



# AGENDA

## BPAC

### Bicycle Pedestrian Advisory Committee

**NOTE: THIS IS AN IN-PERSON MEETING**

Conference Room 609/610 Growth Management Division

Planning & Regulation Building

2800 N Horseshoe Dr, Naples

**April 19, 2022**

**9:00 a.m.**

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of the March 15, 2022 Meeting Minutes
5. Open to the Public for Comment on Items not on the Agenda
6. Agency Updates
  - A. FDOT
  - B. MPO
7. Committee Action
  - A. Appoint BPAC Member to Congestion Management Committee (CMC)
  - B. Endorse Updated Shared Use Non-Motorized (SUN) Trail Alignment for the Florida Greenway & Trails System Plan
8. Reports & Presentations (May Require Committee Action)
  - A. Sunshine Law Presentation – County Attorney’s Office
  - B. Everglades City Copeland Ave Sidewalk & SR 90 at Oasis Visitor Center Projects
9. Member Comments
10. Distribution Items
11. Next Meeting Date

May 17, 2022 – 9:00 a.m.
12. Adjournment

#### PLEASE NOTE:

*The meetings of the advisory committees of the Collier Metropolitan Planning Organization (MPO) are open to the public and citizen input is encouraged. Any person wishing to speak on any scheduled item may do so upon recognition of the Chairperson. Any person desiring to have an item placed on the agenda should contact the MPO Director at least 14 days prior to the meeting date. Any person who decides to appeal a decision of the advisory committee will need a record of the proceedings pertaining thereto, and therefore may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting should contact the Collier Metropolitan Planning Organization 72 hours prior to the meeting by calling (239) 252-5814. The MPO’s planning process is conducted in accordance with Title VI of the Civil Rights Act of 1964 and Related Statutes. Any person or beneficiary who believes that within the MPO’s planning process they have been discriminated against because of race, color, religion, sex, age, national origin, disability, or familial status may file a complaint with the Collier MPO Title VI Specialist Ms. Anne McLaughlin at (239) 252-5814 or by email at: [Anne.Mclaughlin@colliercountyfl.gov](mailto:Anne.Mclaughlin@colliercountyfl.gov), or in writing to the Collier MPO, attention: Ms. McLaughlin, at 2885 South Horseshoe Dr., Naples, FL 34104.*

**BICYCLE & PEDESTRIAN ADVISORY COMMITTEE of the  
COLLIER METROPOLITAN PLANNING ORGANIZATION  
609/610 Conference Room, Growth Management Division  
2800 N Horseshoe Dr  
March 15, 2022 - 9:00 A.M.  
Meeting Minutes**

**1. Call to Order**

Mr. Matonti called the meeting to order at 9:00 am.

**2. Roll Call**

Ms. Bates called roll and confirmed a quorum

**Members Present**

Joe Bonness  
Alan Musico  
Andrea Halman  
Kim Jacob  
Mark Komanecky  
Anthony Matonti  
Patty Huff  
George Dondanville

**Members Absent**

Dayna Fendrick  
Claudia Keeler

**MPO Staff Present**

Scott Philips, Principal Planner  
Brandy Otero, Principal Planner  
Danielle Bates, Administrative Assistant

**Others Present**

Mike Tisch, Collier County GMD, Transportation Planning

**3. Approval of the Agenda**

*Mr. Bonness moved to approve the agenda. Second by Mr. Musico. Carried unanimously.*

**4. Approval of the January 18, 2022 Meeting Minutes**

*Mr. Bonness moved to approve the January 18, 2022 minutes. Mr. Musico seconded. Carried unanimously.*

5. **Open to the Public for Comment on Items Not on the Agenda**

None.

6. **Agency Updates**

A. **FDOT:** None.

B. **MPO**

**Mr. Philips:** Reported on two vacancies on the committee resulting from the resignations of Dr. Mort Friedman and Larry Smith and that Dr. Friedman's resignation also leaves a vacancy for a new BPAC representative to be appointed to the Congestion Management Committee (CMC). **Ms. Otero** clarified that the CMC appointment will be an action item on the next BPAC agenda.

7. **Committee Action(s)**

None.

8. **Reports & Presentations (May Require Committee Action)**

8.A. **Paradise Coast Trail Feasibility Study Update – Michelle Avola-Brown, NPC**

**Ms. Avola-Brown:** We are wrapping up the feasibility study with the consultant Kimley-Horn in May/June. The NPC held a public meeting on January 26, that included virtual public meeting access for those not able to attend, and a kickoff event on February 26. The public comments received provide encouraging feedback. This [website](#) is the virtual public meeting. Tab 4 [of the virtual public meeting] has the most useful Paradise Trail information with the proposed connections. Each presentation board is clickable. The plan is a 70-mile paved 10-12 foot-wide trail for biking and walking. The trail will significantly enhance the [MPO's] Bike-Ped Master Plan, it will be non-motorized and safe separate from the roadway. We're hoping to include shade trees, and amenities, bathrooms, water, and connections to important destinations—the Sports Park being one of the most requested destinations. Connections 1 and 2 are the highest priority connections. [Continuing in response to questions] because this corridor is part of the SUN Trail network and there is a deadline. We're talking to Florida Power & Light (FPL) about using their easements in the northern section. Alternative recommendations and feedback favor using the right segment and the cut-through (teal line). We're here to accept input and feedback.

**Mr. Bonness:** The corridor is on Livingston and Veterans Memorial going straight north following powerlines and the curve is where Livingston goes, then running to Old US 41 to connect to the Bonita-Estero Pathways Rail to Trail project. There is connection if you follow powerlines and connect to a section Lee County's BPAC pushed at one point, I think we will see both connections eventually.

**Mr. Philips:** This alignment lines up with the Bike-Ped Master Plan and lines up with SUN Trail and is supported by the MPO.

**General Discussion:** Committee members discussed the alignment at length and in detail, observations included: the high cost of the Seminole Railway's Right-Of-Way (ROW) which has delayed some items on the Lee County side; connections to Wiggins Pass and Vanderbilt Dr; school locations; connecting Gordon River Greenway to the Sports Complex; feasibility of trails along canals; connections to the south.

**Ms. Otero:** reported that staff is leaning toward the Old 41 alignment over the Railway ROW alternative due to the high cost to purchase the rail line, and toward the Livingston Rd bend alignment due to potential neighborhood opposition with the FPL Line. Noted that Rattlesnake Hammock is the same route as the US Bike Route [15].

**Ms. Avola-Brown:** The connection from the Gordon River Greenway to the Sports Complex is an important potential first connection that will provide almost a 20-mile loop and will be at the heart of Naples and the trail project. It's the connection that has gotten most traction from the public.

**Mr. Bonness:** A couple of sections have been in pathway programs for a long time. A trail along the canal at Mike Davis Elementary has been in pathway plans for at least 15 years, with an agreement to use the Golden Gate Community Park area surface roads for connection. The last push from the City of Naples was to use the Golden Gate canal primarily and the Naples Grand and Bears Paw areas further west. Bears Paw is in the city, and if the city is pushing for this connection, it could be feasible. If you follow Golden Gate Parkway there is a wide open space along Grey Oaks [development] on the northside of the Golden Gate Parkway from the FPL substation that follows the FPL powerlines to Veteran's Memorial Park. However, the route goes behind a wall in a gated community which the gated community may not find desirable. It may be a better opportunity to follow the Golden Gate canal embankment that's been omitted from plans; however, you then have problems crossing Airport Road at one spot or another.

**Mr. Dondanville:** Under the bridge? The drawback to McCabe's request [to locate the trail along canals] is as you head east along the canal, soon after you get off the greenway and onto Airport Road, you'd have to build an overpass to cross the road. That is a huge cost. The same problem exists further down at Livingston.

**Mr. Bonness:** From that location you have to figure out how to get to Golden Gate Park. There are a lot of individual properties along that route; not sure if ROW is owned by the Water Management District or individual property owners. When you get to the end of Airport Rd and tie into the neighborhood to the south, there are some designated bike paths in that area.

**Mr. Dondanville:** Behind the DMV during rainy season that corner floods, it's a short path off Airport Rd to get to Radio Rd using a couple of backstreets that are not marked; people used that route even before the [construction of the [Baker Park bike/ped] bridge [over Naples Bay].

**Ms. Halman:** Is there any resistance to this proposal?

**Ms. Avola-Brown:** We have been fortunate – feedback has all been positive. Once we get closer to residential backyards, we'll expect to hear some issues. We are trying to get ahead of that



by informing the community that trails increase property values and lower crime and contribute to health and sustainability. With regard to the connection from the sports complex to Ave Maria, Ave Maria is very excited about the project and wants us to go through the campus and connect to their trails.

**Ms. Halman:** So, going around Immokalee?

**Mr. Bonness:** Connect to Camp Keais, then Ave Maria, and then Immokalee.

**Ms. Halman:** There are lots of accidents at Camp Keais, the County wants to widen it.

**Ms. Otero:** It is in the 2045 LRTP Needs Plan, but it is unfunded; this means it is a needed project but is not in the cost feasible project list.

**Mr. Musico:** In the past when we talked about this, the Paradise Coast Trail does not go to Marco because of environmental concerns on CR 951 from US 41 to the Jolly Bridge and on CR 92 from US 41 to the Goodland bridge. There's a separate Marco Island Loop study that looks at what are the optimal facilities that can be put on those roads. The study will probably wrap up at the end of this year; it's not shown on this map but we'll keep it in mind so we can think about what future connections will look like.

**Ms. Avola-Brown:** We are open for feedback and comments.

**Mr. Matonti:** Is there an ultimate goal to implement the plan in the county and municipalities?

**Ms. Avola-Brown:** We are meeting with Trinity [Scott] in May. The whole study is divided into 10 segments for the 70-miles. Because it is seen as needed, the Collier County Transportation Plan and the MPO have been in favor of moving along quickly.

**Mr. Bonness:** The goal is to put the Paradise Coast Trail in the Pathways [MPO Bike/Ped Master} Plan and the [County] Transportation Plan.

**Ms. Avola-Brown:** When the NPC introduced the vision for the Paradise Coast Trail we worked closely with County Transportation Planning to look at future projects; the study corridor is based on opportunities that were planned and foreseen by the County as feasible in the general term and the study has helped to get things started sooner.

**Ms. Huff:** Is there any word on the 2-mile gap between Collier Seminole State Park and US 41?

**Ms. Avola-Brown:** I don't have that information yet. Wanted to add that this presentation is available on the NPC website.

**Ms. Halman:** There seems to not be a lot of participation from Immokalee.

**Ms. Avola-Brown:** I have reached out to Christie Betancourt and Deb Forester with the Immokalee Community Redevelopment Agency and there has not been a lot of feedback.

**Ms. Halman:** I'm going to see if you can come back when things are less busy for the CRA.

**Ms. Avola-Brown:** I'm happy to come whenever you guys want me.

## **8.B. Office of Greenways and Trails OGT) System Plan and Map Update**

**Ms. Otero:** We are asking you to provide comments for the OGT map update. The NPC proposal is consistent with MPO's Bike/Pedestrian Master Plan, and there are three route alignment decisions that need to be made. The MPO is leaning towards the Old US 41 route due to cost, the second is the Livingston Rd. Bend, and the third is the Rattlesnake Hammock (CR 951) route. We are seeking committee input for each of these alternative routes. It is important to note this item will come back to the BPAC in April for endorsement. The route recommendations will go to the April Citizen Advisory Committee (CAC) and Technical Advisory Committee (TAC) meetings for review and endorsement, and to the MPO Board for approval in May, and finally the OGT for submittal by May 31, so we have to have decisions made next month.

**Mr. Matonti:** The information received from Ms. Avola-Brown was that Rattlesnake Hammock was the preferred route.

**Mr. Bonness:** Is this for existing facilities or more for long range planning for where we build trails?

**Mr. Philips:** This is for the OGT statewide plan update. The OGT updates the plan and maps every 5 years, and this is our opportunity to comment on the policy plan and maps. These locations align with the MPO's Bike/Pedestrian Master Plan and we are seeking your input on the routes, the Livingston and Rattlesnake Hammock alignments are seen as safer and Old US 41 is cost issue.

**Mr. Matonti:** The route on the map is tied to SUN Trail funding.

**Mr. Komanecy:** So, our committee is being asked to endorse the three options shown on the map?

**Mr. Bonness:** Is the committee being asked to comment on existing facilities or what we want in the future. There is a huge population on the 41 route versus Rattlesnake; this connects Naples to Marco, the vision is to get a 12'-wide multi-use path set away from 41 to provide a safe facility. The US 41 connection is more direct, but the Rattlesnake route is much safer.

**Mr. Komanecy:** The other route is safer for cyclists.

**Mr. Bonness:** Now, but if you put in a multi-use path, the US 41 route will be safer than it is now when you're riding on a shoulder with fast traffic.

**Mr. Komanecky:** Still have to contend with commercial businesses.

**Mr. Musico:** Years ago, when this plan was first discussed, that came up, the trade-off was do you want a main spine route in high population centers with the highest use, but also with the most conflict with traffic and parking lots; what was agreed to was to make the spine adjacent to high population centers with the idea that there would be local facilities to link to in the area with links to Naples and Marco. The trail skirts the edge of the areas and there are local facilities available to go into the populated areas. That is the history that led to this.

**Ms. Huff:** Right now, there is a separated pathway along 951, I agree with Joe - you see people there all the time biking on the sidewalk.

**Ms. Halman:** You would get a lot of people using the path, not only bikers, but people running to the store or work, we must think about those people.

**Mr. Dondanville:** The most beautiful but expensive alignment is the Rookery Bay route.

**Mr. Matonti:** The big three options going from the north are the rail-line or US 41, the Livingstone Bend or FPL ROW, and the US 41 or Rattlesnake Blvd route.

**Mr. Bonness:** I can see abandoning the railroad track connection because you run into a dead-end, and you still have to get to US 41.

**Mr. Komanecky:** Didn't we hear from Michelle that the public preference was the Rattlesnake connection?

**Mr. Matonti:** What was the data collection?

**Ms. Avola-Brown:** The public comment period was open from January 26 to February 25. This is when most comments were received. We also receive comments at public meetings and events like the Baker Park celebration. I am speaking to communities, and I always bring comment forms and ask for input at events.

**Ms. Halman:** We have to remember the typical housewife or older person that's just starting to ride, those who don't do long distance.

**Mr. Matonti:** The SUN Trail route is the US 41 route and could provide more funding options.

**Mr. Musico:** The section of 951 routes to bridges, why are they missing?

**Ms. Otero:** Those revisions were made after this map was produced.

**Mr. Bonness:** It's because this is an NPC map (on the screen), and not the OGT trail map, which was provided in in the packet.

**Ms. Otero:** The Marco Loop Feasibility Study is still there.

**Ms. Otero:** Send comments to Anne [McLaughlin] and Scott [Philips] in the next week, to get them included.

#### **8.C. Florida 's E-Bike Laws**

**Mr. Philips:** We were contacted by a committee member regarding the need for e-bike laws, seeing them more often. This topic is emerging and could change over next few years as e-bikes become even more popular. [Gave presentation shown in agenda packet.] Summarized the three classes of e-bikes and restrictions concerning where they can be used and where they are not allowed.

**Mr. Musico:** What started this is I was contacted by Marco Chief of Police, who receives complaints from pedestrians who are walking on the sidewalks and have e-bikes coming up behind them at 20 mph. The Chief was looking for regulations. It doesn't make sense for everyone to do something different and I wanted to see if there was something statewide to work from. My take on the problem concerns e-bikes operating at unsafe speeds on sidewalks and pathways used by pedestrians. When operating on a street they aren't much different than motor scooters. It's not an issue of whether a bike is electric, it's the speed. If they only did 10 mph on a sidewalk there would be no issues, but 20 mph is too fast for a sidewalk. My question to the group is, is there something we can do to get ahead of this? As more e-bikes are being sold without a clear understanding where they can be used, the longer we wait to come up with some kind of regulation the harder it will be to implement regulations because we'd have to counteract entrenched behaviors. Is there something we want to do that's a recommendation to get ahead of this in terms of regulation. One suggestion I had is setting sidewalk speed limits at 10 mph, but police may not be able to enforce that. Anne [McLaughlin] talked me out of standardizing regulations countywide. The real issue is where there is a dense population, like Marco Island and Naples, there are more conflicts between pedestrians and e-bikes riding on sidewalks. No one wants to solve this now.

**Mr. Matonti:** If we are trying to get ahead of this, one way would be looking at this from a zoning or CRA standpoint, mapping areas and establishing speed limits within them, and showing restricted areas where e-bikes are not allowed.

**Mr. Philips:** This is evolving, and it's up to committee members to take this up with your city council or county commission.

#### **8.D. Draft Transportation Improvement Program (TIP) Sheets for Review and Comment**

**Mr. Philips:** Presented executive summary. These are the bike-ped projects proposed for the upcoming TIP that will come back to the committee next month [if there are any changes.] This is based on a download from FDOT, but not the final download. We should have that by early next month; we don't anticipate substantial changes. If you have comments, contact Anne McLaughlin or Scott Philips.

**9. Member Comments**

**Mr. Bonness:** Mr. Tisch, what's happening on Orange Blossom? It was open but now there are barrels, and it's harder for cars to pass the bikes.

**Mr. Tisch:** I will look into it and get back to you.

**Ms. Huff:** March is Florida Bike Month. I presented the NPC with the Supporting Agency of the Year award from Florida Bike Coalition and gave the Bike Friendly Community of the Year award to the mayor of Everglades City. As a Trail Town it is nice to be recognized. Congratulations to both awardees. Tomorrow I am giving an update to Lee County on US Bike Route 15. Ten of the nineteen jurisdictions have passed a resolution or letter of support for the US Bike Route. Collier and Lee Counties both approved. Now it is moving north towards Madison. The 2022 Trail Summit is April 21 and 22, it is by invite only and primarily for MPOs and FDOT, it is in a historic building and will be fun.

**Mr. Philips:** We will have a presentation on the Florida Sunshine Law from the County Attorney's office at the next meeting, so we encourage you all to be there.

**Ms. Halman:** What happened with virtual meetings?

**Ms. Otero:** We are still waiting to hear from [County] Communications Division on the cost for outfitting this room, but until it is fully equipped, we can't move forward. During a hybrid meeting the people online don't have the level of interaction as people in the room, that is one of the downsides. I've seen this with the Local Coordinating Board (LCB). The only reason the LCB is still hybrid and that's only because some members are with state agencies that have travel restrictions.

**Mr. Musico:** I agree it's much easier to bounce off each other in person.

**Mr. Bonness:** But we might hear from Victoria Peters if we had it.

**Ms. Otero:** She's in meetings in all day that's why she isn't here.

**10. Distribution Items**

None.

**11. Next Meeting Date**

April 19, 2022 – 9:00 a.m. In-Person Only Meeting

**12. Adjournment**

*The Chair adjourned the meeting at 10:46 a.m.*

**EXECUTIVE SUMMARY**  
**COMMITTEE ACTION**  
**ITEM 7A**

**Appoint BPAC Member to the Congestion Management Committee**

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**OBJECTIVE:** For the Committee to appoint a Bicycle/Pedestrian Advisory Committee (BPAC) member to the MPO's Congestion Management Committee (CMC).

**CONSIDERATIONS:** The CMC is an MPO advisory committee that focuses on technical matters relating to the MPO's Congestion Management Process (CMP) and the coordination of the CMP with the regional Congestion Management System and Intelligent Transportation System architecture. The BPAC representative is a voting member on the committee. The CMC meets on the third Wednesday of every other month at 2:00 PM.

Any committee member may nominate or be nominated. Appointment as the BPAC representative shall be decided by the majority vote of committee members present.

**STAFF RECOMMENDATION:** That the Committee appoint a BPAC representative to the MPO's Congestion Management Committee.

Prepared By: Scott Philips, Principal Planner

**EXECUTIVE SUMMARY**  
**COMMITTEE ACTION**  
**ITEM 7B**

**Endorse Updated Shared-Use Non-Motorized (SUN) Trail Alignment for the Florida Greenways and Trails System Map**

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**OBJECTIVE:** For the committee to endorse the updated SUN Trail alignment for the Florida Greenways and Trails System Map.

**CONSIDERATIONS:** The Florida Department of Environmental Protection, Office of Greenways and Trails (OGT) is updating the Florida Greenways and Trails System Plan, including the Opportunity and Priority maps. The previous update occurred in 2018. The deadline for submitting is May 31<sup>st</sup>. Individuals and stakeholders (including local governments and MPOs) may submit comments. More information can be found at this link: [Florida Greenways and Trails System Plan and Maps | Florida Department of Environmental Protection](#)

The MPO's process and timeline for meeting the May 31<sup>st</sup> submittal deadline is as follows:

- April 19: BPAC review and endorse
- April 25: TAC/CAC review and endorse
- May 13: MPO Board approval
- May 31: OGT submittal deadline

The Naples Pathways Coalition (NPC) is recommending an update to the MPO's SUN Trail alignment based on the analysis and public input produced thus far on the Feasibility Study for the Paradise Coast Trail, which is ongoing at this time. The proposed alignment, **Attachment 1**, is a further refinement of the recommended alignment shown in the MPO's Bicycle and Pedestrian Master Plan (2019).

**STAFF RECOMMENDATION:** for the committee to endorse the updated SUN Trail alignment shown in **Attachment 1** for the MPO to submit for inclusion in the Florida Greenways and Trails System map.

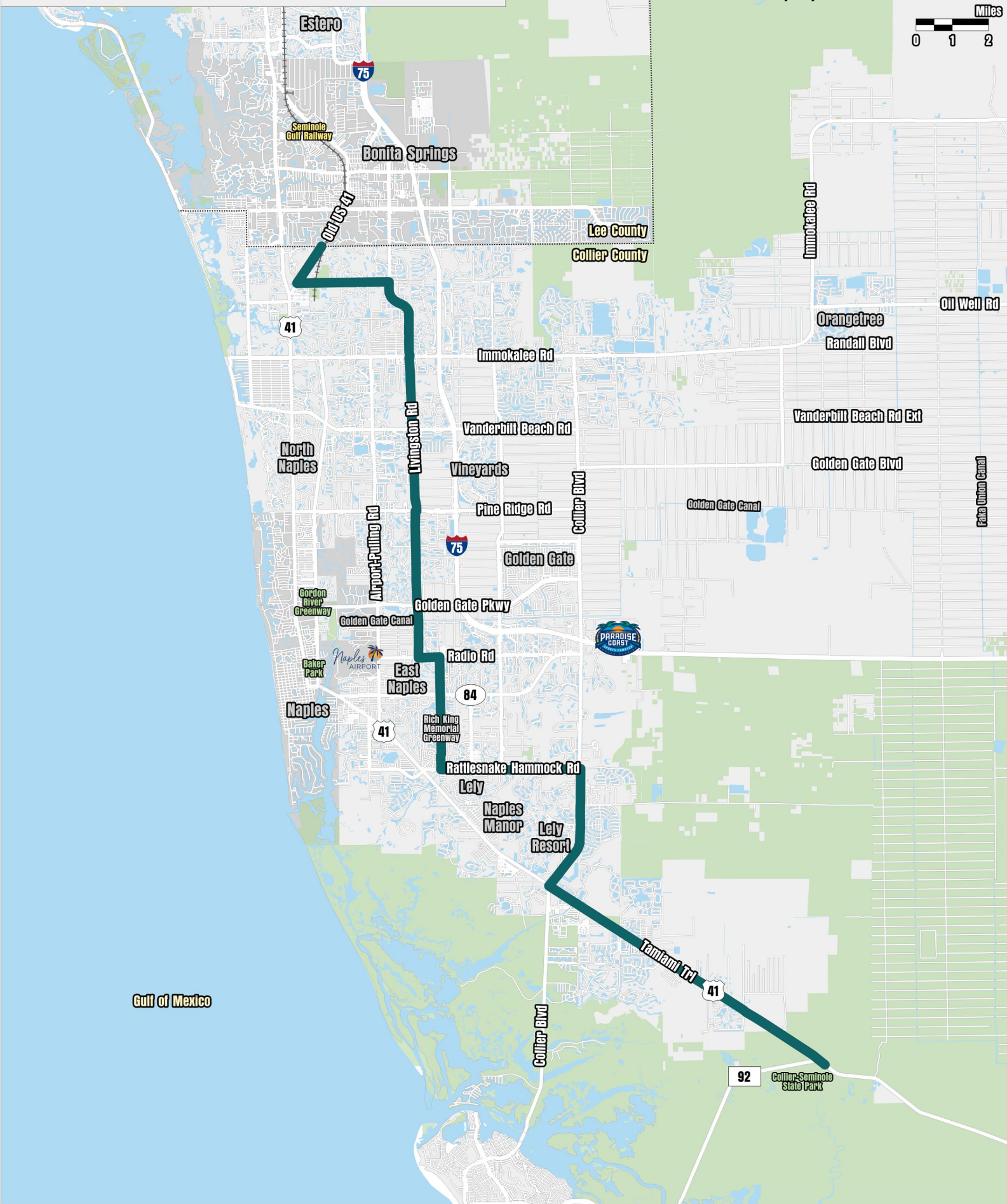
Prepared By: Anne McLaughlin, Executive Director

**ATTACHMENT(S):**

1. Proposed Collier Priority Trail Corridor based on Paradise Coast trail Feasibility Study process.



**7B Attachment 1**  
**BPAC 4/19/22**





**EXECUTIVE SUMMARY**  
**REPORTS AND PRESENTATIONS**  
**ITEM 8A**

**Sunshine Law Presentation**

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**OBJECTIVE:** For the committee to receive a presentation on Florida's Government in the Sunshine Law.

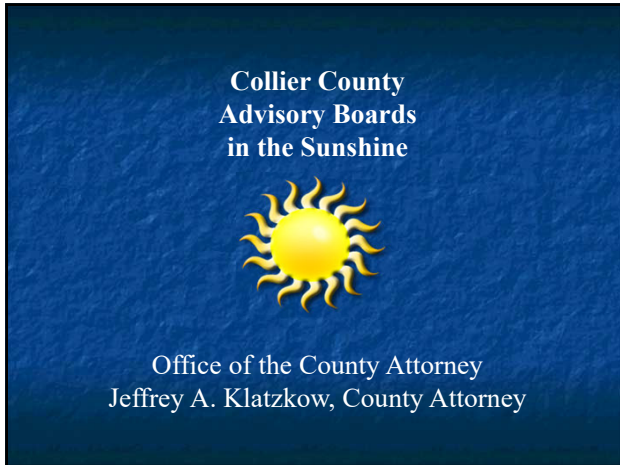
**CONSIDERATIONS:** The Collier County Attorney's Office will provide a brief presentation on Florida's Government in the Sunshine Law. The Florida Sunshine Law protects the public from "closed door" decision making and provides a right of access to governmental meetings. Collier County strictly adheres to the Sunshine Law.

**STAFF RECOMMENDATION:** That the committee receive the presentation and have the opportunity to ask questions.

**ATTACHMENT(S):**

1. Sunshine Law Presentation

Prepared By: Brandy Otero, Principal Planner



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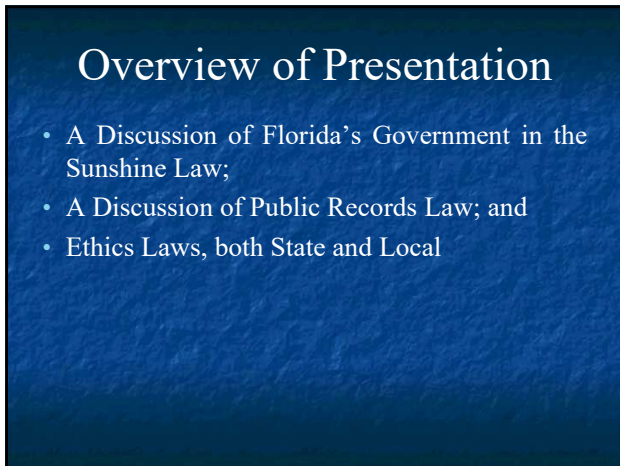
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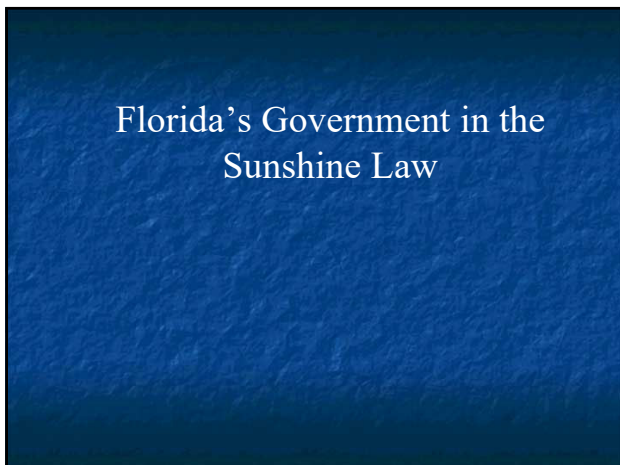
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## What is Florida's Government-in-the-Sunshine Law?

- Enacted in 1967
- Found in Chapter 286, Florida Statutes
- Establishes a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities



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## Sunshine Law

The Sunshine Law is “applicable to any gathering, whether formal or casual, of two or members of the same board or commission to discuss some matter on which foreseeable action will be taken by the public board or commission.”

Hough v. Stembridge, 278 So. 2d 288 (Fla. 3d DCA 1973).

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## The Three Basic Requirements of the Sunshine Law, § 286.011, Florida Statutes



Meetings of public boards, commissions or committees (“boards”) must be open to the public.



Reasonable notice of such meetings must be given.



Minutes of the meeting must be taken.

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## Meetings Must be Open to the Public

The public must be allowed to attend meetings, and the location:

- Must be accessible
- Sufficient size for turnout
- Facility cannot discriminate based on age, race, etc.
- Public access not unreasonably restricted
- Be within Collier County with few exceptions
- The public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. Board may establish policies to maintain orderly conduct and decorum. May establish time limits.

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## Reasonable notice of such meetings must be given.

The public must be given reasonable and timely notice so they can decide whether to attend. What is “reasonable” or “timely” depends on the circumstance. It does not necessarily require a newspaper advertisement; contact the County Attorney’s Office for guidance.

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Minutes of the meeting are required. Written minutes must be taken and made available promptly.

- Sound recordings may also be used, but only in addition to written minutes.
- Minutes may be a brief summary of meeting’s events.
- Minutes are public records.
- Minutes must record the votes.



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- ☀ The Sunshine Law applies to all advisory boards and all of the advisory board's subcommittees.
- ☀ The Sunshine Law applies when two or more members of a board or subcommittee discuss a matter that may foreseeably come before the board or subcommittee.

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## Subcommittee Issues

A subcommittee is a subordinate committee chosen from among the members of a main committee to carry out special assignments. All members of a subcommittee must be members of the Advisory Board. All subcommittees are Sunshine Committees, and must adhere to all of the requirements of the Sunshine Law.

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## Advisory Board Members

Must strictly adhere to all aspects of the Sunshine Law.

- No pre or post meeting discussions;
- No private conversations on the dais;
- Avoid texting on the dais;
- May not use non-members as liaisons between board members;
- Avoid the appearance of impropriety.

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## Written Correspondence

A board member may send documents on matters coming before the board for official action to other board members, PROVIDED there are no responses from, or interaction related to documents among, the board members prior to the public meeting. The written correspondence becomes a public record.

•Recommend use of staff liaison.

•Two way communication must be done in the Sunshine.



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## Inspection Trips

Members of an advisory board may conduct inspection trips (limited basis).

- All requirements of the Sunshine Law must be met, as fact finding exemption does not apply to a board with "ultimate decision-making authority." See Finch v. Seminole County School Board, 995 So. 2d 1068 (Fla. 5<sup>th</sup> DCA 2008).
- To avoid Sunshine issues, if you wish to conduct an inspection, do so outside the company of a fellow board member.

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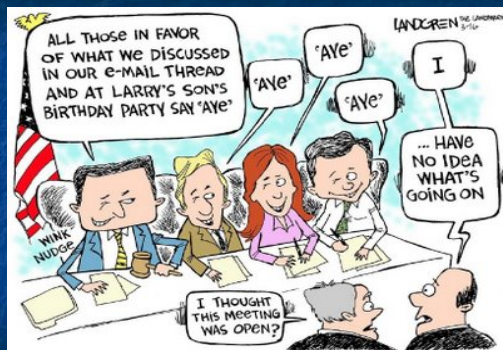
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## FAQs

- Are two members of the same Advisory Board or Board of County Commissioners allowed to attend the same social event or civic function, like a Chamber of Commerce meeting?
- Social events and other community events are of course permissible. Advisory Board members must be aware not to discuss any matter that may be discussed at their advisory board meetings.

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- Does the Sunshine Law apply to a meeting between one County Commissioner and a private citizen?
- No, the Sunshine Law only applies to certain discussions between two members of the same board.

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### Validity of Action Taken in Violation of The Sunshine Law/Subsequent Corrective Action

- ☀ Section 286.011, F.S., provides that no resolution, rule, regulation or formal action shall be considered binding except as taken or made at an open meeting.
- ☀ Recognizing that the Sunshine Law should be construed so as to frustrate all evasive devices, the courts have held that action taken in violation of the law is void *ab initio* (*from the beginning*).
- ☀ *Within limitations*, some case law exists holding that Sunshine Law violations can be cured by independent, final action taken completely in the Sunshine.

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## What are the Consequences if a Public Board or Commission Fails to Comply with the Sunshine Law?

### Criminal Penalties:

- It is a second degree misdemeanor to knowingly violate the Sunshine law.
- Punishable with a fine of up to \$500 and/or up to 60 days imprisonment.

### Other Penalties Include:

- Removal from position.
- Payment of attorney's fees incurred by the challenging party, as well as declaratory and injunctive relief.

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## The Headlines We Don't Want!

“Judge Finds Marco Councilor Guilty of Sunshine Law Violation!!” Naples Daily News 2/7/08

“Planning Member’s Lunch Clouds Florida in Sunshine Law” Naples Daily News 2/7/07

Grand Jury OKs City Sunshine Law Investigation 7/12/07 Jacksonville News

“A Times-Union Investigation Finds Evidence of Florida Sunshine Law Violations” Florida Times-Union 6/14/07

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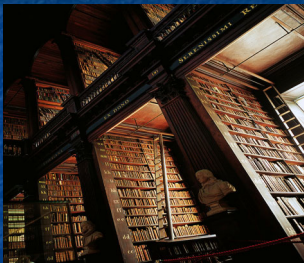
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## PUBLIC RECORDS



Office of the County Attorney  
Jeffrey A. Klatzkow, County Attorney

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## The Definition of Public Records Open to Inspection to Any Person is Very Broad.



*A public record encompasses all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge, regardless of whether such materials are in final form.*

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## Public Records Law



### Public Records include:

All documents, paper, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or means of transmission made or received pursuant to law in connection with transaction of official business by the agency. (Chapter 119, Florida Statutes)

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## Public Records Law applies to:



Records developed by the Board, Board-Appointed Committees, and employees



All Types of records including written communications, letters, notes and e-mails

*Numerous exemptions are identified in §119.07, Florida Statutes, and other statutes*

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### ADVISORY BOARD GUIDELINES FOR PUBLIC RECORDS AND EMAILS

- While you are serving on an advisory board, correspondence and emails to or from anyone, on any computer (private or government owned), relating to County business is a public record.
- Public records must be maintained pursuant to State guidelines. You may save them on the computer, a disk, or as a hard copy. If leaving your position on an advisory board, please provide a copy of all public records in your possession to the County Staff Liaison.
- One-way communications by email should be directed to the County Staff Liaison. Pursuant to the Sunshine Law, no two-way communications between members (except during publicly noticed meetings) is permitted.
- If you choose to communicate with members of the public concerning County business via email, please be aware that your name and email address, as well as the name and email address of the public person, becomes a public record.

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## What Public Records are Exempt From Disclosure?

### Common exemptions are:



- Records prepared for litigation proceedings or in anticipation of legal proceedings
- Social Security numbers of employees and former employees
- Sealed bids or proposals
- Home addresses of current and former law enforcement officers including Code Enforcement Officers

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## Public Records Requests

Can be made verbally or in writing by any person

### The Board, Committee, or Staff:

- Has a "reasonable" time to respond
- Can charge for the cost of retrieving records if the amount requested is voluminous
- Can charge 15 cents per page

### The Public Records Law does not require:

- The retention of records (this is covered by the State's records retention policy)
- The creation of records or the provision of records in the format requested
- An explanation of the records

\* Collier County Resolution No. 2007-327

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# PENALTIES



**A violation of the Public Records Act carries both civil and criminal penalties!**

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## FAQs

1. How does someone make a public records request?

A public records request may be as formal as a written request or as informal as a telephone call with everything in between.

2. Is the person making a public records request required to fill out an application or some other form?

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No. The important thing is to find out what records are being asked for, and to get a copy of those records to the requestor within a reasonable time.

3. Who does this?

If the request is simple and can easily be handled by your department, such as a copy of a permit that the requestor had filed, then it should be handled then and there. Any substantial requests should be forwarded to the Customer Relations Division. Your supervisor should assist you in this.

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## Social Media and Florida's Sunshine and Public Records Laws



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## Tools for Social Networking:

Facebook  
Twitter  
Instant Messaging  
You Tube  
Instagram

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## Social Media Challenges

Increased risk of running afoul of Florida's  
Government in the Sunshine and Public Records  
Laws.

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## Florida's Public Records Laws Broad Definition

- Florida Supreme Court (1980)
- “All materials made or received by a city in connection with official business which are used to perpetuate, communicate or formalize knowledge.”

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## Social Media Activity is a Public Record...

Regardless of the platform, if the post/tweet/image or other material otherwise meets the standards for a public record,

- It *is* a public record,
- It *must* be retained, and
- It *must* be producible for inspection or copying if requested.

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## Social Media and Sunshine

Advisory board members ***must not*** engage on social media in an exchange or discussion of any matter that might foreseeably come before the board for action... ***Period.***

(To engage in such an exchange is to violate the Sunshine Law.)

The courts frown upon any communication activity between board members that appears to be an attempt to evade Sunshine Requirements.

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## The Comment Trap

Advisory board members must be wary of commenting on *any* social media platform about matters that foreseeably may come before the board for action.

(The danger arises from the potential for two or more board members to exchange comments, intentionally or inadvertently.)

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## FAQs

- Should I ever use my personal Social Media for County Business?
- Never. There is a reason that the County gives you an email account. Use your County email or use the telephone. And never use your personal computer for County business unless you have logged onto the County network. The last thing you want is someone to subpoena your hard drive to search for public records.

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# Ethics Laws



Office of the County Attorney  
Jeffrey A. Klatzkow, County Attorney

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**This will not suffice!**



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## Two Areas of Ethics Laws

- State Law: Chapter 112 Code of Ethics for Public Officers and Employees. Applies to all advisory board members, elected officials, and County employees.
- The County's Ethics Ordinance: Ord. No. 2003-53, as amended. Applies to all advisory board members, elected officials, and County employees.

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## Unauthorized Gifts and Compensation

Public officers or employees, local government attorneys, and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when they know, or with exercise of reasonable care should know, that it is given to influence a vote or other official action. [Sec. 112.313(2), (4), Fla. Stat.]

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## Unauthorized Compensation

Public officers including Advisory Board members, and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when they know, or with the exercise of reasonable care should know, that it is given to influence a vote or other official action. [Sec. 112.313(4), Fla. Stat.]

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## Misuse of Public Position

Public officers and employees, and local government attorneys are prohibited from corruptly using or attempting to use their official positions or the resources thereof to obtain a special privilege or benefit for themselves or others. [Sec. 112.313(6), Fla. Stat.]

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## Disclosure or Use of Certain Information

Public officers and employees and local government attorneys are prohibited from disclosing or using information not available to the public and obtained by reason of their public position for the personal benefit of themselves or others. [Sec. 112.313(8), Fla. Stat.]

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## Prohibited Business Relationships

- 1. Doing Business With One's Agency
- 2. Conflicting Employment or Contractual Relationship

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## Doing Business With One's Agency

- (a) A...public officer acting in an official capacity, is prohibited from purchasing, renting, or leasing any realty, goods, or services for his or her agency from a business entity in which the officer or employee or his or her spouse or child owns more than a 5% interest. [Sec. 112.313(3), Fla. Stat.]
- (b) A public officer or employee, acting in a private capacity, also is prohibited from renting, leasing, or selling any realty, goods, or services to his or her own agency if the officer or employee is a state officer or employee, or, if he or she is an officer or employee of a political subdivision, to that subdivision or any of its agencies. [Sec. 112.313(3), Fla. Stat.]

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## Conflicting Employment or Contractual Relationship

- (a) A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. [Sec. 112.313(7), Fla. Stat.]
- (b) A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. [Sec. 112.313(7), Fla. Stat.]
- Can be waived in the case of Advisory Board Members by a two-thirds vote of the Board of County Commissioners (after disclosure on Commission Form 4A).

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## Voting Conflicts of Interest

Requires no County, municipal, or other Local Public Officer (including members of Board appointed committees) shall vote in an official capacity upon any measure which would inure to the special private gain or loss of themselves, any principal or entity by whom they are retained, other than an agency as defined in § 112.312(2), *Fla. Stat.*, or to any relative or business associate. (Specific exemptions apply.)

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## Voting Conflicts of Interest

- Exemptions may apply:
- 1. Remote and speculative test “uncertainty at time of vote.”
- 2. Size of class test “unique gain or loss.”

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Requires that public officers, including members of advisory committees:

- Ⓢ Must announce the nature of the conflict before the vote; abstain from voting; and file a memorandum of voting conflict.
- Ⓢ May not participate in the discussion without first disclosing the nature of their interest in the matter (either in writing prior to the meeting, or orally as soon as they become aware that a conflict exists).
- Ⓢ May not participate in an attempt to influence the decision.

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### Optional Abstention Provision

- Section 286.012, Fla. Stat., provides that an advisory board member may abstain from voting on a matter when there is or appears to be a possible conflict of interest to avoid any perceived bias or prejudice.
- The advisory board member is required to file Voting Conflict Form 8B when citing a potential conflict under this provision.

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### Form 1 - Limited Financial Disclosure

- Collier County Code Enforcement Board
- Collier County Planning Commission
- Collier County Water and Wastewater Authority

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## Penalties

Violation of Statute  
Includes a fine up to \$10,000 and  
removal from office



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## Collier County Ethics Ordinance



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## Collier County has a No Gift Policy

Public officials including Advisory Board members are prohibited from accepting any gift or any other thing of monetary value from anyone that has an interest that may be substantially affected by the performance or non-performance of duties of a public official.

Stricter than State Law.

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## County Ethics Ordinance

Limited Exceptions Apply!

- ❖ Gifts from relatives.
- ❖ Unsolicited advertising or promotional materials.
- ❖ Gifts for participation in a seminar.
- ❖ Award of nominal commercial value.
- ❖ Food or beverage offered to all attendees at a conference or business meeting, up to \$4.
- ❖ When in doubt, please ask! Better yet, just say no or pay for the food or beverage.

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## PENALTIES for violating County Ethics Ordinance

County Ordinance  
Violations Carry Jail as  
Well as Fine Penalties



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## FAQs

- What are the most common violations of the County Ethics Ordinance?
- Every year we get questions involving Christmas or holiday gifts. Gifts from the public, or those whom you do County business with, may not be accepted and must be returned.
- Another common question asked is whether vendors may provide lunch or other snacks for a working meeting.

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- Under the County Ordinance, vendors may not provide anything of value to County employees or Advisory Board members and this would include lunch or snacks provided at a meeting.
- Another question often asked is whether a citizen may bake a cake or bring a case of water to Advisory Board members. Pursuant to the County Ordinance, this is not allowed.

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- The County's Ethics Ordinance is very strict. If anyone tries to pay for your lunch, in connection with your County advisory board service, please say no thank you and pay for lunch!
- With all that said, if you ever have any questions involving an Ethics issue please call us. We are not the "Ethics Police." We are here to help, and we will keep your question confidential (remember that emails are public records).

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- If you want, we will gladly give you a written legal opinion on what you can or cannot do. We cannot help you after-the-fact; when in doubt call us.

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## When in Doubt, Call or Email Us!

### OFFICE OF THE COUNTY ATTORNEY

Jeffrey A. Klatzkow, County Attorney  
Jeff.Klatzkow@colliercountyfl.gov

Colleen M. Greene, Managing Assistant County Attorney  
Colleen.Greene@colliercountyfl.gov

3299 East Tamiami Trail, Suite 800  
Naples, FL 34112  
Phone: (239) 252-8400

Questions/Concerns Regarding Sunshine Law, Public Records, Ethics and  
Ex-Parte Disclosure Matters

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### DAS statutory exemptions examples:

- Veterinary records received from a veterinarian, Sec. 474.2165, F.S.
- Bite cards need to be reviewed for medical documentation for the victim and/or minor information.
- ACO personal information (home address, telephone #, SS#, photos, medical) Sec. 119.071(4)
- Rabies card provided by veterinarian

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**EXECUTIVE SUMMARY**  
**REPORTS AND PRESENTATIONS**  
**ITEM 8B**

**Everglades City Copeland Ave Sidewalk & SR 90 at Oasis Visitor Center Project Presentation**

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**OBJECTIVE:** For the committee to receive a presentation from FDOT on the Everglades City Copeland Avenue Sidewalk and the SR 90 at the Oasis Visitor Center projects.

**CONSIDERATIONS:** David Agacinski, FDOT, will give a presentation on the Everglades City Copeland Avenue Sidewalk project (FPN 437096-1) and new dedicated turn lanes on SR 90 (US 41) at the Oasis Visitor Center (FPN 441975-1).

**STAFF RECOMMENDATION:** That the committee receive the presentation and have the opportunity ask questions.

**ATTACHMENT(S):**

1. FDOT Copeland Ave Sidewalks and SR 90 at Oasis Visitor Center presentation

Prepared By: Scott Philips, Principal Planner

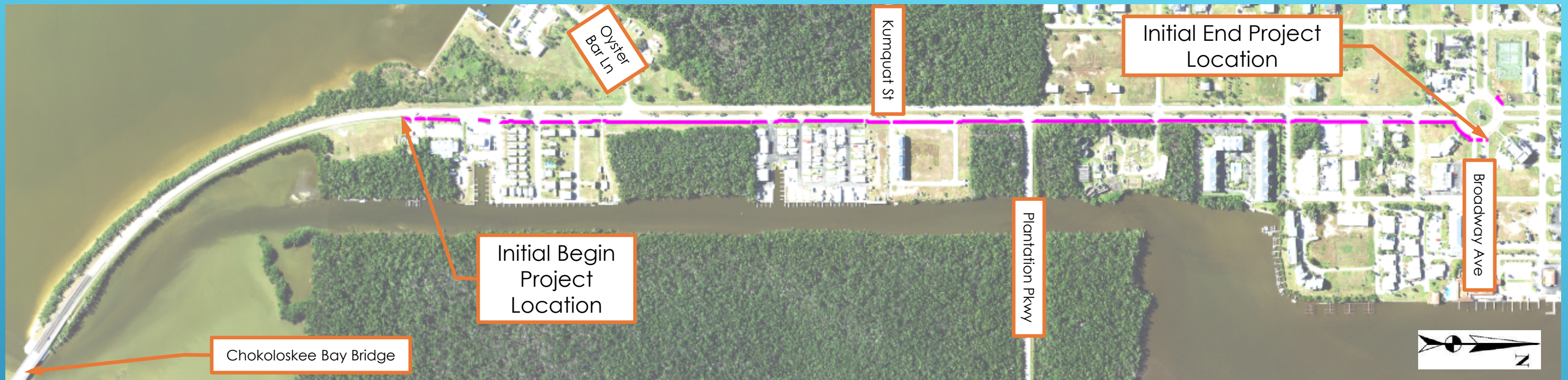


**FPID 437096-1-52-01: Copeland Ave (CR 29) Sidewalk  
from Chokoloskee Bay Bridge to North of Broadway Ave  
and  
FPID 441975-1-52-01: SR 90 (US 41) at Oasis Visitor Center**





## FPID 437096-1-52-01: Copeland Ave (CR 29) Sidewalk from Chokoloskee Bay Bridge to North of Broadway Ave



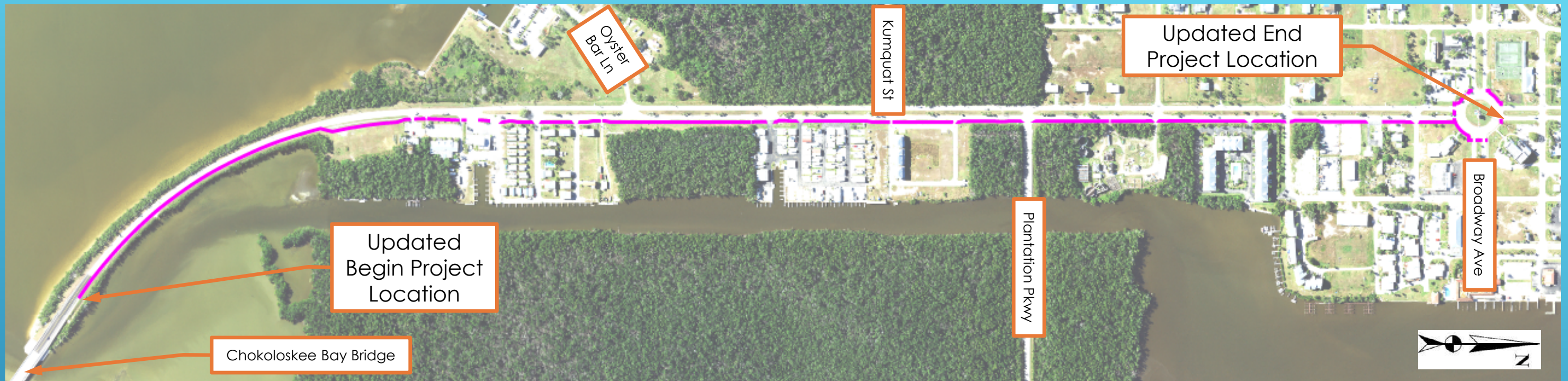
### Initial Project Scope

Replace the existing deteriorated 4'-5' wide asphalt path with a 6' wide concrete sidewalk along the east side of Copeland Ave from 1000' south of Oyster Bar Ln to Broadway Ave





## FPID 437096-1-52-01: Copeland Ave (CR 29) Sidewalk from Chokoloskee Bay Bridge to North of Broadway Ave

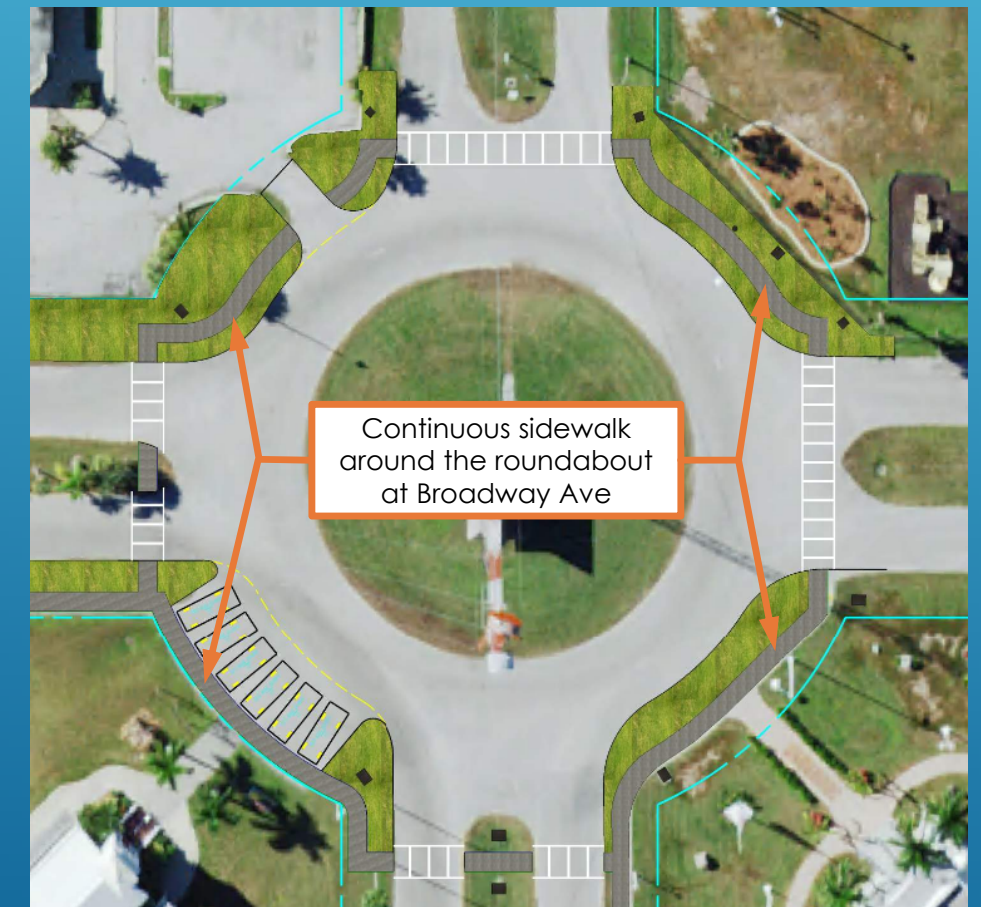


### Updated Project Scope

Begin Project: add an additional 1,600' of 6' wide concrete sidewalk to the south to connect to the existing concrete sidewalk just north of the Chokoloskee Bay Bridge

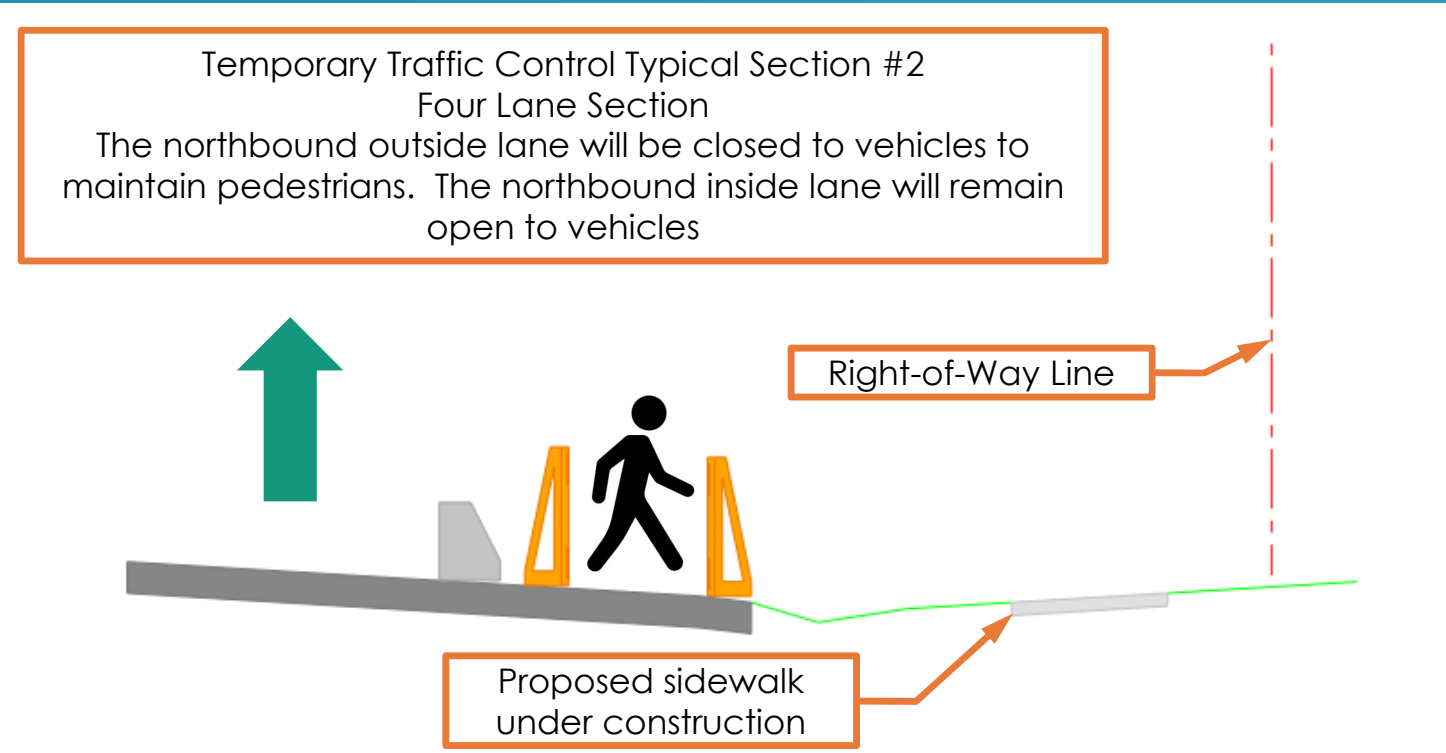
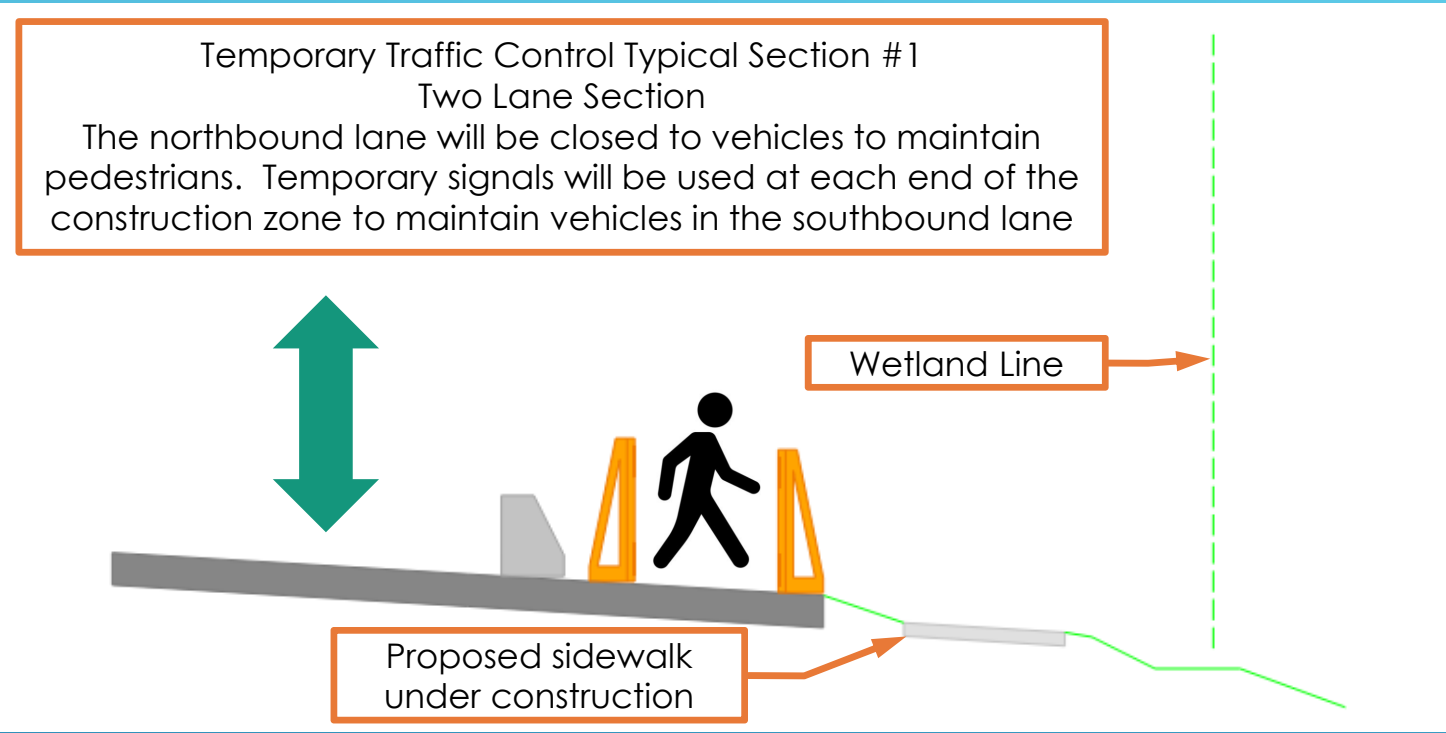
End Project: modify the existing roundabout to provide a continuous sidewalk around the roundabout

These additional improvements were incorporated into the project by working with Collier County and the Collier MPO to secure additional construction funding





# FPID 437096-1-52-01: Copeland Ave (CR 29) Sidewalk from Chokoloskee Bay Bridge to North of Broadway Ave





## FPID 441975-1-52-01: SR 90 (US 41) at Oasis Visitor Center



### Existing Condition

National Park Service submitted an application to add turn lanes at the Oasis Visitor Center along SR 90 (US 41) to help improve safety for turning vehicles due to the high-speed nature of the corridor



## FPID 441975-1-52-01: SR 90 (US 41) at Oasis Visitor Center



### Project Scope

Construct a dedicated eastbound left turn lane and a dedicated westbound right turn lane with a bicycle keyhole lane at the Oasis Visitor Center entrance



FPID 437096-1-52-01: Copeland Ave (CR 29) Sidewalk from Chokoloskee Bay Bridge to North of Broadway Ave  
and  
FPID 441975-1-52-01: SR 90 (US 41) at Oasis Visitor Center

### Project Schedule

Let to Construction: June 2022  
Approximate Begin Construction Date: September 2022  
Approximate End Construction Date: June 2023

### Contact Information

FDOT Project Manager: David Agacinski  
Phone: (239) 225-1924  
Email: david.agacinski@dot.state.fl.us

