



Interoffice Memorandum

Minutes

Roadway Agreement Committee

May 21, 2008

Members Present: Jim Harrison – Growth Management (Chairman)
Joe Kunkel – Public Works Department (Vice Chairman)
Benj Hurt – Real Estate Management Division
Renzo Nastasi – Transportation Planning Division
Christine Lofye – 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
John Geiger - Environmental Protection Division
Heather Brownlie – Transportation Planning Division
Rita Gonzalez – Transportation Planning Division
Vince Randazza – Real Estate Management Division
Susan Martin– Risk Management
Jennifer Cummings – Stormwater Management Division
Frank Yokiel – Public Works Engineering Division
Cristina Crosby – Orange County Utilities Department
Matt Bilskie – Transportation Planning

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

Approval of Minutes

The Committee reviewed the minutes from the May 7, 2008 Roadway Agreement Committee Meeting and changes were requested as follows:

Page 3 line 8 change “provided” to “require”.

Page 3 line 9 add “of” after releases and change “REM” to “the County”.

Page 3 line 32 change “many” to “may”.

Page 4 line 19 change “GES” to “GIS” and rephrase the sentence to read “to have a biologist do a GIS line for further research.

Page 4 line 38 add “Department” after “Utilities”.

Page 4 line 42 add “the utilities” after the word “co-locate”.

Page 6 line 10 and 12 delete the “e” from “Conserv”.

Page 6 line 30 delete the “C” from “RIFC”.

Page 6 line 41 “outline” misspelled, add “t”.

Page 7 line 25 remove “s” from “acres”.

Page 7 line 39 rephrase to “would be paid the difference; the value of what we are vacating is greater than the value provided. In order to exchange the County must get equal or greater value”.

Page 8 line 38 Mr. Kunkel wanted to add the information regarding Avalon providing a cash contribution of \$5 million. The Minutes will reflect “The Legacy Program lost some of its progress; therefore, Grant funding from Innovation Way may be available for this project and instead of the County providing for a shortfall, Avalon will cover a shortfall of about \$5 million dollars.

Page 9 line 10 change the sentence to read “Mr. Marks stated if they are getting road impact fee credits, then they would have to sell them in the open market”.

Mr. Kunkel made a motion, second by Ms. Almodovar to approve the May 7, 2008 Roadway Agreement Committee Meeting minutes with listed changes and other typographical corrections and grammatical omissions. Motion carried unanimously.

Review of Changes to the Boilerplate

Page 2 Section 2(a) deleted “or whatever other event triggers conveyance” from boilerplate.

Page 2 Section 2(a) added Real Estate Management extension language.

Page 2 Section 2(b) added conveyance by plat as an option for all agreements.

Page 1 changed second word; deleted “Developers” and will add title of each agreement in this location.

Page 3 Section 2(d) change title of section and change “Right-of-Way” to “Land”.

Page 4 Section 2 (f) bracketed statement deleted.

Page 6 Recording statement to include a provision for recording within 30 days.

Similar changes to be made to the Boilerplate Amendment document.

Ms. Caswell suggested attaching a joinder to the boilerplate for developers who do not own the property.

Activity Update/Summary

Discussion of College Suites Permanent Slope Easement.

Mr. Nastasi stated that asking for an additional 15 feet is too much and an unreasonable request at this time.

Ms. Almodovar agreed that the road slopes could be harmonized at a later date.

Mr. Kunkel, the County Engineer, felt that for College Suites, the road could be built without the permanent slope easement and we should move forward without these items shown on the legals and sketches.

When College Suites comes in for their development approvals they would need to harmonize the project to the slope of the road.

Page 4 Section 2 (ii) Mr. Randazza stated that an access easement is provided for in the agreement, but this requires we provide vehicle access across our fee simple conservation area.

Mr. Nastasi stated that in the unlikely event that they would develop the parcel north of the County's conservation area, College Suites would have to come to the County for permits and we can review at that time.

Mr. Harrison feels the County should not reopen agreements already approved; so if we can live with it as is, we should.

Mr. Hurt is still working on the appraised value with Ms. Long.

The Beck APF Agreement was approved at the 5/20/2008 Board of County Commissioners meeting.

Mr. Harrison asked about the status of the Friedman appeal.

Ms. Alfonso stated that nothing is really happening and everything is status quo.

Pavilion at Sand Lake PD/Mandarin Drive Extension

Development: Pavilion at Sand Lake PD

Developer: Fourth Quarter Properties, 124 LLC

Road Affected: Sand Lake Road, Mandarin Court Extension

Present: Brad Goeb, Craig Langley, Eric Lagassey

Previous RAC: 1/17/2007, 6/6/2007, 6/20/2007, 4/2/2008, 4/16/2008

County Staff Present: Brian Sanders

Mr. Langley explained that he drafted the agreement based on the term sheet reviewed by the Committee.

The only change is that the two road segments have now been separated into four road segments as defined by property ownership.

A Performance Bond can be posted to obtain road impact fee credits sooner than construction is finalized.

Mr. Goeb explained that construction is from Sand Lake Road to Kirkman Road for Phase I and from Kirkman Road to Universal Boulevard for Phase II.

Mr. Langley explained that 10-foot sidewalks are to be provided on either side of the roadway.

Mr. Geiger asked about the contaminated plume area and how close to the road it extends.

Mr. Goeb stated the plume is 800-1000 feet from the roadway.

Mr. Kunkel stated that the County would need proof that the area has been cleaned up.

Mr. Goeb stated that they must provide a clean ESA Phase I to move forward, and plan to do so.

Mr. Nastasi asked about remediation and de-watering and who is responsible. Mr. Geiger answered Lockheed Martin.

Mr. Nastasi expressed concerns that the Stormwater runoff would store in the pond in the contaminated area.

Mr. Geiger and Ms. Martin stated the responsibility for the remediation and dewatering must be included in the agreement.

Ms. Martin suggested requiring the ESA prior to construction rather than conveyance but an update would have to be provided before conveyance.

Ms. Martin asked that the environmental language be modified so the County is not responsible for clean-up.

Ms. Almodovar stated that additional Right-of-Way is required for the traffic circles in the road plan.

Mr. Goeb stated the Developers will provide the additional Right-of-Way.

Ms. Almodovar also questioned whether the traffic circle is substandard.

Mr. Nastasi asked that a traffic study be submitted for review to make sure the intersection with the circle works.

Pavilion at Sand Lake will be appearing at Development Review Committee next week for further discussion.

The Committee reviewed the Agreement page by page.

Page 1 change “Developer” to “Road Impact Fee”.

Page 2 Ms. Alfonso asked for the definition of area in the text and in an exhibit.

Page 3 in the second to the last line, Mr. Kunkel suggested changing “Section One” to “any section”.

Ms. Lofye, Exhibit D should show the four road segments delineated.

Page 4 Mr. Kunkel asked that where easements are included, the easements need to be included in Section 3 and Section 4.

Mr. Nastasi asked about typical section for the road as shown at Exhibit E.

Mr. Kunkel asked about the Utility Easements that are needed.

Mr. Nastasi asked for an Exhibit showing the cross-section for each segment.

Ms. Almodovar asked for an additional Exhibit for the Traffic Circle.

Page 4 Mr. Randazza Section 4(a) requested to add “Management” between “Real Estate” and “Division”.

Page 4 Mr. Randazza asked they change “legal” to “documents of” and remove “by deed” at the end of Section 4(a).

Mr. Smogor stated the need for additional exhibits for each road segment if the typical sections differ for each section.

Page 5 Ms. Alfonso suggested stating Mandarin Drive Extension should be referred to as Mandarin Drive Right-of-Way as is stated at the beginning as a defined term.

Page 6 Section 5(e) Ms. Martin requested adding remediation language.

Page 8 Mr. Kunkel wanted more definition of what construction costs will be included and not included. Construction costs should not include remediation or de-watering or any costs associated with groundwater contamination.

Mr. Kunkel stated that the costs can only be hard costs for engineering and construction and cannot include soft costs.

Mr. Harrison asked Mr. Kunkel to review the cost estimate for the Road Network Phase I and Phase II, and if he confirms then the Committee will concur.

Mr. Kunkel stated that the project will move forward as an E-permit project but that the Highway Construction Division will handle the field inspections.

Page 8 Ms. Lofye stated County’s sole remedy is to elect to complete construction at County’s cost.

Mr. Langley pointed out that performance bonds would be posted to protect the County as an alternative.

Mr. Harrison stated that we need to insure that once the project is undertaken that it gets completed.

Ms. Lofye asked if the road construction could be tied to development permitting.

Ms. Alfonso suggested deleting the statement on County’s sole remedy since it doesn’t match the boilerplate remedy section which appears in Section 18.

Mr. Goeb stated that by the time of opening stores fronting Sand Lake Road, a connection to Universal Boulevard will be made.

Page 8 Ms Alfonso questioned the credit provision and asked to use the term “credit” rather than “pay”.

Page 9 Ms. Alfonso questioned the 10% retainage provision, and asked to change “paid” to “reimbursed”.

Mr. Kunkel and Ms. Naditz asked that the non-binding mediation paragraph at the bottom of Page 9 be removed completely.

Mr. Langley stated this language was included in the Canadian Court agreement.

Ms. Alfonso offered to work with Mr. Langley on mutually acceptable language to be included in this Section.

Page 10 Section 9(b) Mr. Kunkel asked the performance bond language be revised to include County standard requirements.

Page 11 Mr. Nastasi suggested that construction costs include landscaping creditable up to \$75,000. per mile rather than how it is presented in Section 10 (a).

Page 11 Section 9(c) Ms. Martin pointed out the word “Zone” is duplicated.

Ms. Almodovar suggested adding that for increased landscaping they would need to apply for a Right-of-Way utilization permit and the increased landscaping maintenance needs to be paid for in a Master POA.

Page 12 Section 10(b) Mr. Nastasi questioned the term “vary” as used in this Section.

Mr. Langley is not aware of what Lockheed Martin’s needs would be.

Ms. Almodovar asked for an exhibit of this cross-section to be included in the exhibits.

Page 13 Mr. Kunkel asked that Exhibit H be reviewed by the Purchasing and Road and Drainage Divisions.

Page 14 Section 14 Ms. Alfonso asked for recordation within 30 days of the effective date.

Mr. Harrison asked that this project be rescheduled for the June 4, 2008 meeting.

Falcon Monk PSP

Development: Falcon Monk Preliminary Subdivision Plan
Developer: Richard Jerman – Falcon Land and Development Company
Road Affected: Overstreet Road and Ficquette Road
Present: Lance Bennett, Richard Jerman, Micky Grindstaff
Previous RAC: 5/7/2008
County Staff Present: Brian Sanders, Christina Crosby

Mr. Grindstaff looked at doing improvements for Road Impact Fee Credits, but cannot get credits unless the improvements create excess capacity.

The Traffic Study undertaken revealed no additional capacity is being created.

Mr. Harrison stated that if there is no additional capacity, then the Committee cannot provide road impact fee credits.

Mr. Sanders made a motion, second by Mr. Hurt, to deny the applicant's request for road impact fee credits for the Falcon Monk PSP Agreement. Motion carried unanimously.

Florida Mall – Sand Lake Road

Development: Florida Mall DRI

Developer: Florida Mall Associates, LTD

Road Affected: Sand Lake Road

Present: Scott Thompson, Nicholas Pope,

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

County Staff Present: Mirna Barq

The applicant is returning to the Roadway Agreement Committee to update the project cost totals and timeframes for construction.

Mr. Thompson went through the changes made to the agreement starting on Page 3.

Mr. Sanders and Ms. Alfonso had no issues.

Mr. Thompson explained the changes made to page 4 are due to cost over-runs, and changes to the funding structure so the County will pay their share at the end.

Mr. Thompson explained that there is a contingency for future cost over-runs to be split 50/50 between County and Developer.

Ms. Alfonso asked that the signatures be included on a separate page starting with the "In Witness Whereof Clause".

Mr. Smogor made a motion, second by Ms. Almodovar, to approve the Florida Mall Ratification Agreement as presented with the black-line changes, and subject to final review and approval by the Committee. Motion carried unanimously.

Ravallo Resort

Development: Ravallo Resort Development Company, LLC and Sunterra Corporation

Developer:

Road Affected: Lake Street

Present: Sam Sabaali, Andrew Pughe, Randy Rush, Jason Schaeffer

Previous RAC: 5/7/2008

County Staff Present: Brian Sanders, Christina Crosby, Jennifer Cummings

Mr. Rush explained that the agreement has been redrafted to provide for an even exchange between Right-of-Way dedicated and Right-of-Way to be vacated.

Page 1 Ms. Alfonso requested adding a Prepared By Statement and the Tax Parcel ID#.

Page 2 Mr. Hurt stated that Exhibits C and D are backwards.

Page 3 Ms. Lofye questioned the functional equivalent of 0.4 acres conveyed versus 4.9 acres to be conveyed. The committee agreed that the value would be zero and an even exchange.

Page 3 Mr. Sanders explained that the Utilities Department has a concern regarding access to the Pump Station.

Ms. Crosby stated that two 20-inch force mains and electrical lines run along the access easements.

The Access Easements will then fall within Orange County Right-of-Way.

Mr. Rush stated that some subordinations would be needed from Progress Energy and other Utilities.

Ms. Crosby was also concerned about access.

Mr. Rush will not ask to vacate the access easement.

Ms. Crosby asked that part of the area to be vacated not be vacated and be made available to the Utilities Department to expand the Pump Station for future upgrades.

Ms. Almodovar stated that Utilities can request the Right-of-Way area they need not be vacated during the vacation process.

Mr. Harrison stated that Orange County Utilities will end up with a 116 x 70 area.

Page 6 Ms. Alfonso asked that the recording statement specify “within 30 days of the effective date”.

Ms. Alfonso requested a joinder from the current owner.

Mr. Rush explained that they would close prior to this agreement going to the Board of County Commissioners.

Mr. Harrison asked that the Right-of-Way for the Utility area be contemplated in the agreement as a dedication to Utilities.

Ms. Alfonso stated the provision for a wall for Utilities had to be negotiated separately with Utilities in a separate agreement.

Mr. Rush will convey in fee simple the area needed by Utilities which will be conveyed through this agreement.

Exhibit C and D will now reflect added Right-of-Way and then less of an area to be vacated.

Mr. Smogor made a motion, seconded by Mr. Sanders, to approve the Ravallo Resort Lake Street Agreement with the changes requested at today’s meeting, subject to final review and approval by the Committee, subject to final review of the Exhibits by the County Surveyor and subject to Ms. Alfonso approving language for ownership, once the developer closes on the property before going to the Board of County Commissioners. Motion carried unanimously.

Lake Gifford

Development:

Road Affected: CR 545 Avalon Road

Present: Kimberly Brown, Stuart Counts, Jeff Thompson, Jodi Fisher

Previous RAC: 5/7/2008

County Staff Present:

Mr. Harrison asked Mr. Sanders if the amount of Right-of-Way had been settled at 105 feet with a 5 feet sidewalk easement and Mr. Sanders agreed that was the plan.

Mr. Geiger has not accepted any environmental information or reviewed a CAD determination.

Mr. Granville stated he had submitted a survey to EPD last July.

Mr. Harrison stated that we need environmental data and topographical information to determine if Orange County wants to place a pond in this location.

Mr. Harrison suggested a separate meeting with EPD to find out what information has been submitted or needs to be submitted.

Ms. Crosby stated that the Utilities Department plans to place the main lines down the Avalon Road corridor and easements may be required beyond the area of Right-of-Way requested.

Mr. Harrison asked that Transportation Planning, Engineering and Utilities set a meeting after the meeting with EPD and that Ms. Brownlie would coordinate this meeting.

Mr. Harrison stated we need to resolve the location of the potential pond.

Page 1 Mr. Randazza pointed out changing “Developer” to “Right-of-Way Agreement”.

Page 2 – 3 Ms. Lofye pointed out two (2) Subsection (C)’s exist and need to remove first one which is part of subsection (b).

Mr. Granville asked to change “Developer” to “Owners” throughout the document.

Page 2 Mr. Harrison asked for Real Estate Management extension language to be included.

Page 2 Ms. Alfonso asked to fill in blank in 2(a) with 120 days, and strike “or whatever other event triggers conveyance”.

Page 3 need to include the appraisal value in blanks.

Page 2 add recital for County Engineer to declare CR 545 (Avalon Road) an impact fee eligible road.

Page 6 Ms. Alfonso asked that in the recordation clause, add “within 30 days of the effective date”.

Mr. Granville wants the County to purchase the unusable skinny area between the two houses.

Mr. Granville stated he spent \$25,000 on a 4-car garage and wants compensation for this item.

The property owners complained in general about the 55 mph speed limit and safety issues and asked for a screen wall along Avalon Road. The discussion of this matter will continue at the Public Works meeting with Utilities.

Mr. Harrison asked to reschedule this project for a later date, but not until the EPD meeting and Public Works/Utilities meetings take place.

Mr. Harrison adjourned the meeting at 11:50 a.m.