

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	\$75,000	\$150,000	\$154,500	\$159,135
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	75,000	150,000	154,500	159,135

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ No X
Budget Acct No.: Fund ___ Dept. ___ Unit ___ Object ___
Program

B. Recommended Sources of Funds/Summary of Fiscal Impact:

County Transportation Trust Fund
Streetscape Section
Other Contractual Services

This item has no immediate fiscal impact. Budget in subsequent years is dependent on Board Approval.

- FY 2007 - 1/2 of \$150,000
- FY 2008 - Full year @ \$150,000
- FY 2009 - FY 2008 Inflated @ 3%
- FY 2010 - FY 2009 Inflated @ 3%

C. Departmental Fiscal Review: R. D. Ward 7/18/06

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

 Jan Bal 7-27-06
OFMB

 John P. White 7/28/06
Contract Dev. and Control

OTW 7-27-06
AM 7-27-06

B. Approved as to Form and Legal Sufficiency:

 Paul F. J. 8/2/06
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

Summary (Continued): The Florida Department of Transportation and several homeowners' groups have requested that the County take this action. The estimated cost for the County to add the maintenance of these permit areas to the already maintained "Trees Only" and OTIS road segments is \$100,000 - \$150,000 per year. Historically, there has been a need for staff to pursue those responsible for the maintenance of such landscape, due to recurring poor maintenance. These actions have been both time-intensive and have had to be repeated, resulting in the need for Code Enforcement actions.

Background and Justification (Continued): It will also simplify the administration of maintenance contracts for "Trees Only" and OTIS roadways, and will provide consistent, safe, ongoing maintenance throughout the affected roadway corridors. A memorandum detailing the reasons and benefits to the public of this takeover is attached. Funding for the balance of this budget cycle comes from the current Streetscape Maintenance Budget. Funding for future years will be addressed in the budget process in the future.



INTEROFFICE MEMORANDUM

DATE: July 12, 2006
TO: Commissioner Tony Masilotti, Chairman and Members of the Board of County Commissioners
THRU: George T. Webb, P.E. County Engineer; Tanya N. McConnell, P.E. Deputy County Engineer
FROM: Andrew S. Hertel, AICP Manager, Streetscape Section
SUBJECT: Issues Related to Possible County Takeover of Conditionally-Imposed Median Landscaping

Department of Engineering and Public Works
P.O. Box 21229
West Palm Beach, FL 33416-1229
(561) 684-4000
www.pbcgov.com

Palm Beach County Board of County Commissioners

- Tony Masilotti, Chairman
Addie L. Greene, Vice Chairperson
Karen T. Marcus
Jeff Koons
Warren H. Newell
Mary McCarty
Burt Aaronson

County Administrator
Robert Weisman

This is in response to a formal request from the Florida Department of Transportation (copy attached) that the County take over the maintenance of median beautification that was installed by others pursuant to conditions of approval; as well as inquiries from Board Members, homeowners' associations and individual citizens. This will provide the Board with information concerning the County's probable exposure, as well as likely benefits, related to the requested takeover of median beautification.

Based on the findings from our investigations into this matter, Staff recommends:

- 1. that the County assume maintenance responsibility for all permitted conditionally-imposed (not voluntarily installed) median landscaping on roadways that are maintained under the County's "Trees Only" and "Only Trees, Irrigation and Sod" (OTIS) Programs (estimated annual cost increase of \$100,000 - \$150,000)
2. that those entities responsible for the current maintenance of those conditionally-imposed permit areas be relieved of those responsibilities and obligations

As to the routine operation of our programs, one significant concern that I must report comes from recurring input that we receive from the public. Based on comments we have received, the public doesn't seem to understand why there are different standards to which landscaping is maintained within the same section of a given roadway (areas installed and maintained by the County versus those maintained by permittees). The understandable resulting public perception seems to be that despite our great advances, the County is not treating all roadway medians equally, or may simply be doing an unsatisfactory job in some areas.

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As has been requested, we have investigated likely benefits to the County, as well as costs that could be expected, as a result of the County assuming maintenance responsibility for conditionally-required landscaping that is currently being maintained by others on County-maintained unincorporated area thoroughfares under permits issued by the State and County.

We have concluded that the County could benefit by simplifying both implementation and administration of the County's median beautification program "OTIS" (Only Trees, Irrigation and Sod) with a resulting more pleasing and consistent appearance of the involved roadway medians, if the County's beautification efforts could be applied in all median areas. This could occur, as opposed to implementing those efforts only in areas where no landscaping that was installed by others exists.

Most developer-installed landscaping (the maintenance obligation for which transfers to purchasers of homes, in the case of residential developments) is unirrigated, and often is poorly maintained. These areas comprise approximately 16% of the median landscaping contained within the "Trees Only" and OTIS roads that the County currently maintains. This percentage equates to approximately 17 miles of roadway. While we have recently been able to increase code enforcement efforts in order to improve the safety and aesthetics of the permit areas, there is a high rate of recurring needs to cite those responsible for the same locations for their failure to provide ongoing proper maintenance.

Our enforcement efforts are usually staff-intensive, often require significant research and documentation, are drawn out, and at best result in situations that don't compare favorably with the contiguous areas that are maintained by the County. There is one recently-heard Code Enforcement case that took over one and one-half years to get through the Code Enforcement process. The Special Master presiding over the Code Enforcement hearing found in favor of the County in our efforts to have the significant deficiencies in the maintenance of the conditionally-required median landscape corrected. However, since that ruling, the cited homeowners' association filed an appeal with the Court System to have the Code Enforcement Board's ruling overturned. It was only very recently that the Association's appeal was denied by the court. That appeal process took more than another year for a total time of over two and one half years since the problem with landscape maintenance was identified by staff, and brought to the attention of the responsible property owners' association. That association has only very recently begun working to correct the deficiencies that have existed for a period of years.

Consistent with our experience, the Florida Department of Transportation has formally requested that the County take over the maintenance of privately installed and maintained median landscape due to recurring problems that they have observed with developer and homeowners' association-maintained median landscape.



Homeowners' groups have expressed their concerns about having to maintain median landscape that was agreed to and installed by the developers of the communities. They also have concerns about being saddled with the entire burden for maintaining landscape by being the first development constructed adjacent to particular roadway corridors. An example of such a letter expressing concerns of perceived inequitable treatment is attached.

We are also starting to have inquiries from the attorneys representing homeowner groups concerning the legal authority (nexus) by which those groups are required to maintain and assume liability for landscaping planted outside of their developments on public property. We have shared such comments with the County Attorney's Office.

In order to simplify the implementation and maintenance of the County's beautification, while incurring what should result in a minimal maintenance cost increase, we recommend relieving permittees for conditionally-imposed landscaping of their responsibilities for maintaining permitted median landscaping on roadways that are otherwise maintained under the "Trees Only" and OTIS Programs, and that maintenance responsibility for those areas be assumed by the County. We also recommend the cancellation of outstanding (unimplemented) conditions for median landscaping on Program-maintained roadways. There are a few locations on non-Program-maintained roadways where conditionally-imposed landscaping exists (ex., on major thoroughfares that are incorporated on one side). This recommended approach would not apply to those locations. We propose to address those few locations on a case by case basis.

This takeover would not apply to areas voluntarily landscaped or enhanced by others (for example, grant-funded and grant-enhanced landscaping), in areas where current maintaining groups do not want the County to assume maintenance responsibility, and it would not apply in a few locations on roadways where conditionally imposed landscaping exists on roadways which we do not currently maintain.

We have requested prices from our existing mowing maintenance contractors for them to provide service in the landscape permit areas that are interspersed within the County's roadway landscape that they currently maintain. While the contract costs for mowing maintenance tend to vary from road to road, and from bid cycle to bid cycle, it appears that the added cost to include maintenance of the permit areas (once they are converted to be consistent with "Trees Only" or OTIS) should not exceed \$150,000 per year, with the cost of converting permit areas ranging from \$5,000-\$25,000 per mile of permit area.

It is important to note that the mowing maintenance bids we have been receiving for the various groups of road segments have had tremendous variation, with observed variations of over 1,000% (one thousand percent), from low bid to high bid, for a given roadway segment. With that as a consideration, we could conceivably see a cost increase or decrease the next time the road maintenance contracts are re-bid.



Given the huge variations in the bids we have been seeing, it is simply not possible to accurately predict our future maintenance costs. But logically, any cost increase attributable to the County assuming maintenance responsibility for permit areas should be roughly proportional to the increase in area to be maintained.

As a part of this, in order to remove reliance on others (who in many cases are unresponsive), we believe it would be beneficial for the County to handle converting the existing permit areas to conform with adjacent OTIS or "Trees Only" landscaping. If the County assumes maintenance responsibility for all of the condition-required median landscaping areas that have been completed during the last 18 years +/-, it will be necessary for us to modify those areas to be consistent with the surrounding OTIS or "Trees Only" landscape. While those modifications should be attainable within 12-24 months, we would be able to begin mowing maintenance of the permit areas almost immediately if we were directed to do so.

Our current annual contract maintenance costs average less than \$7,000.00 per mile. This equates to less than \$1.33 per roadway centerline foot per year. With this modest average contractor maintenance cost, the public benefit of the County providing consistently maintained landscape (with both safety and aesthetic concerns addressed) would be very significant.

If the County assumes responsibility for the maintenance of permit areas, we also recommend that any unused funds collected under the "Cash-Out" option from developers for the maintenance of OTIS improvements be refunded to those developers.

In conclusion, please advise as to how you would like to proceed with this matter. If directed to do so, we will develop the necessary notification procedures to advise and poll all affected permittees, and prepare for your approval a resolution necessary to relieve permittees of their maintenance obligations as described above.

Thank you.

Attachment: Request Letter from FDOT
Homeowners' Association Letter

cc: Barbara Alterman, Executive Director – PZB
Bob Banks, Assistant County Attorney
K.S. Rogers – Land Development
Jim Peters – Land Development

File: OTIS Program F:\ASH\OTISPROGRAM\PermitTakeover071206



Florida Department of Transportation

JEB BUSH
GOVERNOR

PLANNING AND ENVIRONMENTAL MANAGEMENT - DISTRICT 4
3400 West Commercial Blvd., Ft. Lauderdale, FL 33309-3421
Telephone (954) 777-4601 Fax (954) 777-4671
Toll Free Number: 1-866-336-8435

DENVER J. STUTLER, JR.
SECRETARY

RECEIVED

OCT 31 2005

MEDIAN BEAUTIFICATION
SECTION

October 19, 2005

Mr. G. Haney Frakes, Jr. P.E.
Assistant County Engineer
Palm Beach County Engineering & Public Works
160 Australian Ave Room 501
West Palm Beach, Florida 33406

RE: State Road 7 (US 441) & SR 808 (Glades Road – median just east of SR 7) Landscape Maintenance

Dear Mr. Frakes:

This letter is to confirm the discussions I have had with your staff regarding the condition of the plant materials on the above named state roadways in Palm Beach County. As I have informed County Streetscape Section Staff, the Department has been mandated to evaluate all FDOT right of way and property located in District 4 for potential storm hazards which would impede emergency operations as required by the Department in the event of a disaster. As you know, these two highways are extremely important in the evacuation of the County. I am very concerned about the trees in the medians which are in very poor condition (or are leaning over as long as since last year's hurricanes). They could easily come down in a storm, blocking emergency traffic.

I understand that the maintenance issues are located at the County permitted areas where developments with conditions requiring median landscape are responsible to maintain the trees, shrubs and sod. I have discussed this several times with Staff, however, it seems enforcement mechanisms available to them to correct these recurring problems have proven inadequate. I find the landscape maintenance of the permitted areas on state roads to be unacceptable. The median plantings look good in the areas where the County provides the maintenance and I have no issue with these areas.

I am formally requesting the County to take over these areas and bring the median plantings up to acceptable standards. Not only are the trees potential storm hazards: they are unsightly, there is no consistency in design, and there has been no upkeep. The residents of Palm Beach County deserve better. Let's work together to improve the appearance of our roadways while making them a safe place to drive. Based on my experience and observations, I believe your Streetscape Section is fully capable of providing this kind of quality maintenance on an ongoing basis.

I am available to meet and discuss this issue with you and whoever else would be instrumental in eliminating the permitted areas on these roadways.

Sincerely,

Elisabeth A. Hassett, R.L.A.
FDOT District Landscape Architect

CC: Andy Hertel, Palm Beach County Streetscape
Carl Bengtson, Palm Beach County Streetscape
Peter Nissen, FDOT
Melvin Pollock, FDOT

Bellaggio

Residents Association, Inc.

SEP 12

September 6, 2005

The Honorable Warren H. Newell
County Commissioner, District 3
Palm Beach County Commission
301 North Olive Street, 12th Floor
West Palm Beach, Florida 33401

Dear Commissioner Newell,

The Builders of our adult community of 1,094 homes, ANSCA Homes & Levitt and Sons, turned over control to our newly elected Board on March 3, 2005.

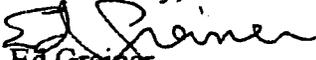
We learned that, based on previous agreements between the county and the builders, that our community is responsible for, and bearing the cost of, the maintenance of the median strips on State Road 7, Hypoluxo Road and Lantana Road alongside us.

I have been advised that this situation exists because we were the first on the scene, before Isola Bella, directly across from us on Hypoluxo Road. There has been no development yet across from us on State Road 7, and we preceded the construction of Target, across from us on Lantana Road. Apparently there is no presently established county rules or procedures to ameliorate the situation.

We believe it is unfair to burden our community, in perpetuity, with this expensive obligation, and seek your assistance in correcting such an inequitable arrangement.

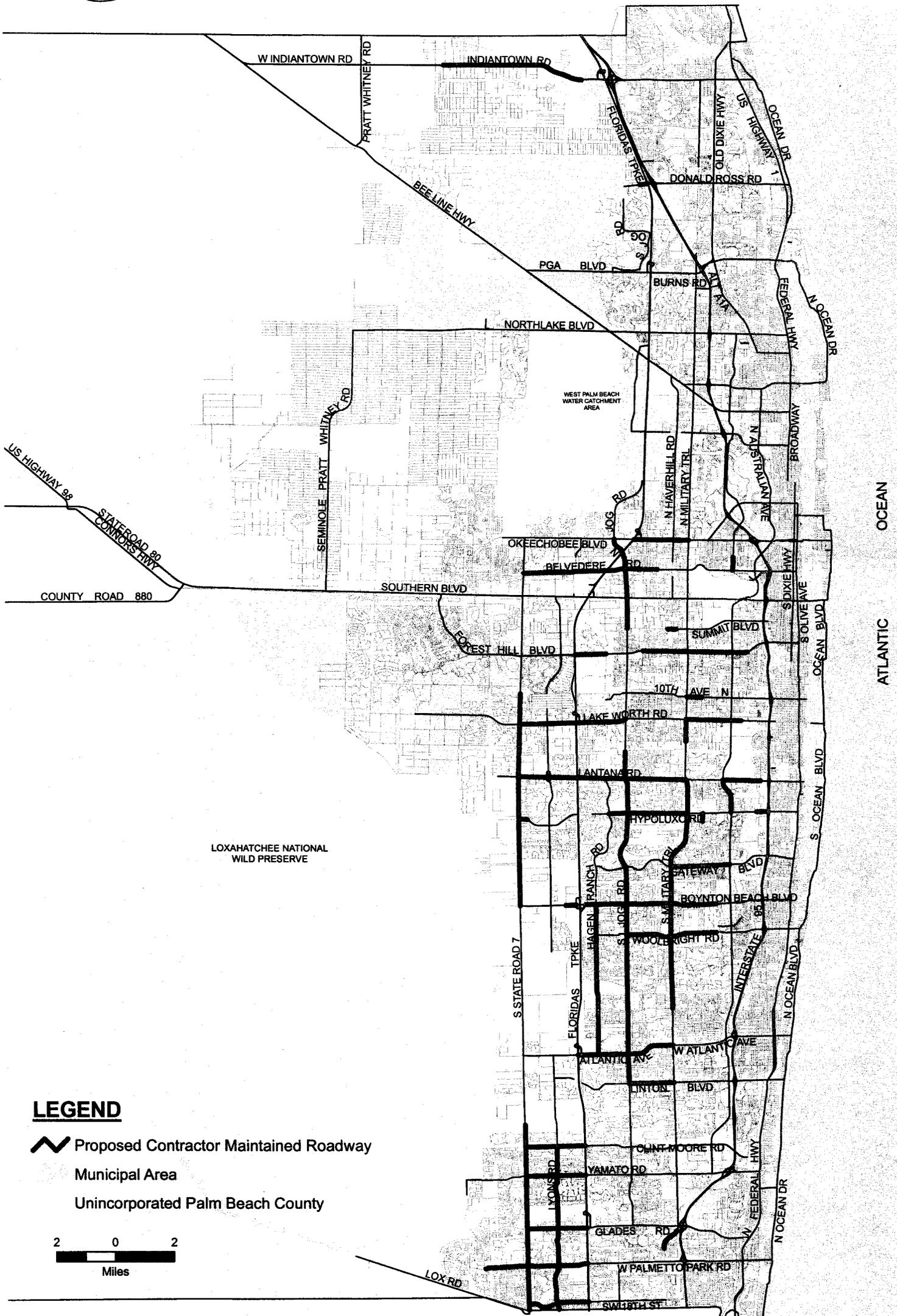
We would welcome an opportunity to meet with you or the Commission staff to discuss the matter further, in hopes of finding an equitable solution.

Respectfully,


Ed Greiner
President



PALM BEACH COUNTY ENGINEERING - STREETSCAPE PROPOSED MAINTENANCE MAP



LEGEND

-  Proposed Contractor Maintained Roadway
-  Municipal Area
-  Unincorporated Palm Beach County

