

Lee County Board of County Commissioners
Agenda Item Summary

DATE CRITICAL
Blue Sheet No. 20040603

1. **REQUESTED MOTION:**

ACTION REQUESTED: Amend Resolution 04-04-05, approved by the Board of County Commissioners on April 6, 2004, approving a new access on the north side of Daniels Parkway, a controlled access facility, at Highway Station 2529+01 (Gateway Charter School).

WHY ACTION IS NECESSARY: To correct the inadvertent addition of unintended text limiting the possible future use of the new access.

WHAT ACTION ACCOMPLISHES: Corrects the previously approved Resolution to reflect the intended future use of the access.

2. **DEPARTMENTAL CATEGORY:** 12
COMMISSION DISTRICT # 5

C12A

3. **MEETING DATE:**

05-25-2004

4. **AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:**
5 Minutes

5. **REQUIREMENT/PURPOSE:**
(Specify)

- STATUTE
- ORDINANCE *11-10*
- ADMIN. CODE
- OTHER

6. **REQUESTOR OF INFORMATION:**

- A. COMMISSIONER _____
- B. DEPARTMENT _____
- C. DIVISION _____

BY: *John J. Fredyma*
John J. Fredyma
Assistant County Attorney

7. **BACKGROUND:** On April 6, 2004, the Board of County Commissioners approved an amendment to Resolution 89-10-11, the Daniels Parkway Controlled Access Facility Resolution. The Board approved a new access on the north side of Daniels Parkway at Highway Station 2529+01 (Gateway Charter School), resulting in Resolution 04-04-05. Operative provision #3 of this Resolution inadvertently included unintended text limiting the possible future use of this new access to the Gateway Charter School only. While the new school was the reason for the requested access, LCDOT did not intend it be the only user of this access, either now or in the future. To correct this error, a revised Resolution has been prepared deleting the last 6 words of operative provision #3. This correction clarifies the availability of the future use of this access. A supermajority vote of the Board is required. A revised Resolution is attached.

LCDOT supports the requested correction to Resolution 04-04-05.

8. **MANAGEMENT RECOMMENDATIONS:**

9. **RECOMMENDED APPROVAL:**

| A Department Director | B Purchasing or Contracts | C Human Resources | D Other | E County Attorney | F Budget Services | | | | G County Manager |
|-----------------------------|------------------------------------|-------------------------|------------|-------------------------|----------------------|--------------------|--------------------|--------------------|---------------------|
| | | | | | OA | OM | RISK | GC | |
| N/A | N/A | N/A | N/A | <i>[Signature]</i> | <i>[Signature]</i> | <i>[Signature]</i> | <i>[Signature]</i> | <i>[Signature]</i> | <i>[Signature]</i> |

10. **COMMISSION ACTION:**

- _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

CO. ATTY.
FORWARDED
TO CO. ADMIN.
5/10/04 3pm

RECEIVED BY
COUNTY ADMIN: *[Signature]*
5/10/04
3:15 pm
COUNTY ADMIN
FORWARDED TO: *[Signature]*
5-13-04
5:30 pm

LEE COUNTY RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AMENDING RESOLUTION NO. 89-10-11, AS AMENDED, WHICH DESIGNATED DANIELS ROAD AS A CONTROLLED ACCESS ROAD AND ESTABLISHED PERMANENT ACCESS POINTS

WHEREAS, Section 10-285(h) of the Lee County Land Development Code provides for the designation of certain streets in Lee County as "controlled access" facilities to which permanent access points are restricted to locations established and set by design study and plans adopted by resolution of the Lee County Board of County Commissioners; and

WHEREAS, the Board of County Commissioners retains the right and authority to exercise its police power to modify roadway median openings, access points and turning movements to protect the health, safety and welfare of the traveling public; and

WHEREAS, Resolution No. 89-10-11 was subsequently amended on April 3, 1998 by Resolution No. Z-92-073, to add a connection point and median opening at Station 170+95 +/-50 on the south side; and

WHEREAS, Resolution No. 89-10-11 was further amended by Board Resolutions adopted as follows:

1. Resolution No. Z-93-045, adopted September 15, 1993, to add a connection point at Station 312+86 +/-50 on the north side for a temporary right-in/right-out access only; and
2. Resolution No. 97-12-04, adopted December 2, 1997, to add a connection point at Station 135+93.59 on the north side for a full movement connection point at an existing median opening; and
3. Resolution No. 98-03-07, adopted March 24, 1998, to add a right-turn in only connection point at Station 158+40± on the south side of Daniels Parkway; and
4. Resolution No. 99-08-23, adopted August 17, 1999, to add a right-in/right-out only connection point at Station 156+80 on the north side of Daniels; and

5. Resolution No. 01-01-28, adopted January 23, 2001, identified and designated access points on Daniels Parkway from Treeline Avenue to State Road 82; and
6. Resolution No. 04-04-05, adopted April 6, 2004, to allow right-in/right-out access only on the north side of Daniels Parkway at highway station 2529+01, approximately 675 feet west of Gateway Boulevard; and

WHEREAS, on April 6, 2004, the Board of County Commissioners approved the request of John McGarvey as Resolution No. 04-04-05 to allow right-in/right-out access only on the north side of Daniels Parkway at highway station 2529+01, approximately 675 feet west of Gateway Boulevard to serve the newly constructed Gateway Charter School; and

WHEREAS, Resolution No. 04-04-05 inadvertently included unintended text limiting the possible future use of this new access by the Gateway Charter School only;

WHEREAS, no such limitation was intended; and

WHEREAS, this Resolution is made for the purpose of clarifying the Board's approval of the right-in/right-out access only on the north side of Daniels Parkway at highway station 2529+01, approximately 675 feet west of Gateway Boulevard, without such limitation; and

WHEREAS, the Lee County Department of Transportation has concluded that the designated connection point described herein will not hinder traffic capacity nor be contrary to the protection of the health, safety and welfare of the citizens of Lee County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida that:

1. Daniels Parkway, from U.S. 41 to State Road 82, including its intersections, is designated as a controlled access road facility.
2. Absent subsequent Board action in accordance with applicable County regulations, the connection points are limited to those identified on attached Exhibit "A." Provided, however, no vested right to a particular connection point location is granted by virtue of adopting Exhibit "A." The County retains full power and authority to exercise its police power to modify connection points, median openings and turning movements to protect the health, safety and welfare of the traveling public.
3. Resolution No. 89-10-11 is further amended to add a new connection point to Daniels Parkway, a controlled access facility from U.S. 41 to State Road 82, for right in/right out access only on the north side of Daniels Parkway at highway station 2529+01, approximately 675 feet west of Gateway Boulevard to serve the Gateway Charter School.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner _____, and seconded by Commissioner _____ and, upon being put to a vote, the result was as follows:

ROBERT P. JANES _____
DOUGLAS R. ST. CERNY _____
RAY JUDAH _____
ANDREW W. COY _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED THIS _____ DAY OF _____, 2004.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY
COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chairman

APPROVED AS TO FORM

BY: _____
John J. Fredyma
Assistant County Attorney
Office of the Lee County Attorney