COUNTY DEPARTMENT AGENDA REQUEST

Department:	Public Works	Presenter(s):	Phil Mallon
Meeting Date:	Wednesday, October 7, 2009	Type of Request:	New Business

Wording for the Agenda:

Discussion of a proposed Driveway Adjustment Easement Policy as presented by Public Works.

Background/History/Details:

The proposed Driveway Adjustment Easement Policy is the first of a several policies staff expects to propose concerning Right-of-Way acquisitions with respect to current and future SPLOST projects. The policies will provide guidelines for dealing with potential issues that will likely arise as the County undertakes SPLOST projects in the future.

At this time, Public Works has prepared a draft of a policy that establishes procedures for obtaining temporary driveway easements and for performing necessary work with both new or reconstructed public roads. This draft Driveway Adjustment Easement Policy recommends work to be performed with the property owner's consent at no cost and without compensation to the property owner.

What action are you seeking from the Board of Commissioners?

Discuss and provide direction and input regarding the proposed Driveway Easement Policy. If the draft policy meets with the Board's approval, the Board is requested to approve the policy at the October 22, 2009 Board of Commissioners meeting.

If this item requires funding, please describe:

Not Applicable.

Has this issue come before the Commissioners in the past?	No	If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Yes	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

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Fayette County Public Works **Policy qqq.qq**
Driveway Adjustment Easement Policy

PURPOSE

This policy documents the procedures Fayette County follows when a new road, road widening, intersection improvement, or other type of transportation-related project results in the disturbance of an existing driveway or curb cut. Following this policy helps ensure all property owners are treated in a fair and consistent manner with respect to this issue.

POLICY

Fayette County shall request a Driveway Adjustment Easement (DAE) from all property owners having a parcel in which a County transportation project disturbs an existing driveway. The County considers the reconnection of the driveway to a road, sidewalk or path as a service to the property owner. As such, Fayette County will perform any work necessary to maintain access to the public road, sidewalk or path at no cost to the property owner and with no compensation to the property owner. No work shall be done on a parcel's driveway outside County right-of-way or existing easement unless a Driveway Adjustment Easement is provided by the property owner.

For purposes of this policy the term "driveway" includes all privately-owned paths, drives, roads, curb-cuts, etc. used to provide ingress and/or egress from a public road to one or more properties. "Transportation project" includes new road construction, operational improvements, safety improvements, sidewalk or path construction, maintenance work, etc. or any combination thereof.

PROCEDURE

The following procedures shall be followed whenever a Fayette County transportation project will disturb an existing driveway or curb cut on private property. These procedures are not applicable when the area of driveway disturbance is within existing or proposed right-of-way (R/W) or easement area.

1. Property owners shall be notified in writing of the proposed project and schedule of construction activities. A copy of this policy shall be provided with the notification.
2. The County shall not compensate for any Driveway Adjustment Easement areas shown on the construction plans and/or required to construct the project. These easements and areas will be solely for the purpose of reconnecting a property's driveway entrances and/or exits to the transportation project.

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3. The County shall coordinate with the property owners to provide safe and reasonable access to and from the property at all times during construction.
4. Permanent repairs and/or replacements of the property owner's driveway shall be of equal or greater standard of materials and workmanship. The County shall not, however, replace structures that are inconsistent with County Development Regulations or widely-accepted safety standards set by the American Association of State Highway and Transportation Officials (AASHTO), Georgia Department of Transportation (GDOT), Federal Highway Administration (FHWA), or similar organization. In these situations the County shall substitute a similar structure or material that serves the same function of the existing structure but meets applicable safety standards.
5. All Property Owners will be required to sign the below affidavit that acknowledges this policy and its effect on the Property Owner.
6. A plan or exhibit will be provided by the County to each property owner showing the driveway, the needed Driveway Adjustment Easement area, and applicable R/W lines.
7. Portions of driveways located within County R/W, prescriptive easement, temporary construction easement, permanent construction easement, or slope easement areas necessary for the project will be replaced with like and kind materials (as allowed by County, State and Federal safety and design standards – see note 4).
8. As determined by the Design Engineer, any additional driveway work outside of these limits (see item 7) that are necessary to provide an acceptable slope and transition for safe ingress/egress to the property will be labeled on plans as Driveway Adjustment Easement areas. The County or its Contractor will perform this work at no cost to the property owners and with no compensation to the owner, tenants or assigns for the area needed to reconnect the driveway. Every reasonable effort will be made to minimize impacts to physical improvements, landscaping, etc. located within the Driveway Adjustment Easement area.
9. Any physical improvement the property owner desires to preserve should be removed and/or relocated by the owner prior to the County performing the driveway construction work.
10. The County shall not be held liable for damage to physical improvements, including landscaping, not moved and/or relocated from Driveway Adjustment Easement area(s).

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PROPERTY OWNER AFFIDAVIT/DOCUMENTATION

- **Acknowledgment** – The undersigned hereby acknowledges that they have reviewed and understand the above Driveway Adjustment Easement Policy.

- **Permission** – The undersigned hereby *grants permission* to Fayette County or its assigned Contractor to enter upon your private property located at _____ for the purpose of providing driveway connectivity with the _____ _____ transportation project.

- **Refusal** – The undersigned hereby *refuses permission* to Fayette County or its assigned Contractor to enter upon your private property located at _____.for the purpose of providing driveway connectivity with the _____ _____ transportation project.

- **Release** – The undersigned hereby release and forever discharge Fayette County and its respective officers, elected official, agents, employees, and contractors of and from any and all causes of action and claims for relief of any nature whatsoever, known and unknown, anticipated and unanticipated, past present, and future, for breach of contract, compensation, damages, liability or otherwise arising from, or in any way initiated out of the construction activities to re-connect the said driveway to the new road/sidewalk/path. This Release contains the entire agreement between the parties and no promise, inducement or representation other than here set forth has been made, and the terms of the Release are contractual and not a mere recital.

  The undersigned further states that he/she/we has (have) fully read the foregoing Release in its entirety, and that he/she/we has (have) had the opportunity to consult with an attorney with respect to the legal effect of this Release and the he/she/we know(s) and understands the contents of this document and signs it as his/her/our own free act.

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IN WITNESS WHEREOF,
_____,
hereby executes this Release this _____ day of _____, 2009.

_____
Name

_____
Name

Signed, sealed and delivered
In the presence of:

_____
Unofficial Witness

_____
Notary Public