addressed in her protest. Said she has lived there on 20th Street in Orange City for 16 years. Stated that the shell/clay doesn't work. She also asked if New York Avenue and Bishop are going to be removed since they are thoroughfare roads that are paid with impact fees.

Mr. Recktenwald clarified that the New York Avenue she is referring to as a thoroughfare, is the New York Avenue that is State Road 44 that runs through DeLand and out through to the West. The New York Avenue in Orange City is not a thoroughfare road.

Jon Cheney, Traffic Engineer, clarified that it is not a thoroughfare road. All collector and arterial roads identified to serve traffic from community to community are county thoroughfare roads.

Question – How else are you going to get into the Highlands if you don't go on New York Avenue?

Jon Cheney, Traffic Engineer responded that is why Hamilton is a thoroughfare road so designated by the County Council to New York Avenue. Part of what we call the Westside connector runs from DeBary to Orange City and someday will connect to DeLand.

Question – What about Bishop Avenue?

Mr. Recktenwald responded that Bishop is partly platted public road and the rest is power line easements.

A resident - William Brown stated that Bishop is platted and grandfathered in by subdivision laws. He feels that the County wants them to give up their rights. He stated that he will not give up any legal rights under County, State or Federal government. Going on record again. He stated his name, William R. Brown, lives at 652 DeLand Avenue, Orange City, Florida, 32763. He said that the county has tried to put them over into the new laws instead of allowing them to remain in the grandfathered laws that are still in existence. Stated that he was still waiting since March 16th for clarification of minutes. County Manager's, Legal and Public Works had not responded to his request. Just getting synopsis statements on what was done. Doesn't agree with synopsis statements. He cannot find, anywhere in writing, where the previous Council put together the list of roads that they picked in their districts for maintenance. He feels it was lack of the County's responsibility to maintain the roads and is not a result of growth through development.

Resident - Patti Barnes – Stated that the County Ordinance said that the County Council adopted a certain amount of roads and a few years later they adopted and amended their ordinance to accept more roads. Two years after that they adopted and amended more roads because of growth in that subdivision.

Mr. Recktenwald responded that Council had made an amendment and grandfathered in places like West Highlands so that the people could continue to build otherwise this subdivision would be like many others that are platted where no one can build and the lots have become worthless. In the instance of West Highlands, because there was some building out there they sent a staff member out there and he drove all the roads and certified that all the roads were open and passable and therefore building permits were allowed. However, no one at the time figured in the fact that this would go on for 30 or 40 years with nothing ever happening and that is how the roads degraded at this point. These issues need to be addressed to the policy makers.

He stated that the reason for this meeting is to look at the options before them. He stated that he will try to meet with their contractor and get the information he can. However, there are 3 legitimate bonded bids that need to be dealt with.

He questioned the residents if they wanted him to make an effort to talk to the other contractor, P & S Paving, and see if there is anything that can be done to reduce the \$3.4 number. If not, and they want to go to shell/clay then he is finished. He will submit his recommendation. He questioned whether or not they want him to pursue asphalt millings as being a viable option or stay with shell/clay.

Resident – Mike Bradley stated that he would like to see a fourth option up there. Suggested that the goal is safety. Questioned what is being used for the emergency repair that has been done in the last 6 months?

Mr. Recktenwald responded the county is using shell/clay or whatever material is available.

Mr. Bradley said he thinks the county has done a great job in the places that have been addressed. He doesn't think that anymore is needed. Some intersections may need to be widened. He requested that they just patch the sugar sand pits and fill in those holes that fill up with water. This wouldn't create the drainage problem either. That would be enough. Doesn't mind slowing down and letting the other lane of traffic go. Doesn't want 30 miles an hour traffic.

Mr Recktenwald reminded them that the bid had to be put out so that everyone could bid on. When finished it will not look like the template that was in the handouts. The reality is that it is going to wind a little bit and go around trees.

Mr Bradley suggested that it just be called a maintenance project because that is the level needed. Fix the bad places and leave the rest alone. Concerned that the neighborhood will be destroyed. Wants to see a safety option. Feels that it shouldn't be that hard for a contractor, who is bonded, to go down the road and take a few pictures and do only the areas needed. Asked everyone if that is what they want.

About 25 people raised their hands in approval.

Mr. Recktenwald stated he will look at that.

Resident - Theresa Commean – Stated that people are angry over the liens. Suggested that the community have an opportunity to address these concerns.

Discussion ensued.

Resident – Cheryl Fudally stated that there is a lien on her property. Stated that both she and her husband are disabled. Cannot afford to pay the \$2,500.

Mr. Recktenwald explained that a lien is handled just like the taxes that are on their houses.

Ms. Fudally stated that she written to the Governor, State Attorney General and U.S Attorney. Very upset.

Resident – Questioned why FEMA pre-mitigation grant money wasn't pursued.

Mr. Recktenwald explained that the county goes after FEMA grant money all the time. He advised that under the assessment district the county can now clean up after a hurricane or tornado and would be covered by FEMA. He explained under the old scenario it was questionable. He will look at it and see if anything can be done using FEMA grant monies.

Resident – Upset about the lien. Stated that these liens need to be removed until decision is made.

Discussion ensued regarding the lien notices.

Mr. Recktenwald clarified that it is not a lien at this time but a notice of lien. It is there to give notice to people who are going to buy your homes to let them know that an action has been taken. Just like the taxes levied on the property. No one owes anything yet because the course of action has not been determined yet. He explained that the county Legal Department is working with the Title companies and banks in the area. Some may not be that well versed. If you sell your house in the next 30 days, they would collect your taxes and hold them in escrow and this would be part of this process. No money at this point. When everything is done you will have the opportunity to pay all at one time or in installments. That is what the Council meeting of December 21st addressed. He explained that he had no control what comes from the Clerk of the Court.

Question – How can I become liable for a sign that is on a County owned road?

Jon Cheney, Traffic Engineer, responded that the County had agreed to provide the street name signs. What we are not providing, which is what the \$61,000 is representing, is the other signs such as speed limit signs, stop signs. We do not provide signs on county non-maintained roads. We do not provide signs on private roads.

Question – We need 495 signs out there?

Mr. Cheney responded that figure was an estimate.

Question – Why are we paying for 15 dead end signs?

Jon Cheney explained that in most cases they usually have a residential traffic control plan worked out prior to the bid process. Therefore we would have had hard numbers to provide to the bidder. In this case we basically wanted to get an estimate based on what our Traffic Engineering sign person said and compare it to the bids being received.

Jon Cheney addressed the question as to why the county has not installed any signs. He stated that this was because of the survey issues. Hard to determine whether putting up a sign in an alley or a street.

Resident - William Brown – Why do you not apply for the free Federal Grant through the Sherriff's Department for all stop signs and safety signs? Stated that it has been free since 1976 and is still in place throughout the United States. He advised that there could be a stop sign on every corner.

Jon Cheney responded that he had not heard of this program.

A discussion ensued.

Question – What safety measures are going to put on roads to protect our children?

Mr. Recktenwald explained that what had been done in other subdivisions such as Daytona Park Estates is that a committee is formed to map out the entire subdivision and create a traffic pattern by using stop signs to slow down the motorists at various intervals. This is part of the signage plan that Mr. Cheney spoke about.

Resident - Jereme Brown – Thanked Andy Kelly and all who showed up for the meeting. Stated that he doesn't want the community destroyed while the construction work is being done. Would like to see the county working around some of the landscape and trees and keep the people's property looking pristine. Also would like to make sure that the developers and builders who are doing any continuous building out there be held accountable for tearing up the roads. He thinks the millings would be the better benefit to the community if it is done localized. Stated that he is concerned where the water will drain. He asked if county will take all this into account.

Mr. Recktenwald stated that maybe can look at putting the asphalt millings in the intersections only.

Mr. Recktenwald tried to summarize. Said there seems to be some support for the millings so he will look into at what the cost will be. Also hearing, to some degree, to skip the initial capital improvement and go to the maintenance district and piece by piece fill in the holes and fix some of the problems out there. He will look into that. He explained that the idea was never to make it a super highway. There will be drainage issues. When all said and done maybe less than even the 2.1 shell/clay option depending on how many swales are put out there and depending on square yardage.

Question – We have to pay to have the property surveyed?

George – Not your property, it is part of the construction site. Whenever you have a construction job you have to lay it out.

Question – Doesn't the County have surveyors to do that? We are paying your salaries.

George – We have surveyors and they are extremely busy putting in a very large road program.

Resident – Asked to please give consideration to Jereme Brown's idea. Also requested give consideration to the contractor that is not bonded, Total Groundworks.

Resident - William Brown – Questioned that if the trees aren't coming down why mess with it. Stated if not going to do it right, don't do it at all, just get in there and put in the fill where it is needed from time to time. He stated that the area had been surveyed within the past 5 years. Said that if the residents choose to go with the cheaper route maybe the County would take the liens off of our properties. He continued saying that Attorney Seaman, says the lien supersedes any other home mortgage. He said that the residents cannot sell their houses, it cannot be transferred unless the lien is satisfied, either by property owners or from the new owner. He stated that the liens that were filed are not accurate.

Mr. Brown stated that everyone was in complete agreement with the council at the December 21st meeting. Said the residents do not want shell out there. He stated that the residents made a very big point of it at that meeting. Residents wanted the asphalt millings. Feels better off with the asphalt millings rather than the shell. If not asphalt millings then leave it alone and patch what is out there and grade those streets that are not being graded now.

Mr. Recktenwald stated that he has received a couple of clear messages:

- 1) No one is really happy.
- 2) Look at reducing the fee by just going in and doing spot repair maintenance. He needs to review the practicality of that.
- 3) Look at what the number would be for the asphalt millings. See what we can be done to reduce the cost.

He stated that as soon as he knows something that he will contact Jereme Brown.

Mr. Recktenwald reminded everyone that the item will not be heard at the April 5th, County Council meeting. That it is tentatively scheduled right now for April 19th.

Jereme Brown questioned whether there was a point of contact with the County in regards to the lien issues. He stated that he knows there is some miscommunication between the Title Companies and Real Estate Agents.

Mr. Recktenwald stated that Jamie Seaman, Deputy County Attorney, is the point of contact. He did note that however, that she had received some inflammatory e-mails which is not right. He will ask her to be the point of contact. She is trying to work with the banks and the title companies on that end to make sure they understand what this process is.

Travis Davidson, Road & Bridge Director stated that one of the disadvantages with the asphalt millings are that you'll have to deal with speed issues and potholes.

Mr. Recktenwald agreed with this. He stated that Jon Cheney will work with the signage issues. There will be more speed issues if it is improved. That is one of the reasons we talked about fixing up the intersections rather than the whole roadway.

Resident - William Brown – Read Ms. Seaman's statement that she sent out regarding the liens. He stated that every one of them has a lien. We know the lien is not a lien until you fail to pay it. However, none of the residents can remove a lien unless it is paid. The lien is there nothing is going to change that.

Mr. Recktenwald thanked everyone for coming to the meeting. He advised anyone who did not receive notification of the Special Assessment District to check the employees who had signed them in at the back of the room so staff can look into it.

Resident – Questioned if a meeting would be scheduled for all the residents.

Mr. Recktenwald stated that he will talk it over with his superiors and see what the will of the Council is. He reminded the residents again that this item is now tentatively scheduled for April 19, 2007.

Meeting adjourned at 8:34 pm.