

LYNX Audit C mmittee Agenda

Central Florida Regional Transportation Authority

455 N. Garland Ave.

2nd Floor Board Room

Orlando, FL 32801

Board Date: 1/24/2008

Time: 9:30 AM





As a courtesy to others, please silence all electronic devices during the meeting.

1. Call to Order

2. Approval of Minutes

-  Minutes from the October 25, 2007 Board Audit Committee meeting (pg 2)

3. Audit Agenda Items



- A.  First Read on Administrative Rule 10: Solicitation on LYNX facilities (pg 8)
- B.  Update on State Lobbying Services Contract Award (pg 11)
- C.  Update on the construction of the LYNX Operations Center (LOC) and settlement with Collage. (pg 12)
- D.  Review of Amendment to Administrative Rule #4, Bus Advertising Contracts (pg 13)

4. Review of Board Package: 1/24/2008

- A. Review and discussion of Consent Agenda Items
- B. Review and discussion of Action Agenda Items

5. Information Items

(For Review Purposes Only - No action required)

- I.  LYNX Board of Directors' 12-month rolling calendar of agenda items (pg 15)
- II.  Link 33 Service Elimination Update (pg 17)

LYNX
Central Florida Regional Transportation Authority
Audit Committee Meeting

PLACE: LYNX Central Station
455 N. Garland Avenue
Board Room, 2nd Floor
Orlando, FL 32801

DATE: December 6, 2007

TIME: 9:30 a.m.

Members in Attendance: Seminole County Chair, Carlton Henley, Chair
FDOT District 5 Secretary, Noranne Downs (arrived at approximately 10:40 a.m.)
Orange County, Jim Harrison, Director of Growth Management
Osceola County, Commissioner Bill Lane
City of Orlando, FJ Flynn

1. Call to Order

Vice Chairman, Bill Lane, called the meeting to order at approximately 9:35 a.m.

2. Approval of Minutes

Mr. Harrison moved to approve the minutes of the October 25, 2007 Audit Committee meeting. Ms. Downs seconded the motion. The motion passed unanimously.

3. Audit Agenda Items

A. Update on Proposed Fare Adjustment and Public Involvement Process

Bert Francis, Chief Financial Officer, provided comments and Blanche Sherman provided the overview. Mr. Francis passed on positive comments provided to him regarding the staff and smooth process. Ms. Sherman explained the objective and the public process with a power point presentation.

Ms. Sherman pointed out:

1. The primary issues which justify the proposed fare increase
2. Fare increase history 1992 to present
3. Fare analysis and peer review
4. Services changes associated with this increase
5. Public process began in September and the vehicles of notice to public
6. Explanation of proposed fare structure, which includes deeper discounts for some passes.

Ms. Watson explained that we would have like to give additional notice, but LYNX met the Federal notice requirements.

Commissioner Lane inquired as to funding sources. Ms. Watson responded that some of the regions funding and dedicated funding.

Ms. Watson added that LYNX looked at the entire service and reduced some unproductive lines, however, it was difficult to cut many less productive routes when they are all connected together. LYNX plans include a complete analysis and revision of the entire service. During this restructuring which time (about 9 - 12 months) we will use about 2.5 million dollars in reserves but believe we can save 2 - 4 million dollars after the restructuring.

Commissioner Lane commented on fuel costs never going down and inquired as to alternative fuels and what LYNX is doing about that?

Ms. Watson responded that LYNX has recently gone to ultra low sulfur diesel, which has a huge reduction in carbon emissions. There is a slight increase in cost of about 2-3 cents a gallon. This was required of all transit systems by Federal law by 2007.

LYNX has experimented with 4 vehicles over the last year using biodiesel fuel. There is about 3 to 10 cents per gallon increase in cost, but it does work well further reducing carbon by about 20%. We recently made application to the State for a biodiesel blending facility. If we are able to get that and install it at our facility, Orange County, OUC and LYNX in partnership, would be able to fuel our vehicles and obtain tax credit on the facility, reducing the cost so our cost would be flat. Fuel has increased 54 cents per gallon in last 2 yrs.

Commissioner Lane asked about the pickup line in Poinciana. Ms. Watson indicated that the ridership has peaked to 28 riders per day. Bill Hearndon stated that we have been operating the Pick up line since June 4th. With additional advertising, we should have a significant increase after the holidays.

Ms. Watson added that this is an area that has never experienced transit before. It is going to be a little slow to catch on. Ordinarily, in transit familiar areas, it takes 6 months to a year to see ridership grow. The Pickup Line in Poinciana does not cost LYNX to provide the service because it is fully funded by various grants; therefore, it does not have an impact on our budget. This service provides customers will be picked up within two hours and taken to their destination if it is in the five mile zone or taken to the route for transfer into the system. It is a great service.

B. Update on the Elimination of Link 33 Service

Jennifer Stults, Deputy Chief of Planning, gave an update concerning the public process of potentially eliminating Link 33. Seminole County was faced with about 5 million dollars in budget cuts and deleted this route from their funding to LYNX. We initiated the public process during the fare increase process. This route was the most unproductive route in the Seminole system, serving only 108.

At the public hearing 8 people attended and two petitions. We received a total of 161 comments all against it. We have offered customer service to assist with planning alternative routes to the public. Staff recommends discontinuing this route and if approved, it will take affect March 30, the date of the next service change.

C. Presentation on First Amendment Constraints on Advertising on LYNX Buses and Facilities

Pat Christiansen, LYNX' legal counsel, presented how LYNX needs to operate in the area of First Amendment advertising and access to LYNX facilities. Since LYNX provides shelter and bus advertising, there needs to be a written policy in place. Additionally, we have had requests to use the LCS facility for activities such as shooting ads that we charge for. Other times we have had people just show up to do political type activities.

Generally, we want to provide an outline what we can do and not do. The memo provided in the board package related to advertising but the concepts related to both advertising and the public.

The court has broken the facilities and vehicles into public, limited public and nonpublic areas. It is the standard of review if you are a public or nonpublic agency. These things are reviewed under what is called the strict scrutiny and it is very hard to restrict them. If you are a park or where you've traditionally have had assembly, it is very hard to restrict what goes on there. If it is nonpublic, then it is subject to a reasonableness standard. LYNX is nonpublic which means we are subject to the reasonableness standard. We can take into account for example in advertising; one of our motives is to raise money. We can deal with that and we can then provide restrictions as to what we can and cannot do both for advertising and people coming to LYNX wanting to use the LYNX facility.

The trick is when you provide standards. In a particular category you need to be fair and probably the easiest one for example is political advertising. We can prohibit all political advertising, but what we cannot do in that category is, for example, allow Republicans to advertise but not Democrats or allow City Counsel members to advertise but not Orange County Commission members. Now we are differentiating in a particular area. Therefore, what we are going to do is develop some policies and bring them back to you as we go through that process.

The advertising policy will be an amendment to our policy. Once adopted by the Board, they will apply to buses as well as transit shelters. Afterwards, we will bring forward a policy to deal with the facilities here. For those people who want to come here and shoot ads, we have an agreement with them for insurance, fees and things of that nature.

Mr. Harrison interjected for clarity, the reason LYNX would prohibit certain types of advertising is based on business reasons not value judgments. Mr. Christiansen responded LYNX is entitled to protect its revenue and business and it is entitled to make the decision based on reasonable standards as to what may be put on the buses or bus shelters.

D. LYNX Operations Center Project Update

Bert Francis, Chief Financial Officer, provided an update on the LOC explaining that LYNX has secured a Certificate of Occupancy. Mr. Francis reminded the Audit Committee of the make-up and purpose of the Building Sub-committee.

Mr. Francis further explained that Collage, the LOC contractor, has submitted more change orders requesting additional costs. Upon review, some of the requests LYNX will agree with and others will be declined. Some of the additional costs are a result of delays in the project that were not a result of the contractor's action, but rather design and permitting delays.

Mr. Francis informed the Audit Committee that a request will be made to the Board authorizing Bert Francis and Dave Gorden to negotiate with the contractor to establish a final settlement. This final settlement should preclude any further action from the contractor or sub-contractors. This settlement should be completed prior to the end of the year to ensure LYNX does not receive a larger claim from the contractor or its subs.

Commissioner Lane asked about the legitimacy of the change orders. He wanted to ensure that the contractor is not just providing numbers and expect LYNX to pay. Additionally, he was concerned with warranty items and if any work LYNX did on some of the equipment to make them operational if that voided the warranty. Mr. Francis responded that the team is carefully scrutinizing the change order requests to validate the legitimacy. They will ensure there is sufficient documentation to justify the request. If not, the request will be denied. Mr. Francis further explained that the warranty issue will be addressed in the settlement negotiations.

Commissioner Lane further inquired about the change order to fix the leaks on the roof of the building. Mr. Francis explained that the sub-contractor did return to the job to repair the area where the air conditioner was removed; therefore, the subcontractor will maintain the warranty.

Mr. Pat Christiansen, Legal Counsel, clarified the request staff desired from the Board to move forward with the settlement negotiations.

1. Delegate the authority to approve the final settlement to Chairman Carlton Henley and Roger Neiswender. This will assist in moving the effort forward and not conflict with the Sunshine Act.
2. Authorize the sub-committee to begin dealing with the architect on design issues

Mr. Jim Harrison inquired of whether or not the team is requesting a not to exceed amount. Mr. Francis explained that the contractor's list totals more than \$1.9 million, but does not expect to pay that amount.

Secretary Downs asked for clarification about whether or not the amount being negotiated is within the budgetary authority of the Committee. Mr. Francis stated that staff will probably have to request an adjustment to the total project cost. Ms. Watson explained that LYNX has grant funds available to cover the additional project costs.

Ms. Watson shared with the Audit Committee that by approving the Sub-committee to negotiate with the contractor and determine a final settlement prior to the end of the year will provide an incentive to the Contractor. Otherwise, the Board would not have an opportunity to authorize the settlement until late January at the next Board of Directors meeting.

Mr. Christiansen explained that this would not result in an action item for the Board, but rather an informational item to be included in the next Board meeting. Otherwise, the Board could have a special meeting to approve the action.

Chairman Lane asked to be kept informed of the headlines without the details.

E. Review of the Florida Transportation Commission Performance Measures

Mr. Edward Johnson, Chief of Staff, reviewed the performance measures that he and Linda Watson have been working on with the FTC this summer.

Earlier this summer, the State Legislature passed House Bill 985 that streamlines the focus for the commission to provide better monitoring of the agencies that fall under the Chapter 343 and 348 of the Florida Statutes. The way they want to do this is by creating performance measures, adherence to the State government regulations, as well as through periodic site reviews. The FTC has established 14 performance measures. Initially there were 30 measures; however, working with LYNX as well as TriRail, they were able to minimize the number measures because not all were necessarily reflective of how we were doing business. For those items not established as measures, they were termed to be indicators. Items such as population density and annual revenue miles, are items agencies do not have control over. They are more community or governing boards' authority, therefore, they agreed to remove some of those items as performance measures and make them more for reportable items.

Lastly we had the State Government regulations. There were about 8 of them. For those state government regulations we will submit information on an annual basis. It complies with state ethics laws dealing with conflicts of interests, procurement and policy making sure we have those in place and that we are adhering to them as well as consulting contracts. In your write up you would have seen an item in there reflective of compliance with bond covenants. We as LYNX does not have to report on that since we don't deal with bonds but that was something that the TriRail organization does have to comply with.

4. Review of Board Package

Ms. Watson, Chief Executive Officer, suggested that since the Board Meeting starts in a few minutes, she would just like to go over two items on the agenda and then answer any questions the Board members might have on any of the other issues.

The first is on the consent agenda, on the janitorial services. We currently have janitorial services contracted out for the LCS and we also need to contract out for services for Building B offices at the LYNX Operations Center. We bid that out as a package and received a low bid from a company that we are not currently doing business with however, we have checked their prices and their ability to do the work and pay their workers they meet all requirements of the law. We you return to your offices you will probably find that you have an email from our union representative suggesting that you may want to take a close look at this contract. His concern is that the cost we estimate for hiring employees and doing the work ourselves is maybe too high, but I have a spreadsheet that shows the actual wages, fringes that it would take for us to hire somebody else to do the same work and it is significantly higher than the contractor. Contractors can hire people part time with no benefits and that's one of the ways they are able to reduce the cost. We are looking at a comparison of about \$163,000 for the contractor to do it versus about \$234,000 if LYNX were to bring it in house. We do need to award this contract today. The current contract for the building we are in runs out and there are no options or ability to negotiate any extension of that contract. This issue came up just minutes before this meeting began so I wanted to make sure you were aware of that.

Commissioner Lane inquired if their workers comp and all that was current. Ms. Watson explained yes and we have the ability to audit their records at any point and we do look at all this with all of our contractors. But they have complied with all the Federal regulations and within the parameters of the law. Commissioner Lane and Ms. Watson expressed that they are saving us quit a bit of money.

The other item Ms. Watson mentioned was item number C.ii., authorization to file a grant application with FDOT for JARC and New Freedom Program funding. In the resolution that is attached to this item, we had to make 2 minor changes. We said in the resolution that the money is for operations but it can actually be used for operations and capital, so we added the words "and capital". The second change is we listed it was for rural communities but we did not say that it was available for small urbanized areas which would cover cities like Kissimmee. We have made that change to the attached resolution and its just wording but it does give us the ability to use the money for broader application. That is the only differences than what was in the packet and can answer questions that you might have at this point.

The Audit Committee meeting adjourned at 10:31 a.m.

LYNX Board Audit Committee Agenda

Audit Committee Agenda Item #3.A

To: LYNX Board of Directors

From: Linda Watson
CHIEF EXECUTIVE OFFICER
Edward Johnson
(Technical Contact)

Presented By: Pat Christiansen, Legal Counsel, Akerman and Senterfitt

Phone: 407.841.2279 ext: 6017

Item Name: Presentation on First Amendment Limitations on Solicitation on LYNX facilities

Date: 12/6/2007

Pat Christiansen, General Counsel for LYNX will review with the Audit Committee Administrative Rule #10, Solicitation on LYNX Facilities. The purpose of this Rule is to provide guidelines for permissible activities on LYNX property.

ADMINISTRATIVE RULE 10 Solicitation on LYNX Facilities EFFECTIVE DATE:

SCOPE:

This Administrative Rule applies to certain activities at the Central Station Building (and also at any other Authority facility). It establishes the guidelines and procedure to be followed by the Authority, the Governing Board, and Authority Staff in regard to certain activities at Authority facilities (including the LCS).

AUTHORITY:

Authority for the establishment of this Administrative Rule is as follows:

Part II, Chapter 343, Florida Statutes

RULE 9: Prohibition on Certain Activities at Central Station

Section 10.1 **Definitions.** In addition to those terms defined in Rule 1 of these Administrative Rules, the following terms shall have the following meanings for the purposes of this Rule:

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10.1.1 **"Central Station Building and its Contiguous Areas"** means the Authority's Central Station building, located at 455 North Garland Avenue, Orlando, Florida 32801, and includes, but is not limited to, the interior of the Central Station building, the curtilage and exterior canopied areas used for arriving and departing busses, and outdoor passenger waiting areas. Contiguous areas surrounding the LCS includes the support vehicle parking area and the leased property adjacent the Central Station at the intersection of Amelia and Garland.

Section 10.2 **Policy and Prohibited Activities.** The principal purpose of the Authority's Central Station Building is to facilitate safe and efficient travel. The Authority has no intent to designate the Central Station Building as a place for expressive conduct. Given the relatively small size of the Central Station Building, the narrowness of its bus lanes, and the limited outside areas in which passengers can congregate, its physical characteristics are not conducive to expressive activity or solicitation of passengers. To this end, and to improve safety and prevent passenger interference with solicitors, the impeding of passenger foot traffic, and delays, the Authority has adopted the following prohibitions on certain activities at the Central Station Building.

10.2.1 **Prohibited Activities.** The following activities are prohibited at Central Station Building:

A. **Political Activities.**

(i) The distribution of petitions, leaflets, buttons, stickers, handbills, and other printed materials;

(ii) The registration of voters, collection of signatures for political petitions, referenda, and signature drives; and

(iii) Protests, marches, and sit-ins.

B. **Solicitations:**

(i) The sale or distribution of any merchandise;

(ii) The sale or distribution of flyers, handbills, brochures, pamphlets, leaflets, books or other printed or written material; and

(iii) The solicitation of funds.

10.2.2 **Exempt Activities.** The following activities are exempt from the prohibitions in Subsection 10.2.1:

A. Events sponsored by the Authority which are for the benefit of the Authority's employees.

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B. Events sponsored by the Authority which constitute or are a part of an advertising campaign designed to promote the Authority, events sponsored by the Authority which are designed to raise revenue for the Authority or promote public awareness of the Authority's transportation offerings, or events sponsored by the Authority for the benefit of its ridership or the community in which the Authority operates (including, by way of illustration, but not limited to, "Fun Fridays").

C. Charitable events conducted by federally tax-exempt, 501(c)(3) nonprofit organizations which are held at the Central Station Building in accordance with applicable Authority policies.

D. Solicitations described in Section 10.2.1(B) by the Authority or its licensed vendors.

Section 10.3 **Other Authority Facilities.** Although this Rule primarily relates to the Central Station Building, the policies set forth herein also apply to any other facilities owned by the Authority from time to time.

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Audit Committee Agenda Item #3.B

To: LYNX Board of Directors

From: James McLawhorn
CHIEF GOVT AFFAIRS OFFICER
Patricia Johnson
(Technical Contact)

Presented By: Pat Christiansen, Legal Counsel, Akerman and Senterfitt

Phone: 407.841.2279 ext: 6064

Item Name: Update on State Lobbying Services Contract Award

Date: 1/24/2008

Pat Christiansen, General Counsel, will present an update to the Audit Committee on the outcome of the negotiations with the two finalists in the state lobbying services request for proposals.

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Audit Committee Agenda Item #3.C

To: LYNX Board of Directors

From: Bert Francis
CHIEF FINANCIAL OFFICER

Presented By: Bert Francis, Chief Financial Officer

Phone: 407.841.2279 ext: 6047

Item Name: Update on the construction of the LYNX Operations Center

Date: 1/24/2008

Bert Francis, Chief Financial Officer, and Pat Christiansen, General Counsel will provide an update on the construction of the LYNX Operations Center (LOC) and settlement agreement with the contractor. Mr. Francis will also review the impact the negotiated settlement will have on the current LOC budget.

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Audit Committee Agenda Item #3.D

To: LYNX Board of Directors

From: Linda Watson
CHIEF EXECUTIVE OFFICER
Edward Johnson
(Technical Contact)

Presented By: Pat Christiansen, Legal Counsel, Akerman and Senterfitt

Phone: 407.841.2279 ext: 6017

Item Name: Review of Amendment to Administrative Rule #4, Bus Advertising Contracts

Date: 1/24/2008

Pat Christiansen, General Counsel for LYNX will review with the Audit Committee an amendment to Administrative Rule #4, Bus Advertising Contracts. The purpose of this amendment is to provide clarification on the type of advertising permissible by the LYNX Board of Directors.

Below, is a draft of the amendment to be discussed at the Audit Committee.

ADMINISTRATIVE RULE 4 (AMENDMENT)

SUBJECT: BUS ADVERTISING CONTRACTS

EFFECTIVE DATE:

SCOPE:

This amendment to Administrative Rule 4 imposes content based restrictions on the advertising that third parties may place on the Authority's buses as well as other Authority's property such as bus shelters.

AUTHORITY:

Authority for the establishment of this Administrative Rule is as follows:

Part II, Chapter 343, Florida Statutes

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AMENDMENT:

Amendment to Rule 4. The following subsection 4.4.6(G) is hereby added to Rule 4:

G.

Limitations on Advertising Content

1. The purpose of entering into Bus Advertising Contracts is to maximize the total amount of revenue available to the Authority. To this end, the Authority is cognizant that the revenue it earns from the Bus Advertising Contracts is based upon the perceived class of the businesses advertising on the Authority's advertising space; if advertisers perceive the Authority's advertising space to be a medium for lower caliber businesses or morally or politically controversial materials, the Authority's advertising rates, and corresponding revenue, would decline.
2. There shall be no political, alcohol, tobacco, gambling, sexually or adult-oriented advertising of any nature whatsoever.
3. There shall be no advertising that is false, misleading, deceptive, contrary to good taste, controversial, or offensive to the moral standards of the community.
4. The initial determination of what constitutes an advertisement which must be rejected pursuant to subsections (G)(2) or (G)(3), above, shall be made by the Chief Executive Officer. The determination of the Chief Executive Officer may be appealed to the Governing Board, by the party seeking to advertise (the "Complaining Party"), upon filing notice within thirty (30) days of receiving the Chief Executive Officer's initial determination. The determination of the Governing Board shall be final and conclusive. A failure to file notice of appeal within the time set forth above shall constitute a waiver of the Complaining Party's right to appeal the decision of the Chief Executive Officer.
5. In addition to those advertisements which must be rejected pursuant to subsections (G)(2) and (G)(3), above, the Governing Board retains the discretion to reject any Bus Advertising Contract or specific advertisement whose content could reasonably be perceived to threaten the Authority's revenue stream.
6. In the event either provision (G)(3), (G)(4), or (G)(5), above, is held to be unconstitutional, such unconstitutionality shall have no effect on provisions (G)(1), (G)(2), or any other provisions contained in this rule.

Although this Rule primarily applies to Bus Advertising Contracts, it will also apply when applicable when other advertising materials are to be placed on Authority property or facilities such as bus shelters.

LYNX Board Audit Committee Agenda

Audit Committee Information Item #.I

To: LYNX Board of Directors

From: **Linda Watson**
CHIEF EXECUTIVE OFFICER
Edward Johnson
(Technical Contact)
Rich Bannon
(Technical Contact)

Phone: 407.841.2279 ext: 6017

Item Name: LYNX Board of Directors' 12-month rolling calendar of agenda items

Date: 1/24/2008

In an effort to provide the LYNX Board of Directors with advanced notice of items that require Board action, staff will provide a 12-month rolling calendar listing critical items that will be on future Audit Committee and Board of Director agendas. The purpose of this document is to make the best forecast; however, periodically staff may be required to adjust the dates by which items will be presented to the Board of Directors.

LYNX Board of Directors 12-month Rolling Calendar of Agenda Items January 2008 (No Board Meeting in November)

February 2008

- Authorization to award contract for tire services
- Authorization to award contract for vending machine services
- Authorization to execute option year for workers compensation and tort insurance

March 2008

- Authorization to award a contract for the construction of an Osceola SuperStop (IFB)

April 2008

- Preliminary review of the annual operating and capital budget for submission to the funding partners
- Authorization to submit FDOT Service Development Grant Applications
- Authorization to award a contract for legal services

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May 2008

- Authorization to award contract for background checks
- Work Session on Transit Development Plan (TDP) Minor Update for FY09-16
- Authorization to exercise option year for occupational health services

June 2008

- Authorization to dispose of fixed assets
- Adoption of TDP Minor Update for FY09-16
- Authorization to execute option year for property liability insurance

July 2008

- Authorization to execute 6-month option for gasoline contract
- Authorization to execute 6-month option for diesel fuel contract

August 2008

- Authorization to provide coin telephone services at LYNX operating and administrative facilities
- Adoption of the annual operating and capital budget
- Authorization to execute the 1st one-year option for the consultant team program for urban design, transportation planning, technical studies and geographical information systems

September 2008

- Authorization to execute local funding agreements
- Annual Board of Directors' selection of officers

October 2008

- Acceptance of the Chief Executive Officer (CEO) annual appraisal
- Authorization to award contract for office supplies
- Authorization to execute the 1st one-year option of the consultant team program contract for architecture and engineering

November 2008

No Board of Directors' meeting in November

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Audit Committee Information Item #.II

To: LYNX Board of Directors

From: Lisa Darnall
CHIEF OPERATING OFFICER
Jennifer Stults
(Technical Contact)

Phone: 407.841.2279 ext: 6036

Item Name: Link 33 Service Elimination Update

Date: 1/24/2008

LYNX staff followed up with Seminole County staff after the December 2007 LYNX Board meeting. Although the Board approved the elimination of the Link 33, the Board requested staff to re-check the option of combining Links 33 and 34.

Seminole County's position was still that this option would degrade service on Link 34, which was not preferred and the elimination of Link 33 is still needed at this time.

LYNX staff continues to work with customers to find alternative means of transportation for users of Link 33. Notices are being placed on vehicles with this information as well. Customer Service remains available to assist customers with alternative trip planning. Additionally, Commuter Service is working with customers on vanpool options.