Memo

To: Dr. Tom Taylor, Chairman, Florida Regional Council Association
From: Stas Allen Swerdzewski, Senior Planner, Treasure Coast Regional Planning Council
Date: August 29, 2005
Re: Cross-Jurisdictional Transportation Disputes

I have attached the procedure design that the Treasure Coast Regional Planning Council follows when cross-jurisdictional transportation conflicts surface. This procedure design suggests using a mediated two-part workshop in certain cases, rather than just making a ruling to better solve transportation disputes.

We created this procedure after learning from our mistakes in the recent Western Corridor dispute. When this conflict surfaced, we didn't use the Regional Dispute Resolution Process, RDRP, and simply imposed a ruling. This ruling infuriated particular municipalities in the area who felt their needs were not considered. This triggered an environment where municipalities and counties were pitted against one another. It also spawned a long appeals process and delayed much needed action. DCA eventually overturned our decision and forced the parties into mediation nonetheless.

As a result, the Treasure Coast Regional Planning Council has recently adopted the attached procedure for dealing with cross-jurisdictional transportation disputes. We hope that the Florida Regional Council Association will distribute and recommend this procedure to the other regional planning councils in Florida. This mediation process can lead to a legitimate consensus agreement where all parties are satisfied with the decision or at a minimum have been given a fair opportunity to work out a solution. It also helps jurisdictions maintain friendly relationships and can lead to a quicker, better decision. Overall, it can save valuable time, money and unnecessary grief.
Overview

Municipalities within regional planning jurisdictions can engage in a mediated two-part workshop in order to settle cross-jurisdictional transportation disputes. Often during times of cross-jurisdictional disputes, jurisdictions rely on the decisions of regional planning councils or state agencies such as the Department of Transportation (DOT) or the Department of Community Affairs (DCA) or court. These decisions can often end up with winners and losers when all sides could be content with the outcomes. The proposed mediated two-part workshop option offers an alternative that enables jurisdictions to seek a consensus agreement where all sides discuss the issues and can reach a solution. This, along with maintaining affable relationships with the neighboring communities, provides an incentive for conflicting jurisdictions to choose this option when resolving transportation disputes. This mediated two-part workshop could become standard practice for all Florida regional planning councils when attempting to resolve cross-jurisdictional disputes.

Purpose

Transportation disputes can be very important because roads may spur development and increase traffic. This not only catches the attention of cities and counties, but of smaller affected areas like neighborhoods as well. Transportation disputes can become very complex when more parties become involved, and reaching an agreement becomes even more complicated when it crosses jurisdictional boundaries. Such a conflict cannot be settled by only those within a certain jurisdiction, and requires the compliance of the other affected local governments as well. In other words, reaching an agreement can be easier said than done. Because of the nature of these cross-jurisdictional disputes, I have recommended a mediated two-part workshop to better organize and settle these disputes. The mediated two-part workshop will allow these jurisdictions to formally engage in solving the dispute by identifying the issues, discussing the relevant topics, and generating alternatives to reach a consensus agreement rather than relying on a binding decision from a Regional Planning Council.

Objectives

While these disputes can be complex and complicated, the mediated two-part workshop process provides an effective way for a consensus solution to be reached. The objectives of this process are the following:

- Identify participants who will be affected by the transportation decision;
- Allow these participants to recognize the issues of the transportation problem;
- Develop and organize these issues into workable topic areas to be discussed by the participants;
- Brainstorm creative options regarding the topic areas to be used in a consensus decision;
- Determine the technical feasibilities of the options;
- Discuss the options to determine the most workable solutions;
- Reach a final solution or develop a list of suitable alternatives that each participant agrees with.
Benefits

The benefits of this process include:

- Greater acceptability of a final decision;
- Reaching a solution quicker;
- Maintaining friendly relationships with neighboring jurisdictions.

**When are Mediated Workshops Appropriate**

*Parties should consider initiating the Mediated Workshop Process when:*

[insert criteria]

**Summary of Procedural Steps**

1) **Initiation Letter** - When jurisdictions are unable to reach a solution concerning the transportation dispute after initial negotiations, a municipality may notify the Regional Planning Council of the inability to reach a solution. This will request and initiate the mediated two-part workshop procedure and should be in letter form. The letter should be sent to the Regional Planning Council and appropriate municipalities. It should identify the pertinent issues of the dispute, identify municipalities/neighborhood groups involved, and summarize the events that led for the mediation request.

2) **Notification Letter** - The Regional Planning Council will then submit notification letters back to the involved municipalities requesting their participation in the two-part workshop process. The municipalities will then have 14 days to accept or decline the invitation for mediation. It will request that municipalities identify other parties that may have been overlooked such as other municipalities and neighborhood/citizen groups who may wish to take part in the decision-making process. It will also inform the municipality/neighborhood group that the Regional Planning Council will be forced to make a decision if the municipality forgoes mediation.

3) **Formal Participant Identification** – Once all parties have been notified that their presence is requested at the mediation, the Regional Planning Council will determine and distribute a finalized list of those who will formally take part in the mediation. The Regional Planning Council will send formal participant identification letters to these parties. Other groups may be added throughout the process by a unanimous vote of the existing participants.

4) **Mediator Selection** - The Regional Planning Council will involve the municipalities in the selection of a mediator if only two municipalities or groups are involved. In these cases, the municipalities will be given 14 days from their formal identification to decide on a mediator. They may request a list of possible mediators from the Regional Planning Council or the Florida Conflict Resolution Consortium. However, the Regional Planning Council will select a mediator in cases where more than two municipalities or groups are involved or the two jurisdictions can’t agree. If all participants disagree with the mediator selection, the Regional Planning Council will select the next most qualified candidate. Once a mediator has been selected, the Regional
Planning Council will provide him/her with all information concerning the dispute up to this point. The mediator will then establish contact with the identified participants.

5) Selection of the Meeting Date and Place – Once a mediator has been selected, he/she will attain control of the process until its completion; but, the mediator will be asked to follow the established procedures for the two-part workshop that follow. The mediator will be responsible for setting a date, time, and place based on the availability of the participants involved. This first meeting will take place not more than 30 days after the mediator has been selected unless all participants request an extension. At this time, the mediator will also request the selection of one representative from each municipality/group. These representatives will be decided by the entities themselves.

6) Notifying the Public – Once a date has been set, each jurisdiction will notify their constituencies of the date/time, place, purpose, and participants of the mediated workshop. The public will have the chance to provide limited input. The standard rules for public hearings apply to both sessions of the mediated workshop.

7) First Meeting – The first meeting of the two-part workshop will be conducted. This meeting will attempt to do the following:

- Formally define the transportation problem;
- Identify the issues of the problem;
- Develop these issues into workable topic areas to be discussed;
- Generate a list of creative alternatives.

8) In-Between Meetings – The following will be conducted in-between meetings to help prepare for the second part of the workshop:

- A date, time, and location for the second meeting will be established;
- Each municipality will be required to again formally alert the public of the meeting;
- The participants will consult their constituencies and council members about the alternatives;
- The participants will consider the different alternatives and consider revisions and refinements based on the recommendations from their constituents;
- The mediator will supply the Regional Planning Council engineering staff with the alternatives;
- The Regional Planning Council engineering staff will develop logistics, feasibilities, and capabilities for each transportation alternative;
- Both the mediator and Regional Planning Council engineering staff will prepare formal presentations for each transportation alternative.

9) Second Meeting – The second meeting will be conducted no later than 60 days following the first. This meeting may be postponed if further study of alternatives is needed or at the unanimous request of all the participants. This meeting will include:

- Formal presentation of the alternatives by the mediator and engineering staff;
- Participant discussion of the transportation alternatives;
- Mediator testing of consensus;
- Refinement of transportation alternatives and re-testing for consensus;
If a consensus agreement is reached, the mediator will draft a plan for implementation to be signed by each participant binding the municipalities to the solution;

If a consensus agreement cannot be reached, the participants will agree on a list of the best alternatives. This list of alternatives will be submitted to the Regional Planning Council who will then make a decision.

Management of the Procedure

Again, a cross-jurisdictional transportation dispute must be brought to the Regional Planning Council’s attention by the submission of an initiation letter from one of the municipalities. The Regional Planning Council is responsible for formally identifying the participants involved, requesting the participant’s involvement in the procedure, processing the requests, and facilitating the selection of the mediator. Once the mediator has been selected, he/she will be responsible for conducting the two-part workshop and working with Regional Planning Council engineering staff on the development of transportation alternatives. Once the mediator has been selected, the Regional Planning Council will release any decision-making power unless a consensus decision amongst the participants cannot be reached. In this case, the Regional Planning Council will make a decision based on the list of alternatives submitted by the mediator in conjunction with the participants.

Summary of Time Frames

- Municipalities will be given 14 days to respond to the Regional Planning Council’s Notification Letter;
- In cases where two municipalities are involved, a mediator must be selected 14 days after the participants have been formally identified or the Regional Planning Council will choose;
- The first meeting must commence 30 days after a mediator has been selected unless an extension is requested by all participants;
- The second meeting must commence 60 days after the first meeting unless further study determining the impacts and technicalities of the alternatives is needed or at the unanimous request of all participants;
- A consensus agreement or list of suitable alternatives must be developed before the end of the second meeting or the Regional Planning Council will be forced to rule.

Costs

The cost of the mediation will be incurred by the municipality initiating the request for mediation. Costs may be split amongst municipalities if they agree to do so.

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Procedure Diagram
Informal negotiations between municipalities result in no agreement

A municipality submits an initiation letter requesting the mediated two-part workshop to the R.P.C. and appropriate municipalities

The R.P.C. sends a notification letter inviting the appropriate municipalities/neighborhood groups to the mediation process; gives them 14 days to respond

If jurisdictions decline the invitation for mediation, the R.P.C. makes a ruling

A municipality may appeal the decision to DCA or DOT

Formal Identification Letters sent by the R.P.C. to the appropriate municipalities and groups

Mediation selection occurs

Meeting Selection occurs where the date, time, place, and representatives for the meeting will be identified

The Public is Notified using standard public hearing procedures

First workshop meeting: identifies issues, develops topics, and creates alternatives

In between meetings: participants consult constituencies and rank alternatives; mediator prepares presentation; R.P.C. engineering staff determines feasibilities and technicalities

Second workshop meeting: presenting and discussing options, refining the options, and testing for consensus

No consensus reached

Consensus agreement reached

List of best alternatives generated and submitted to the R.P.C who makes a ruling

Implementation plan drafted by mediator and signed by participants