



Interoffice Memorandum

Minutes

Roadway Agreement Committee

September 16, 2009

Members Present: Jim Harrison – Growth Management Department (Chairman)
Joe Kunkel – Public Works Department (Vice Chairman)
Renzo Nastasi – Transportation Planning Division
Ann Caswell – Real Estate Management Division
Christine Lofye – Traffic Engineering Division
Jay Sargent – Planning Division
Diana Almodovar – Development Engineering Division

County Staff Present: Roberta Alfonso – County Attorney’s Office
Robin Hammel – Public Works Engineering Division
Julie Naditz – Highway Construction Division
Susan Martin – Risk Management Division
Frank Yokiell – Public Works Engineering Division
Heather Brownlie – Transportation Planning Division
Rita Gonzalez – Transportation Planning Division

Mr. Kunkel called the meeting to order at 8:41 a.m.

Approval of Minutes

The Committee reviewed the minutes from the August 19, 2009 Roadway Agreement Committee Meeting and changes were requested as follows:

Page 2 line 21 change to read “Mr. Nastasi stated that identifying the appropriate road network and Right-of-Way width in this area is premature at this time. Also need to coordinate with Lake County.”

Page 2 line 26 strike the word “too” per Mr. Nastasi.

Page 2 line 53 add “at this time” after the word “constructed”.

Page 3 line 8 Ms. Caswell asked to change “KB Home” to “KB Homes”, and add “to advise” after the word “possible”.

Page 4 line 53 Ms. Caswell stated that the line should not end in a comma.

Page 5 line 49 Ms. Alfonso asked to add “for a” after the word “replacement”.

Page 6 line 10 Ms. Alfonso pointed out that Mr. Ivey’s name is actually Marvin not Martin.

Page 6 line 6 Ms. Caswell asked “to” be added between the words “deed” and “Ms. Alfonso “.

Page 7 line 11 Ms. Alfonso suggested to change the first sentence to read “Mr. Evans stated that the County’s estimate is three times as much as his estimate for moving the facilities; so they would like to move it in the Phase II...”

Page 7 line 20 Ms. Alfonso asked to end the sentence after the word “moved”, and strike the remainder of the sentence.

Page 7 line 29 Ms. Alfonso asked to end sentence after “land” and strike the remainder of the sentence.

Page 7 line 53 Ms. Alfonso asked to strike this sentence completely. The Committee agreed to strike the sentence.

Page 8 line 3 change “because” to “but that” per Ms. Alfonso.

Page 8 line 42 Ms. Hammel asked to delete “not yet”, and change “has not yet reviewed” to “is reviewing”.

Mr. Nastasi made a motion, with a second by Mr. Sargent to approve the August 19, 2009 Roadway Agreement Committee Meeting minutes as amended. Motion carried unanimously.

Activity Update/Summary/Follow-Up Items List

OUC Alafaya Trail is in final review and most of the documents have been received for review. Mr. Harrison asked this project be added to the follow-up list if we do not receive everything.

Karl Corporation – Mr. Nastasi spoke to Ms. Fitzgerald regarding pending issues.

Frye PD will need to come back to the Committee to add provisions.

Mandalay – Ms. Almodovar received a call from the financial institution interested in the Mandalay property inquiring as to the cost of completing the infrastructure improvements.

Fishback is returning to Development Review Committee with a revised land use plan. The Fishback Amended and Restated Road Network Agreement will be scheduled to the Board of County Commissioners when the executed originals are received.

Bridgewater- Summerlake PD – Porter Road

Development: Summerlake PD

Developer: Summerlake Development LLC

Road Affected: Porter Road

Present: Sam Evans, Kent Foreman, Gina Steffens

Previous RIFCC: 3/2/2005, 3/16/2005, 4/6/2005, 4/20/2005, 9/14/2005, 9/28/2005, 6/7/06, 1/16/2008, 1/30/2008, 8/6/2008, 8/19/2009

County Staff Present: Juan Curi, Brian Sanders, Sheryl Weinmann

First Amendment

Page 1 – no changes.

Page 2 Section 4(a) there was discussion of the relocation of the Conserv facility.

Ms. Alfonso asked to define Phase II of the Project.

Ms. Alfonso asked if this is tied to the plat for Phase II or relates to Phase II of construction.

Mr. Evans wants to complete the work when the contractors are back on the job at the start of Phase II.

Mr. Nastasi asked if the time frame for Phase II was the trigger for relocation.

Mr. Evans agreed to do this work with the construction of the Clubhouse or Recreation Facility which is the trigger for Phase II A and it is planned for next year.

Ms. Almodovar asked to provide a clear definition of the phasing (only Phase I & II).

Ms. Almodovar asked to include “Clubhouse” in the definition since this will be the trigger.

Mr. Nastasi asked to define as: “prior to completion of constructing the first recreational site in Phase II.”

Mr. Kunkel proposed: “prior to completion of construction of first recreation site in Phase II as shown on (and reference actual construction plan set on file).”

Ms. Hammel asked to add “whichever comes first” in Section 4(a).

Ms. Alfonso asked to add a line to Section 4(a) that the County must confirm the structure no longer encumbers Parcel 1 Segment K.

Mr. Nastasi suggested “as confirmed by the County” at the end of Section 4(a).

Ms. Hammel asked if there were any title implication in the relocation and Ms. Caswell confirmed there were none.

Ms. Alfonso stated that Section 4(b) requires the Developer to pay \$100,000 into escrow.

Mr. Nastasi stated that Section 5 should reference the Orange County Code and not refer to any agreement or in the alternative define the specific road agreement referenced.

Exhibit A is the Exhibit B from the original agreement and Mr. Evans has provided 5 sets of signed and sealed Legals and Sketches.

Escrow Agreement

An Escrow Agreement will be entered into prior to the First Amendment and will not be recorded.

The Comptroller will act as the Escrow Agent and must sign the Escrow Agreement separately.

Mr. Nastasi asked about the release of the escrow money after a year.

Ms. Alfonso stated that Summerlake expects the property to be conveyed within one year. If it is not conveyed then the money goes back to Summerlake.

Ms. Caswell and Ms. Alfonso want to add a provision to Page 2 citing Florida Statute 768.28 in Paragraph 6.

Ms. Alfonso requested that a copy to Real Estate Management be included since they will need to coordinate the conveyance contemplated by the Escrow Agreement.

Ms. Caswell raised an issue regarding the one-year time frame if the facility is not relocated within that time which would cause a possible issue with the title transfer if the existing utilities are not yet relocated.

Mr. Kunkel reviewed the changes made to both documents by the Committee.

Mr. Nastasi made a motion second by Ms. Almodovar to approve the First Amendment and Escrow Agreement for Bridgewater -Summerlake with the approved changes made at today's meeting, subject to final review by the Committee, and subject to final review of the Exhibits by County Staff. Motion carried unanimously.

Innovation Place

Development: Innovation Place/Moss Park Development of Regional Impact

Developer: CNL

Road Affected: Innovation Way

Present: Lance Bennett, Nina Demartino

Previous RAC: 5/4/2005, 5/18/2006 (as Moss Park DRI for Alafaya Trail Extension) 9/13/2006, 9/27/2006, 10/11/2006, 12/13/2006, 3/21/2007, 4/4/2007, 4/18/2007, 5/2/2007, 5/16/2007, 7/18/2007, 8/1/2007, 10/15/2008

County Staff Present: Brian Sanders, Sheryl Weinmann, Juan Curi, Steve Rapp

First Amendment

Mr. Bennett stated the need to make sure the Road Agreement and the Orange County Utilities Development Agreement are coordinated.

Page 1 of the First Amendment, Ms. Alfonso will add page numbers and change brackets in the title to the actual name.

Ms. Alfonso deleted and recreated Section 4A in order to change the limits on Right-of-Way widths.

Ms. Alfonso stated the need to change the Amendment based on specific Right-of-Way widths.

Mr. Bennett stated that the original cross section did not include bus lanes and now bus lanes are being added.

Mr. Bennett stated that the Landscaping requirements need to change also.

Mr. Harrison stated that the Committee cannot approve the First Amendment if the changes needed cannot yet be identified.

Mr. Harrison stated that this agreement sets the template for the whole road alignment with other property owners.

Mr. Harrison suggested building in some flexibility to the First Amendment.

Mr. Nastasi suggested a small group discussion to go through the original agreement provisions and modify Sections as needed based on the revised Cross Section.

Mr. Nastasi stated that the alignment change suggested for the North Section is significant.

Mr. Bennett stated the need to relocate the alignment was necessary to avoid relocating a Florida Gas easement.

Mr. Nastasi asked if the land uses are remaining the same. Mr. Bennett responded that they were. Mr. Nastasi stated it was very important that any changes be provided to all groups that have reviewed the land uses previously.

Mr. Bennett proposed a design speed of 40 mph due to a reverse crown roadway. Mr. Nastasi concurred that the lower the design speed and posted speed limit the better.

Mr. Nastasi asked for a meeting to go through original agreement and to regroup with Utilities.

Mr. Nastasi asked if the Orange County Utilities changes are for both the north and the south alignments,

Mr. Rapp worked on the Cross-Section previously to design the utilities to be within the Right-of-Way so they do not have to acquire Right-of-Way separately later.

Mr. Harrison asked to reschedule to the next Roadway Agreement Committee meeting after Mr. Nastasi holds a separate meeting with Mr. Bennett.

International Corporate Park

Innovation Way Beachline Interchange

Development: Innovation Way/Beachline Interchange Agreement

Developer: International Corporate Park, OOCEA, Orange County

Road Affected: Innovation Way/Beachline Interchange Agreement

Present: Jim Pratt, John Florio, Lionel Rubio

Previous RIFCC/RAC: 12/14/2005, 2/1/2006, 7/16/2008, 9/17/2008, 10/1/2008, 2/4/2009, 4/1/2009, 5/6/2009, 5/20/2009, 6/17/2009, 8/5/2009

County Staff Present: Juan Curi

Others Present: April Montgomery, Selya Gonzalez

Mr. Pratt discussed the provision in Section 2.4.14 regarding the termination of an easement.

Mr. Pratt discussed Sections 2.6 and 2.8 relating to Road Impact Fee Credits. Mr. Pratt has added language to Section 2.8 to provide that SLR cannot receive road impact fee credits and reimbursement from other parties.

Mr. Nastasi does not know if giving road impact fee credits to SLR up front will work or if it would be better to wait.

Mr. Florio requested to at least receive sufficient credits to pay for impact fees due as they come due.

Mr. Nastasi stated that if SLR contributes beyond their requirements and another party benefits and must then reimburse SLR for infrastructure improvements then SLR cannot get credits and cash.

Mr. Pratt asked Mr. Nastasi to review Section 2.8 to see if the language provides enough safeguards.

Mr. Pratt discussed Section 5 which provides that the construction contract may specify allowances, and asked Mr. Kunkel to review this section.

Mr. Kunkel will review and suggested that the bid documents could spell this out more fully.

Mr. Pratt stated that Section 5.2 needs to be worked out between OOCEA and County to insure that parties pay up to the full amount. SLR does not want to be on the hook for overages after the option to terminate has passed.

Mr. Harrison suggested that if cost overruns are created then stopping construction must be a consideration, even if already halfway completed, since the parties do not have unlimited funds to expend.

In Section 5.2 rework the last sentence to reference Section 7 as well as Section 5.

Mr. Pratt asked for review of the Change Order provisions. \$25,000 per individual change order as a de-minimus amount. \$3,100,000 aggregate for all change orders is to be provided in Section 7.1.

The County will have to take the agreement back to the Board of County Commissioners if the Developer expends more than 10% of the cost estimate for construction.

SLR does not want change orders which do not benefit them if the County has to contribute only a half-share. If the total exceeds \$31 million then SLR should not be the only party required to pay additional.

Mr. Pratt stated that Section 7.1 and 7.2 discuss when the Delayed Ramps would be finished. SLR is providing Right-of-Way for ramps at the Dallas Boulevard Mainline at the request of OOCEA.

Mr. Rubio stated that everything will be done at the same time. The goal is not to have access before the toll plazas are in.

Mr. Rubio stated that Deseret Ranch owns the Dallas Boulevard mainline ramp right-of-way and not SLR (different entity).

Mr. Nastasi stated that SLR needs to work this out and not delay the full interchange occurring on time.

Mr. Pratt stated that OOCEA needs to get the funding secured for the Dallas Blvd completion of the mainline and toll facilities.

Mr. Nastasi stated that the SLR Development Order requires a full interchange in order to move forward so Dallas Boulevard mainline ramp improvements cannot delay the Beachline Interchange improvements.

Mr. Nastasi stated that the Development Order clearly requires a full interchange and the County cannot accept anything less.

Mr. Pratt explained that Section 10.2 and 10.3 provides for surplus property,

Mr. Rubio stated that it has not been reviewed to see if and where a surplus exists. They do not want OOCEA to be required to sell.

Mr. Pratt is working on this issue between SLR and OOCEA.

Mr. Pratt stated that Section 18.4 was already discussed regarding deficit spending.

Mr. Pratt stated that Section 19 relating to the remedies must work for SLR.

Mr. Rubio stated that OOCEA still needs to review these issues.

Mr. Harrison stated that the County cannot allow SLR to continue and build if the interchange improvements are never installed, so this is a problem for the County.

Mr. Rubio stated that OOCEA will have some challenges.

Section 6 Ms. Lofye had a comment on subsection 6.4 in that the interchange does not create excess capacity on the mainline.

Ms. Lofye would like to review the traffic study to see if there are any issues with it and how excess capacity is created.

Mr. Nastasi responded that the County will review to see if any additional capacity is created.

Mr. Harrison stated that Section 19 will be problematic and that the Committee is to review it further.

Mr. Harrison asked that this item be rescheduled to the October 14, 2009 Roadway Agreement Committee meeting.

Committee Discussion: *Canadian Court/Destination Parkway*

Ms. Hammel distributed a letter to the Committee from Marc Watson at UCPM.

Item 1 - Puts the Design back on track and UCPM is to pay the incremental portions of the design cost to get us back on track.

Item 2 – UCPM has substantially completed portions of the early construction phase but have not conveyed portions of the Right-of-Way. One portion of right-of-way went to the Board of County Commissioners and was approved, but the original documents have not been recorded. The other portion has not been conveyed. When they convey all the Right-of-Way, finish construction on the other two portions of the roadway, and finish the construction closeout documents they will have fulfilled their first amendment responsibilities.

Item 3 – UCPM does not want to finish the construction. Orange County would bid and construct the remaining portions, but UCPM still must design and permit the roadway and convey the right-of-way.

UCPM has asked to bring this item back to the Roadway Agreement Committee to change one exhibit to show the change in early construction phase exhibit.

Mr. Harrison asked if the Roadway Agreement Committee could determine a change without amending the agreement.

Ms. Alfonso stated it is for UCPM's benefit to change the exhibit so they cannot be obligated to complete construction in the future.

Ms. Alfonso will look into this to see if the County would write a letter instead, or provide a satisfaction or re-interpretation of the agreement.

Mr. Harrison would much prefer to resolve this without a Second Amendment.

Ms. Hammel stated that UCPM wanted the County to acknowledge the terms outlined in the letter dated September 14, 2009 from Marc Watson.

Ms. Alfonso told Mr. Kunkel it was okay to respond to Mr. Watson's letter.

Mr. Harrison adjourned the meeting at 11:55 a.m.