



Interoffice Memorandum

Minutes

Roadway Agreement Committee

July 16, 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: Julie Naditz – Highway Construction Division
Roberta Alfonso – County Attorney's Office
Joe Perez – Highway Construction Division
Heather Brownlie – Transportation Planning Division
Rita Gonzalez – Transportation Planning Division
Susan Martin – Risk Management
Frank Yokiel – Public Works Engineering Division
Matt Bilskie – Transportation Planning
Jennifer Cummings – Environmental Protection Division

Mr. Harrison called the meeting to order at 8:42 a.m.

Approval of Minutes

The Committee reviewed the minutes from the July 2, 2008 Roadway Agreement Committee Meeting and changes were requested as follows:

Page 1 line 51 Mr. Kunkel suggested additional language, add "Roadway Agreement Committee" before "boilerplate", and "for Right-of-Way dedication" after "boilerplate".

Page 2 line 42 Mr. Kunkel asked to add "for the Park property dedication" after the word "condemnation".

Page 3 line 6 change "exceptions" to "easements of record".

Page 3 line 18 add a space between "Section" and "5".

Page 3 line 28 change "he" to "the applicant".

Page 3 line 36 change "he" to "the applicant".

Mr. Smogor made a motion, with a second by Mr. Kunkel to approve the July 2, 2008 Roadway Agreement Committee Meeting minutes with listed changes and other typographical corrections and grammatical omissions. Motion carried unanimously.

Activity Update/Summary

Pavilion – Mandarin PSP is going to the Board of County Commissioners on August 5, 2008.

Ms. Caswell asked about the new procedures for APF Agreements.

Mr. Harrison explained that the Roadway Agreement Committee needs to be concerned only with road aspect of the APF Agreements not Parks, Schools, etc.

Ms. Caswell asked for Real Estate Management to have an opportunity to review APF Agreements.

Mr. Smogor suggested providing access to the Development Review Committee items concerning APF Agreements.

Mr. Harrison stated that APF Agreements should be standard boilerplate.

Ms. Caswell stated that she only wanted the ability to review any and all APF Agreements going forward.

Karl Corporation

Development: Karl Corporation
Developer: Herb Kahlert, Island Tree, LLC
Road Affected: Karl Kahlert Parkway
Present: Miranda Fitzgerald, Marge Tinsley, Herb Kahlert
Previous RAC: 8/16/2006, 5/7/2008, 6/18/2008
County Staff Present: Juan Curi

Ms. Fitzgerald opened the discussion explaining how this agreement adds to the Valencia Community College APF Agreement, and provides for conveyance of all properties with legal and sketches.

Mr. Nastasi asked if the road impact fee credits being requested are for all APF roads or just for Schofield Road, since road impact fee credits can only be provided for road impact fee eligible roads.

Discussion ensued regarding Farnsworth tract and how the conveyance of more property than may be needed is necessary to avoid right of reverter.

Page 1 Ms. Caswell asked for the Title of the agreement to include road names also.

Page 4 Section 2(d) Ms. Fitzgerald questioned how to provide a valuation in this section.

Ms. Alfonso suggested getting a valuation from Mr. Hurt to include a estimate of the current fair market value then reference the \$22,500 in the credits section.

Page 1 Ms. Alfonso requested “P.O. Box 1393” and zip code “32802-1393” be added.

Page 1 define “Owner” as a defined term or refer to “Fox Entities” and “Island” in each instance.

Ms. Fitzgerald explained that the Trust owns the land, and that the Valencia Community College PD APF Agreement was referenced in this agreement.

Page 1 Recital B, need to know where it is on file. Real Estate Management offered to keep a copy of the Trust Agreement on file and available for use.

Page 3 Recital K Ms. Alfonso asked to add “in accordance with Orange County Code” or APF Ordinance to this page.

Mr. Nastasi stated that credits are eligible on all 3 roadways involved.

Page 4 Mr. Nastasi and Mr. Kunkel questioned the 11.813 acres being dedicated.

Mr. Kunkel stated that there is some discrepancy with the map, the sketch, and the legal description and asked that the applicant less out what Orange County owns.

Ms. Fitzgerald will also provide acreage calculation for areas to be vacated on Schofield.

Page 5 Ms. Caswell is opposes the “most favored nations clause”. Mr. Nastasi stated it should not be a problem since the \$22,500 is not going to change.

Ms. Caswell stated that changing the value after conveyance is not acceptable. Mr. Harrison and Mr. Nastasi agreed it should be taken out since it would change the value after the fact and we would have to go back and change all other agreements.

Ms. Fitzgerald will add “prior to conveyance” to Section 4 (a).

Ms Caswell stated that the land to be vacated should be subtracted from land to be dedicated. The conveyance is within 120 days and the vacation request much later on.

The Right-of-Way cannot be vacated until Schofield Road is realigned and constructed.

Page 6 Section 5 Ms. Rozier asked to include “stormwater” in the allowed limitation.

Page 7 Ms. Caswell asked that recordation be within 30 days.

Page 7 Section 12 Ms. Alfonso asked to change “Owner” since not a defined term.

Page 7 Section 7 Ms. Rozier questioned the assignment of road impact fee credits. Ms. Alfonso stated that it is acceptable.

Page 9 change “the County and the Owner” to “the Parties” requested by Ms. Alfonso.

Mr. Harrison reviewed all changes requested by the Committee.

Mr. Smogor made a motion, with a second by Mr. Kunkel to approve the Right-of-Way Conveyance Agreement with the changes requested at today’s meeting, subject to final review and approval by the Committee, and subject to final review of the Exhibits by the County Surveyor. Motion carried unanimously.

International Corporate Park

Development: Innovation Way/Beachline Interchange Agreement
Developer: International Corporate Park, OOCEA, Orange County
Road Affected: Innovation Way/Beachline Interchange Agreement
Present: John Florio, Jim Pratt, Lionel Rubio
Previous RIFCC: 12/14/2005, 2/1/2006
County Staff Present: Juan Curi, Brian Sanders

Mr. Pratt provided an overview of previous agreement. SLR has purchased the property from ICP and is seeking to amend the agreement.

The previous agreements had soft cap amounts included.

Dates for the design completion and construction were not met in a timely fashion.

Mr. Harrison stated that the County's contribution has been capped at \$5,500,000 due to the ICP Development Order outlining the developer's requirement for developing.

Mr. Florio described the design plans for the interchange with ramps and how this did not fit into land uses being established for Innovation Way.

The Flyover Bridge will be widened to 6 lanes and the ramp loops reconfigured with 2 lanes in the ultimate Section with one-lane being built now.

The 30% design plans were submitted by Lochrane and comments were provided and responded to. The 60% design submittals are planned for 8/13/2008.

Permit package has been submitted to the St. Johns Water Management District to start the process.

Mr. Pratt stated that the amended and restated agreement for Innovation Way/Beachline Interchange contemplates Road E and Road Impact Fee Credits for the increased costs in design which have occurred since the original agreement.

Mr. Pratt stated that the County has to meet certain milestones for the South Road.

Mr. Pratt stated that the applicant is trying to insure that the road network system will maintain a level of service so they are not blocked in the future from developing.

Mr. Nastasi stated that an NOPC changing the existing DRI can address capacity and level of service but cannot address issues to the South in an agreement pertaining to the Interchange.

Mr. Pratt would like some mention of how this project will add capacity and should not stop development in the future.

The attorney for OOCEA is still in the process of reviewing the agreement and will have comments.

Mr. Harrison identified six (6) issues to discuss.

1. Design Updates – Mr. Nastasi discussed how the updated traffic studies changed the configuration of the ramps. Mr. Nastasi indicated costs will increase due to a larger deck and

additional asphalt. Mr. Nastasi also mentioned FDOT was reviewing this as an SIS Facility project.

2. Mr. Harrison stated that the County contribution of \$5,500,000 came out of the 1989 DRI agreement. SLR is asking for road impact fee credits for additional design for the added loop ramp and the two additional lanes needed, but then left the amount blank.

Mr. Harrison asked if the applicants were seeking additional funding from the County. Mr. Pratt stated that they want \$5,500,000 plus road impact fee credits for additional costs for design and as much more as the County can provide.

Mr. Kunkel stated that costs due to increases from delays should not be charged to the County.

Mr. Pratt agreed but still wanted to negotiate.

Mr. Nastasi asked if road impact fee credits can be provided for an Expressway Authority facility which is not a County road or even County Right-of-Way. The loop ramp especially would be an OOCEA facility.

The Flyover is a County facility but not the ramps or the interchange itself.

Mr. Harrison referred to the 1989 agreement which provides for road impact fee credits for certain projects as a percentage so if costs increase, then the County share may need to increase to meet percentages.

Mr. Harrison stated that the 2006 Agreement wiped out the 1989 Agreement terms and capped the County's participation at \$5,500,000.

Mr. Nastasi suggested that a process be set up to have this developer front the costs and then sell road impact fee credits to others at a later date as they come in.

Mr. Harrison was not comfortable moving forward with \$5.5M and road impact fee credits for the design costs.

Mr. Nastasi stated that the interchange needs to be in place before any developers can move forward. He suggested getting all the parties together to build the interchange or have SLR front the funding and be paid back at a later date by the other landowners.

Mr. Kunkel stated that the County needs to look at the cost estimate for additional impact fee credits to be awarded before determining if it is reasonable.

Mr. Harrison stated the need for a basis and logic for providing for the County's contribution amount.

Mr. Harrison asked the applicant to come up with new methodology for County contribution.

3. Road E reference in the Interchange Agreement - Mr. Harrison pointed out all references to Road E in the agreement and asked that the Section on Page 8 be removed.

Mr. Nastasi stated that the applicant cannot combine Road E and the Interchange since they are two unrelated issues.

4. South road milestone in favor of developer. Mr. Harrison would not accept a requirement of performance on South road in this agreement. Mr. Harrison stated that the County will help set up a funding mechanism but not do all the work.

On Page 16 Section 4.2 Ms. Cummings pointed out that Road E South Road is required to be constructed within 24 months.

5. Option of Developer to construct – Section 7.5 OOCEA must determine who will construct since it is their facility.
6. Reimbursement to SLR from other Owners language is included in Section 6.4.

Mr. Nastasi stated that this is related to Multimodal Transportation District to be set up (MMTD).

Section 2.6.5 requires the County to help SLR sell off credits at current rate.

Reschedule this for 2 weeks with the 6 bullet points.

1. Design Changes
2. Road impact fee credits being requested due to design changes need better mechanism to explain participation. Mr. Nastasi will get with Mr. Gabriel regarding the traffic study
3. Road E conditioned performance
4. All owners should contribute not just the County
5. Option of Developer to construct
6. Reimbursement to SLR from other owners

Rescheduled for August 6, 2008.

Mr. Harrison asked the applicant not to submit a revised draft unless they wanted to take out all of these items.

Mr. Harrison asked for more specific proposal on how the funding mechanism will work and come back with a funding source laid out.

Innovation Way Road E Agreement

Development: Innovation Way/Beachline Interchange Agreement

Developer: Suburban Land Reserve, Inc.

Road Affected: Innovation Way/Beachline Interchange Agreement

Present: Gloria Lockridge, John Florio

Previous RIFCC: None

County Staff Present: Juan Curi, Brian Sanders

Mr. Harrison opened the discussion by relating this discussion to the previous application.

Ms. Lockridge provided an overview of Road E agreement which provides that the Interchange is not completed and Road E will connect to Alafaya Trail sooner than required or needed. The agreement contemplates:

- Acceleration of the project by design and construction Phase I of Road E within 130 feet Right-of-Way.

- County would complete the road project in Phase II.
- Road impact fee credits would be provided to SLR for conveyance of Right-of-Way cost of Phase I design and construction (of two bus lanes only).
- Option for SLR to construct Phase II and receive road impact fee credits for construction (since the design was completed in Phase I).

Ms. Lockridge stated that funding mechanisms for transit provision may require Right-of-Way dedication in stages if federal funding opportunities are required.

Mr. Harrison asked Mr. Nastasi if he reviewed the typical section for Innovation Way Road E.

Mr. Nastasi stated that the transit component may not be activated as Bus Rapid Transit for 10-15 years so the design may not need to specify the transit component.

Mr. Nastasi stated that 130 feet of Right-of-Way will need to be conveyed up front.

Ms. Lockridge said that if Federal matching funds require dedication of Right-of-Way at a later date, the applicants are looking for County assistance with this process by placing deeds in escrow for conveyance at a later date.

Mr. Perez asked if Road E is part of the ICP Development Order.

Mr. Curi stated that no sidewalks or bike lanes are shown on the typical section and no pedestrian facilities.

Mr. Perez stated that BRT on the inside makes the trails hard to access for pedestrians.

Mr. Harrison asked that the bicycle lanes and sidewalks be added to the typical section for the next revision to the agreement.

Mr. Nastasi stressed that an Alternative Analysis Study (AA) must be performed and the landowners will need to participate in the funding.

SLR is requesting road impact fee credits since they are fronting funding to accelerate the Road E project and have no obligation to build now.

Mr. Kunkel stated that SLR would have to expend the funds to build the road in 4 years or 10 years or whenever it may be.

Road E is safe and adequate access to SLR so why should the County reimburse the developer for constructing what is required.

Mr. Harrison stated that if the County participates in Road E, we will not participate as much on the Interchange. The County can only provide so much.

Mr. Nastasi stated that the DRI and Development Order will require roads to be constructed, so why should the County accelerate the roads at the County's expense, when the Developer is on the hook already to pay.

Ms. Lockridge stated that if no credits are available then the applicant will take this to the Development Review Committee.

Mr. Kunkel has several items to discuss which include:

- Wetland Mitigation
- 45 mph Posted Speeds
- Other design issues

Ms. Cummings asked for definitions to be clarified for Wetland Mitigation.

Mr. Kunkel stated that there are 45 mph posted speeds and curvatures, and straightening these curves may reduce wetland mitigations.

Design issues will be further discussed separately.

Ms. Caswell referred to pages 10-11 and that there are issues with the “superior rights” language.

Page 15 Ms. Caswell noted that Alafaya Trail Extension is required to start construction by December 15, 2008.

Mr. Nastasi stated that Pages 14-17 require more information on the timing/funding, etc.; which may not be available for several years.

Mr. Nastasi suggested a separate meeting with Public Works staff and Growth Management staff to discuss these provisions.

AA Study payment must be included in the Development Order that is being drafted.

Mr. Perez made certain suggestions on overall provisions:

- There are a number of places in the Agreement where the County is obligated to expend funds (not impact fee credits) for things such as acquiring easements and rights-of-way over lands of third parties, conducting studies, and constructing improvements. The budget would have to be amended to include these funds;
- There is a provision for consumptive use of the stormwater from the road. Proper operation of the ponds, including drawdown of both the treatment and attenuation volume in the stormwater ponds;
- Paragraph 3(g) provides an indefinite time frame for commencement of construction. There should be a definite time frame for completion of construction. If the Construction of Road E is not completed substantially in advance of the interchange, there is no benefit to the County/public;
- The County option to construct Phase I in Paragraph 5 does not address how the County would b\get the Right-of-Way, or how the plans would be modified to be able to be bid by the County;
- Road E will be completely within Impact Fee Zone 2 and the proposed interchange within Zone 2 and 3 therefore, Zone 3 should be removed form Paragraph 6;
- Statutory requirements for Utilities to relocate at their own expense only apply to utilities located within the existing Right-of-Way. The R/W for Road E is all new R/W. Any utilities affected by the road construction cannot be forced under the statutes to relocate at their expense (Paragraph 7);
- How can the County commit to include or support interchanges on future facilities without having conducted the appropriate studies (Paragraph 8(b));
- The requirement in Paragraph 8(c) to commence construction on the widening of Alafaya Trail by December 31, 2008, cannot be met;

- The projects described in Paragraph 8(d) are not County projects. County support for those projects should not be tied to Road E, and should not be part of this agreement;
- The location of transit stops is not under the control of the County, and cannot be guaranteed by the County as stated in Paragraph 8(e);
- Paragraphs 8(g) and 8(h) call for the developer to conduct a study that will establish the funding responsibilities of third parties. How can a study by one non-governmental entity commit another entity to expend funds?
- Paragraph 9 appears to be an attempt to change requirements contained in the ICP development order. An agreement of this type does not appear to be the appropriate vehicle to accomplish that;
- Paragraph 11(h) ties the developer's obligation to perform under this agreement to the County's performance under the interchange agreement. These should not be tied together. What about the developer's performance or OOCEA's performance;
- Paragraph 11(n) prohibits the County from charging any fees for Road E. How will Development Engineering pay for review of the plans and inspection of the construction?
- Separate improvement areas;
- Timeframes are an issue.

Page 17 Section 9(a) states that if Road E is built, SLR is not on the hook for the Interchange. This section needs to come out according to Mr. Harrison.

Mr. Harrison requested a separate posted meeting to discuss Comp Plan and DRI detailed in the Road E Agreement.

Reschedule for August 6, 2008 Roadway Agreement Committee meeting if Applicant is ready to return.

Florida Mall – Sand Lake Road

Development: Florida Mall DRI

Developer: Florida Mall Associates, LTD

Road Affected: Sand Lake Road

Present: Scott Thompson

BCC agreement: BCC 6/19/2001 (OR 6301/4303), JPA BCC 6/18/2002

Previous RIFCC: 11/8/2000, 12/13/2000, 1/17/2001, 3/21/2001, 4/4/2001, 5/16/2001, 6/6/2001, 4/21/2004, 5/19/2004, 12/12/2007, 3/5/2008, 5/21/2008

Mr. Nastasi opened the discussion by stating that the Development Review Committee has been holding up the Mall renovation permits until the construction contract is signed.

The Development Review Committee asked for a Hold Harmless provision in the Ratification Agreement which would be added as Section 15.

Ms. Alfonso asked for stronger language rather than “shall have no obligation”, please include “the absolute right to withhold”.

Ms. Almodovar asked why the Permit is referenced by number since there could be multiple permits.

Mr. Thompson stated that it should relate to the Lord & Taylor Town Center Improvement building only.

Mr. Smogor asked to change the reference to “Town Center Improvements at Florida Mall”.

Mr. Smogor made a motion, with a second by Ms. Caswell, to approve the Florida Mall Ratification Agreement with the changes requested at today’s meeting, subject to final review and approval by the Committee, and subject to final review of the Exhibits by the County Surveyor. Motion carried unanimously.

Mr. Harrison adjourned the meeting at 12:32 p.m.