



Interoffice Memorandum

Minutes

Roadway Agreement Committee

November 12, 2008

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
Jennifer Cummings – Stormwater Management Division
Juan Curi – Public Works Engineering Division
Heather Brownlie – Transportation Planning Division
Rita Gonzalez – Transportation Planning Division

Mr. Harrison called the meeting to order at 1:52 p.m.

Approval of Minutes

The Committee reviewed the minutes from the October 15, 2008 Roadway Agreement Committee Meeting and changes were requested as follows:

On Page 2 at line 26 add “at the next Roadway Agreement Committee meeting” per Ms. Alfonso.

On Page 4 at line 46 change “form” to “from” per Ms. Caswell.

Mr. Smogor made a motion, with a second by Mr. Kunkel to approve the October 15, 2008 Roadway Agreement Committee Meeting minutes with listed changes and other typographical corrections and grammatical omissions. Motion carried unanimously.

Narcoossee Special Meeting – October 27, 2008

The Committee reviewed the Minutes from the Special Meeting held on October 27, 2008 and no changes were requested.

Mr. Nastasi made a motion, with a second by Mr. Smogor to approve the October 27, 2008 Special Narcoossee Road Meeting minutes as is. Motion carried unanimously.

Special Morgran/OUC Meeting – November 4, 2008

The Committee reviewed the Minutes from the Special Meeting held on November 4, 2008 and the following changes were requested.

The Heading on both pages needs to be changed to Alafaya Trail Morgran/OUC.

Page 2 line 12 trips should not be capitalized.

Page 2 line 16 change “two-page” to “short”.

Mr. Nastasi made a motion, with a second by Mr. Harrison to approve the November 4, 2008 Special Morgran/OUC Meeting minutes with listed changes and other typographical corrections and grammatical omissions. Motion carried unanimously.

Activity Update/Summary/Follow-Up Items List

Ravallo needs to return for re-approval.
Karl Corporation – need to follow up with Randi Fitzgerald.
Florida Mall is still working on the MOU.
CR 535 is in Final Review – all items have been received back from the City of Winter Garden.
ICP – Mr. Nastasi asked about the timing for the agreements since the DRI is moving forward.
Road E – Mr. Kunkel met with John Florio and resolved most of the design issues, but still need to follow up with environmental and utilities issues.

Morgran PD – First & Second Amendments

Road Affected: Alafaya Trail Widening
Present: R. Duke Woodson, April Montgomery
Previous RIFC: 2/17/1999, 2/5/2003, 9/1/2004, 9/15/2004, 10/13/2004, 10/27/2004, 1/5/2005, 9/28/2005, 9/12/2007, 1/30/08

Mr. Woodson is returning to the Roadway Agreement Committee to get re-approval for the Morgran Pond Amendments.

First Amendment

Page 3 Section 4 Ms. Caswell asked about including the 30-day provision for recording. The Committee agreed to forgo making this change.

Second Amendment

Values have changed since the legals and sketches were updated. The new values are included in the revised agreement.

Motion by Mr. Kunkel second by Mr. Nastasi to approve the First Amendment and Second Amendment as presented. Motion carried unanimously.

OUC

Road Affected: Alafaya Trail Widening
Present: Tom Callan
Previous RAC: 8/10/2000, 8/30/2000, 10/11/2000, 2/1/2006, 3/15/2006, 4/19/2006

Mr. Callan would like additional trips for Right-of-Way, easements, and the corner clip needed for the roadway improvements.

Bike Paths will be extended into the same corner.

Mr. Callan will meet with OUC on converting the easement area to fee simple to see if it is possible. He may request to provide an additional easement area rather than fee simple Right-of-Way.

The Development Plan for Morgran involves a property swap; however, OUC will ultimately be the owner of the area needed by Orange County.

Currently OUC is vested for 176 trips and will need trips for 5 outparcels. OUC is looking for 298 trips to be vested for these 5 outparcels.

The reduced size of the outparcels buildings and the number of trips required changes based on new figures.

A Traffic Study Exhibit was provided by L-Tec and was prepared by Joe Roviario.

Mr. Harrison summarized the deal points: OUC is willing to provide a corner clip, willing to provide a slope easement, and looking at converting the existing drainage easement area to fee simple

A bike path is part of the PD and a portion would be located in the same easement area.

Mr. Harrison asked if we are including the bike path in this agreement.

Mr. Callan would like to include the bike path in this agreement.

Mr. Nastasi asked Mr. Callan if the corner clip was to be conveyed in fee simple.

The deal is land for trips – is the easement which is temporary calculated into acreage? Once the slope is graded up to the road, the easement goes away.

Mr. Nastasi has a concern with giving trips for temporary easement areas.

Mr. Harrison stated that there is a value associated even with a temporary easement.

Mr. Callan will meet with the OUC engineers then draft an agreement for review to present to the Roadway Agreement Committee. Mr. Callan wants to go to the Board of County Commissioners in December.

Mr. Harrison would like to see this approved at the same meeting as Morgran, or at least have it approved by the Roadway Agreement Committee by then.

Deal Points include: Slope Easement, Corner clip, Convert drainage easement to fee simple possibly, and possibly a Bike Trail and Park Access, and in return OUC gets 298 trips.

Mr. Woodson asked about Utilities needs for the same slope easement; maybe a permanent slope and utility easement could be created so the easement would not go away entirely.

Mr. Nastasi stated that the traffic study needs to be adjusted; the third footnote on passerby trips needs to be changed.

Mr. Nastasi asked that the traffic study be revised and resubmitted.

Mr. Callan has concerns with the traffic signal pole clearance and potential conflicts with OUC transmission poles.

The OUC Board meets on December 9, 2008 so Mr. Callan will have everything on the OUC agenda.

Mr. Harrison asked to reschedule this item to the December 10, 2008 agenda.

TRIP-Narcoossee Road

Development: Eagle Creek and a group of other Developments on Narcoossee Road

Developer: Lake Nona and a group of Narcoossee Road Developers

Road Affected: Narcoossee Road

Present: Craig Langley; Leigh Ann Buzyniski, Brad Goeb

Previous RIFCC: 9/14/2005, 1/04/2006, 1/18/2006, 2/15/2006, 3/01/2006, 4/05/2006, 4/19/2006, 5/03/2006, 5/17/2006, 6/07/2006, 10/1/2008, 10/15/2008

Mr. Langley stated one addition was made to the Amendment on page 6.

Mr. Harrison summarized that the county will provide option for paying cash rather than road impact fee credits.

Mr. Nastasi said he had approved the language drafted.

Mr. Langley wanted to confirm the figure.

Mr. Nastasi confirmed “not to exceed \$2 million” is the correct amount.

Ms. Alfonso asked they add “all or a portion of” so the sentence structure is more complete.

Mr. Curi asked if Eagle Creek can be defined – Mr. Langley suggested someone else could de-annex potentially so a generic reference is preferable.

Page 4, Section 6, 4th line up from the bottom, change “paragraph 16” to “paragraph 17”.

Page 27 Exhibit B, in the notes section, needs to be completely filled in.

Motion by Mr. Nastasi second by Mr. Smogor to approve the First Amendment with the changes made at today’s meeting, subject to final review by the Committee, subject to final review of the exhibits by the County Surveyor. Motion carried unanimously.

UCPM - Kirkman Road

Road Affected: Kirkman Road Extension

Present: Craig Langley, Brad Goeb, Eric Lagassey

Previous RAC: None

County Staff Present: Roberto Ng

Mr. Langley stated that this agreement covers the remainder of Kirkman Road Extension completing the connection from Sand Lake Road to Canadian Court Extension.

The terms of this agreement are very similar to the Palmera agreement.

The reservation term is for 13 years.

Mr. Nastasi asked if a traffic study was being prepared for Kirkman Road Extension.

Mr. Nastasi stated that Kirkman Road Extension was determined not to be feasible for a limited access facility.

Mr. Kunkel stated that consistent requirements have been made at the Development Review Committee for the future Kirkman Road Extension.

Mr. Nastasi stated that the dedication of Right-of-Way was covered and not design or construction.

Mr. Kunkel stated that a fixed value for a period of years was included.

Mr. Langley stated that design must occur in order to trigger the conveyance of Right-of-Way.

Mr. Langley stated that the Right-of-Way would end at Canadian Court in this agreement since there is no practical way to tie into the Beachline Expressway at this time.

Mr. Langley went on to say that a minimum of 120-feet of Right-of-Way is to be dedicated.

The Committee reviewed the draft agreement page-by-page.

Page 1 Ms. Rozier asked to include limits of the project for Kirkman Road Extension.

Page 2 Ms. Caswell asked that the terms “Developer” and “Owner” be used consistently.

Page 2 Mr. Nastasi questioned providing access during and after construction.

Mr. Smogor pointed out that it would be consistent with the Planned Development (PD) and asked to reference the PD.

Ms. Rozier questioned two references to Exhibit D. Ms. Caswell noted that there is a legal and sketch.

Mr. Langley will add an Exhibit for access points.

Mr. Nastasi asked who would design the road.

Mr. Harrison stated that it could be any agency, but not the developers.

Page 3 line 2 change “lams” to “lanes”.

Page 3 Section 2 Ms. Alfonso asked to change “simultaneously” to “contemporaneously”.

Mr. Nastasi asked if the agreement could include a set-aside for the ponds.

Mr. Harrison suggested putting a percentage of 10% for future pond locations in a mutually agreeable location.

Mr. Kunkel suggested swale treatments instead.

No changes requested to address future pond needs, since there are no requirements made in the Palmera agreement.

Page 4 Ms. Alfonso asked to take out the word “materially” in 2 instances in Section 3 (b).

Page 5 Mr. Nastasi asked about Section 3 (d)(ii), and the 7 year mark. Mr. Langley stated this is to recalculate value.

Page 5 Section 3 (d)(iii) Ms. Alfonso asked that this section be re-written to remove the County’s obligation to request.

Mr. Langley wanted to leave this the same, since Palmera has the same provisions and you need notice to trigger a 90 day provision in the agreement.

Mr. Harrison and the Committee agreed to leave the language as is.

Ms. Martin handed Mr. Langley appropriate inquires rule language, and informed requested that all appropriate inquiries be added.

Page 5 Ms. Alfonso said that the boilerplate ESA language needs to be included per Ms. Martin's request.

Page 6 Subsection (h) Mr. Kunkel asked to add "to existing access location".

Page 6 Ms. Alfonso asked why automatically terminate and take out option and notice provisions.

Mr. Harrison prefers to have the developer have the option rather than to have agreement automatically terminate.

Mr. Langley agreed to make this change.

Page 7 Section 3 change "Rood" to "Road" in the Section title per Ms. Caswell.

Ms. Alfonso will discuss Section 3 appraisal information with Mr. Langley after the meeting.

Page 9 add "(iv) any combination of the forgoing" to County's remedies.

Page 8 add 30-day provision to Recording Statement.

Page 10 Mr. Smogor asked Mr. Langley to include the County Standard Force Majeure language.

Page 10 Ms. Rozier noted there is an unusual reference to the Comp Plan in effective date clause.

Add boilerplate that Kirkman Road Extension is a road impact fee road by adding recital from boilerplate.

Mr. Harrison asked the Committee if they wanted to act on the agreement or see a revised version at the next Roadway Agreement Committee meeting.

Mr. Harrison reviewed all of the changes requested by the Committee at today's meeting.

Motion by Mr. Smogor, second by Mr. Nastasi to approve the UCPM Kirkman Road Extension Agreement with the changes made at today's meeting, subject to final review by the Committee, subject to final review and approval of the exhibits by the County Surveyor, review and approval of the appraisal value by the Real Estate Management, and the County Attorneys Office working out the Force Majeure language. Motion carried unanimously.

Village F – APF Road

Development: Bridgewater

Developer: Summerlake Development LLC

Road Affected: APF Road

Present: Daniel O'Keefe

Previous RAC: 6/4/2008; 10/1/2008, 10/15/2008

County Staff Present: Juan Curi

Deficiency Form

Mr. O'Keefe reviewed the changes made in the blackline version. On Page 2 he has deleted references to the Cooperation Agreement.

Ms. Alfonso was okay to not have the cooperation agreement on file as long as a list of the participating parties is attached to this agreement.

Page 2 Section H was revised to no longer need to wait for updates to the APF Ordinance.

Ms. Alfonso asked that the word “credit” be removed from Section H.

Page 3 Recital L Ms. Alfonso asked they change “simultaneous” language to “contemporaneous”.

Page 5 Mr. Harrison asked to change the 30 days to a longer timeframe.

Ms. Caswell does not feel that this Committee and the Board of County Commissioners can bind future Board of County Commissioners to terminate an easement.

Mr. O’Keefe suggested adding the termination to the easement document.

Mr. Harrison and Ms. Caswell agreed.

Mr. O’Keefe will delete this language so there is no 30-day issue.

Mr. O’Keefe is to provide a drainage easement form for review.

Page 5 Section 3 Ms. Alfonso asked that “APF Credits” be changed to “APF acreage” in all instances.

Page 9 Section 11 Ms. Alfonso requested they change “shall be entitled to obtain” to “allowed to pursue” since the County cannot grant school impact fee credits.

Page 15 Ms. Caswell asked to remove “signed, sealed and delivered” in presence of above attest.

Same changes need to be made to the Surplus Agreement Form Document.

On Page 8 of the Surplus Agreement Ms. Alfonso stated that it is not “APF Credits” but a “surplus” and that there is no defined term of “APF Credits” in the Orange County Ordinance.

Page 19 Exhibit C Ms. Caswell asked to take out the references to Temporary.

Motion by Mr. Smogor second by Mr. Nastasi to approve the Form Documents with the changes made at today’s meeting, subject to final review by the Committee, subject to final review of the exhibits by the County Surveyor. Motion carried unanimously.

Fishback PD/KB Homes

Development: Fishback PD

Developer: KB Homes

Road Affected: Ficquette Road

Present: Daniel Mr. O’Keefe, Andre Anderson, Kendall Keith, Jeremy Camp, Tonya Mellen

Previous RAC: 12/8/2004, 1/5/2005, 1/04/2006, 1/18/2006, 2/15/2006, 3/01/2006, 3/15/2006, 8/6/2008, 10/15/2008

County Staff Present: Juan Curi

Mr. O’Keefe presented a summary of the last meeting and what has transpired since then. KB Homes will finalize 100% design for the future 4-lane.

Segment E will taper to 2 lanes to match existing to transition to Segment F.

Final design is to be submitted within 180 days and once approved by County then the credits will be awarded for design.

On Page 1 Ms. Rozier asked to change the County address to P.O. Box 1391 in the first paragraph.

Ms. Mellen asked about Segment G to the South; if the 4-lane is not built then there is no way to taper into Segment G if that were to come first.

Mr. Curi stated that there is a gap. Ms. Mellen stated the need to transition beyond the KB property in which case more Right-of-Way would be needed, and there would be a need to modify the permit as well.

Mr. Harrison stated that this issue needs to be resolved outside the Roadway Agreement Committee.

Ms. Mellen stated that until Segment G is built, no one can build all four lanes in Segment F.

Mr. Kunkel wants to move forward with this agreement, so that the final design for Segment F can be completed.

Page 2 Ms. Alfonso asked to change “within 30 days” to “promptly”.

Page 2 Section 2(b) Ms. Almodovar asked to take out the word “inspection”.

Page 3 add “credits” after “transportation impact fees”.

Page 4 Subsection (v) Ms. Alfonso asked if the Committee is okay to pay for ESA and Title.

The Committee agreed to pay for the Environmental Report and the Title.

Page 4 Subsection 5 add within 6 months prior language.

Page 4 Ms. Martin asked that additional boilerplate language be included and handed Mr. O’Keefe the language.

Page 6 Mr. O’Keefe changed the Force Majeure language since 90% is completed.

Page 6 Ms. Caswell asked to add in “within 30 days” to recording statement.

Mr. Harrison reviewed all changes made by the Committee at today’s meeting.

Motion by Mr. Smogor, second by Mr. Kunkel to approve the Fishback Road Network Agreement with the changes made at today’s meeting, subject to final review by the Committee, subject to final review of the exhibits by the County Surveyor. Motion carried unanimously.

Avalon Park DRI

Development: Avalon Park DRI

Developer: Avalon Associates

Road Affected: Alafaya Trail

Present: Jim Pratt, Eric Marks, Duke Woodson, April Montgomery

Previous RIFCC: 8/04/2004, 9/1/2004, 9/15/2004, 10/13/2004, 1/5/2005, 9/28/2005, 2/20/2008, 5/7/2008, 6/4/2008, 6/18/2008, 7/2/2008

County Staff Present: Robin Hammel, Juan Curi

Mr. Pratt explained they were last before the Roadway Agreement Committee in July 2008 and has made all changes from that meeting.

The Committee reviewed the changes page by page.

Page 1 Ms. Rozier asked to include the Board of County Commissioners date for the approved agreement in the third whereas.

Ms. Hammel confirmed the value at the top of page 3 under DE&P costs.

Page 3 Mr. Nastasi asked if design was completed. Mr. Marks responded not yet.

Mr. Nastasi asked when construction would begin.

Page 3 Ms. Rozier asked under Escrowed Impact Fees to include the effective date of the original agreement.

Page 5 Ms. Rozier asked to remove the word “funds”.

Page 6 Ms. Alfonso asked to add the reasonable definition to Subsection 5(f).

Page 6 delete for “the sole purpose of” in Section 6 (a)(ii) per Ms. Alfonso. Mr. Marks offered to remove the entire sentence.

Page 7 Ms. Alfonso asked that in 6 (d)(i) that “at the same time” be changed to “contemporaneously”.

Page 8 Ms. Rozier asked about the third party contribution. Mr. Pratt offered to delete Section 7 to remove the County Cooperation Section.

Page 10 Remedies Section Ms. Alfonso and Mr. Pratt have discussed and there is still an issue.

The Committee is okay with allowing Ms. Alfonso and Mr. Pratt to finalize any outstanding Remedies language issues.

Page 10 Ms. Rozier pointed out that the Right to Complete Work Section would obligate the County to provide funds to complete the work.

Mr. Marks stated that it only comes into play if the County defaults on obligation to construct.

Mr. Nastasi asked when construction will begin since Avalon controls design and Right-of-Way conveyance and the County cannot start construction until the design, permitting and Right-of-Way is in place.

Ms. Alfonso asked for a better definition of what constitutes the County’s default.

Mr. Harrison reviewed the original concept and said that the Developer had the original responsibility to construct and is giving up that responsibility through this amendment.

Mr. Marks proposed if after start of the construction then use these remedies and if not then use remedies Section rather than Right-to-Work provision.

Mr. Marks does not want to be on the Board of County Commissioners agenda for December 16, 2008.

Mr. Woodson explained that Mr. Marks is attempting to derail the Morgran Comp Plan Amendment.

Mr. Woodson explained that the ponds for Alafaya Trail and funding for Alafaya Trail are coming from Morgran who is a partner in the road project.

Mr. Harrison is willing to approve the Amendment contingent upon a suitable redrafting.

Mr. Marks proposed a new solution that if the County fails to perform, then it will revert to the original agreement. Mr. Harrison did not agree with new proposal.

Mr. Pratt will redraft for Ms. Alfonso to review. If for any reason Mr. Kahli does not agree, then Mr. Marks will return to the Roadway Agreement Committee.

Motion by Mr. Kunkel second by Mr. Nastasi to approve the Amendment to Road Network Agreement with the changes made at today's meeting, subject to final review by the Committee, subject to final review and approval of the exhibits by the County Surveyor, and subject to the County Attorneys Office approving changes to language. Motion carried with 5 members voting yes and Mr. Smogor voting in the negative. (Ms. Almodovar was out of the room and did not participate in the vote.)

Mr. Harrison adjourned the meeting at 5:43 p.m.