



Interoffice Memorandum

Minutes

Roadway Agreement Committee

January 7, 2009

Members Present: Jim Harrison – Growth Management (Chairman)
Joe Kunkel – Public Works Department (Vice Chairman)
Ann Caswell – Real Estate Management Division
Renzo Nastasi – Transportation Planning Division
Ruby Rozier – Traffic Engineering Division
Diana Almodovar – Development Engineering Division
John Smogor – Planning Division

County Staff Present: Roberta Alfonso – County Attorney’s Office
Susan Martin – Risk Management Division
Joe Perez – Highway Construction Division
Jennifer Cummings – Stormwater Management Division
Frank Yokiell – Public Works Engineering Division
Robin Hammel – Public Works Engineering Division
Brian Sanders – Transportation Planning Division
Heather Brownlie – Transportation Planning Division
Rita Gonzalez – Transportation Planning Division

Mr. Harrison called the meeting to order at 8:47 a.m.

Approval of Minutes

The Committee reviewed the minutes from the December 10, 2008 Roadway Agreement Committee Meeting and changes were requested as follows:

Page 1 line 38 Ms. Alfonso requested to change “obtain” to “may pursue”; and change “County cannot grant” to “Developer is going to OCPS for” school impact fee credits.

Page 2 there were no changes.

Page 3 line 36 change from “the road segment” to “the Alafaya Trail Road segment”.

Page 3 line 48 change “asked” to “stated”.

Page 4 there were no changes.

Page 5 there were no changes.

Mr. Smogor made a motion, with a second by Mr. Nastasi to approve the December 12, 2008 Roadway Agreement Committee Meeting minutes with listed changes and other typographical corrections and grammatical omissions. Motion carried unanimously.

Activity Update/Summary/Follow-Up Items List

Change Morgran to bold since it has been approved.

Mr. Kunkel asked about the status of the Florida Mall Ratification Agreement.

Mr. Nastasi is communicating with the Florida Mall attorney and stated that there is an issue with the placement of funds, and a potential issue with the bidding process.

CR 535 needs one last final review to be completed before submitting to the Board of County Commissioners.

Pavilion at Sand Lake – Mandarin Drive will be going into final review shortly.

OUC

Road Affected: Alafaya Trail Widening

Present: No Agent Present

County Staff Present: Bob Goff

Previous RAC: 8/10/2000, 8/30/2000, 10/11/2000, 2/1/2006, 3/15/2006, 4/19/2006, 11/12/2008

There were no representatives present for this item. This item was rescheduled to the next Roadway Agreement Committee meeting.

Innovation Way Road E Agreement

Development: Innovation Way/Beachline Interchange Agreement

Developer: Suburban Land Reserve, Inc.

Road Affected: Innovation Way/Beachline Interchange Agreement

Present: Wayne Rich, John Florio, Jim Pratt

Previous RIFCC: 7/16/2008, 9/17/2008

County Staff Present: Juan Curi, Brian Sanders

Others Present: John Weiss, Lance DeCuir, Bill Oliver (FDOT)

Mr. Harrison met with the Road E representatives and this blackline should reflect those discussions.

Mr. Pratt stated that they could outline the changes up to Sections 8 and 9, and then would need to look at Sections 8 and 9.

Mr. Pratt stated the added reference to the Interchange Agreement defined BRT Multi-Modal costs, which will be the only costs which will be eligible for road impact fee credits.

Ms. Caswell asked for page numbers to be included in this agreement.

Page 1 Ms. Rozier noted that June 22 should be June 13 in Section 3.

Page 2 Mr. Nastasi asked to take out “nearly” in Section 6.

Page 2 Section 7 Mr. Nastasi asked to change “intends to” to “anticipates that it will.”

Page 2 Ms. Alfonso asked where policies are on file, and should these reference existing policies or as they are amended. The Committee agreed to reference existing policies and as they are amended.

Page 2 Section 8 Mr. Nastasi asked to add “ultimately” to the second sentence. It should read “to ultimately support”.

Page 3 Section 12 Mr. Nastasi asked why there is a reference to Road E not being needed when it is a prerequisite. Ms. Hammel added that if condemnation is necessary, there should not be a recorded document stating road is not needed. Ms. Alfonso suggested deleting the first sentence and the word “However” starting the sentence with the word “In”.

Page 3 Section 14 Ms. Alfonso asked to change “permits” to “provides for” and add “subject to further terms and conditions of this and other Orange County Ordinances” at the end.

Page 3 Section 18 Ms. Alfonso questioned using the term “not consistent”. Mr. Pratt suggested removing the first sentence of Section 18 and Ms. Alfonso agreed. Ms. Alfonso also asked for “intend” to be changed to “anticipate”.

Page 4 Section 19 Ms. Alfonso asked that Interchange Agreement be a defined term and be used as a defined term.

Page 4 Section 2 Mr. Nastasi asked why the definition of BRT Multi-Modal costs was included.

Mr. Florio added the definition to define what is eligible for road impact fee credits. Right-of-Way, Design, Drainage, and anything beyond safe and adequate access is required; and stated that anything above and beyond that they would get credits for.

Ms. Caswell asked if Broad and Cassel would still be the escrow agent, Mr. Pratt responded yes.

Mr. Harrison asked Mr. Nastasi if the definition of Fixed Guideway Transit was acceptable. Mr. Nastasi was fine with the definition.

Ms. Alfonso asked to change the Force Majeure paragraph to refer to the definition in Section 11 rather than having two definitions. Ms. Alfonso asked that Mr. Pratt include boilerplate language for force majeure in this agreement.

Ms. Rozier asked that the definitions on Page 6 match definitions in the Interchange Agreement; Mr. Pratt agreed.

A map needs to be included in the agreement showing the road network.

An Exhibit needs to be included to show the interchange.

Page 7 Ms. Rozier asked that they strike “urban diamond” in Innovation Way/Beachline.

Page 8 Mr. Florio wants to reference an Exhibit for the South Road also.

Page 9 Section 3 Mr. Nastasi stated that “SLR has voluntarily offered and agreed” needs to be changed once this is required by DRI.

Page 9 the reference to current St. Johns Water Management District standards needs to change to be limited to the life of the permits.

Page 9 Utilities requested their boilerplate be included.

Page 9 Section 3 (a) change time for Orange County review of road plans from 14 days to 21 days timeframe.

Ms. Almodovar asked that the preconference for design be taken out.

Page 10 Mr. Nastasi asked that the last sentence in Section 3(b) regarding cancelling the agreement within 12 months if no permit is obtained be changed from “shall terminate” to “may terminate” and add “and County” after “whereupon SLR”.

Ms. Alfonso asked to change “cancelling” to “may terminate”.

The duplicated sentence on Page 10 needs to come out of Section 3 (c) (i), beginning with “The Road E Right-of-Way”.

Page 11 Ms. Hammel asked about the area to be acquired. Mr. Florio stated no Right-of-Way was needed except that there is an OCU easement which cannot be released; so clear title cannot be delivered.

Public Works has to agree to allow easement to remain an exception to the title.

Ms. Caswell asked to see the title work for this area.

Ms Hammel questioned (ii) Stormwater Drainage Pond Easements on Page 11, and the sentence “County shall obtain any and all easements, if any, ...”. After a lengthy discussion, Mr. Harrison asked the sentence be moved to Page 12 Section (d).

Page 12 Mr. Nastasi stated that if this is a joint pond, then they cannot get 100% of road impact fee credits. If the Developer shares the water retention, the Developer needs to maintain the pond and needs to maintain it to County standards. Mr. Pratt will revise Section (d) language.

Page 12 Ms. Cummings asked to strike the last clause of Section (c).

Page 12 the County will not provide an impoundment area. Need to take out the word “County” in parentheses in Section 2 (c) per Ms. Hammel.

Page 12 “County shall accept dedication” to be stricken in Section 3 (c)(ii).

Mr. Pratt to provide a copy of the OCU easement document to Ms. Hammel and Ms. Caswell to review; in order to decide if the County can accept the Right-of-Way subject to this easement.

Page 13 Mr. Perez asked they strike (i) in Section 3 (h), since it was stricken from (ii).

Page 14 Ms. Alfonso questioned if Section 5 (a) would be in addition to remedies or instead of remedies in remedies section. Ms. Alfonso stated this paragraph cannot exclude standard remedies.

Ms. Alfonso asked to remove “as it’s sole and exclusive remedy. Therefore” from Section 5 (a). Mr. Pratt agreed.

Page 14 add “Road E” to Right-of-Way documents in Section 3 (j) per Mr. Harrison.

Ms. Hammel asked for a draft budget for Exhibit I to review.

Page 15 Mr. Nastasi questioned the term “any fees” in Section 6, since the ordinance cannot allow us to pay road impact fee credits for “any fees”.

Mr. Nastasi stated that the current ordinance does not take into account BRT Multi-Modal, so we need to add language to state this.

Ms. Alfonso questioned the timing of the 10-day provision for establishing a credit account.

Ms. Caswell asked that conveyance boilerplate language sections be specifically included in the agreement.

Page 16 Section 7 Mr. Curi questioned the County paying for Utilities to be relocated.

Page 16 Section 7 include the Utilities relocation in project costs and remove the obligation to County per Ms. Hammel.

Page 16 Section 8 Mr. Nastasi asked why all of this information should not be in the Development Order rather than putting it in the Road Agreement since it is outside the scope of this agreement.

Mr. Nastasi would like to send this agreement to the Board of County Commissioners with the Development Order rather than raising these issues in road agreement.

The Comprehensive Policy Plan supercedes the Road Agreement so all of this should be listed there.

Mr. Harrison was concerned that other agencies would need to agree to all of these items as well and could lead to protracted negotiations.

The applicants felt this language is not that binding, and has been softened greatly.

Mr. Florio stated that if Road E is not built, then none of these items occur, or if it is built and nothing else happens, then it would have been built for no reason.

Mr. Nastasi asked if this language could be provided anywhere else or as an Exhibit only.

Ms. Alfonso stated that they cannot bind future Boards to accept agreements or accept alignments.

Mr. Smogor suggested they remove Section 8 (a) and replace with Innovation Policies Statement consistent with the Comprehensive Policy Plan and consistent with transmitted map.

Mr. Nastasi stated the County will not approve an eastern interchange necessarily and it should not be included.

Mr. Harrison will set up a separate meeting to discuss Sections 8 and 9 and bring a recommendation back to the Committee regarding these sections.

Ms. Alfonso to discuss the remedies language with Mr. Pratt.

Page 24 Section F make sure 21 day timeframe for consistency.

Page 25 Ms. Alfonso stated that the Agreements are contingent upon each other and that the Board of County Commissioners would have to approve the contingencies. The Committee discussed the contingency language and how the two agreements are tied together. The Committee was not in favor of tying the two agreements, Road E and Beachline Interchange together.

Subsection (m) needs to be mutual.

Subsection (n) needs boilerplate Force Majeure.

Exhibit B Ms. Caswell stated is not standard.

Exhibit F needs to be referenced on Page 14.

Exhibit G needs to be consistent per Ms. Almodovar; requested that language reflect the changes made on Page 2.

Mr. Harrison to schedule a follow up meeting to discuss Section 8 and 9.

This item to be rescheduled to the January 21, 2009 Roadway Agreement Committee meeting.

International Corporate Park

Development: Innovation Way/Beachline Interchange Agreement

Developer: International Corporate Park, OOCEA, Orange County

Road Affected: Innovation Way/Beachline Interchange Agreement

Present: Wayne Rich, Jim Pratt, John Florio, Lionel Rubio,

Previous RIFCC: 12/14/2005, 2/1/2006, 7/16/2008, 9/17/2008, 10/1/2008

County Staff Present: Ghulam Qadir

The Interchange Agreement was deferred until progress is made on the Road E Agreement.

Mr. Harrison adjourned the meeting at 12:26 p.m.