

**APPROVED**  
**PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING**  
**CITY HALL, 8<sup>TH</sup> FLOOR**  
**COMMISSION CONFERENCE ROOM**  
**THURSDAY, JANUARY 15, 2009 – 10:00 AM**

**COMMITTEE MEMBERS PRESENT**

Peter Partington, City Engineer  
Tom Terrell, Public Works  
Mark Darmanin, Public Works  
Tony Irvine, Surveyor  
Anthony Fajardo, Planner III  
Carol Ingold, Parks & Recreation Supervisor  
Bob Dunckle, Attorney

**STAFF**

Victor Volpi, Senior Real Estate Officer  
Diana Alarcon  
Hilda Testa, Recording Clerk, Prototype, Inc.

**CALL TO ORDER**

Mr. Partington called the meeting to order at 10:12 a.m., and stated this was a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public rights-of-way.

Following roll call, it was determined that a quorum was present.

**ITEM ONE:**                    **APPROVAL OF DECEMBER 18, 2008 MINUTES**

**Motion** made by Mr. Darmanin, seconded by Mr. Irvine, to approve the December 18, 2008 minutes.

In a voice vote, the motion passed unanimously.

**ITEM TWO:**                    **PAVERS IN RIGHT-OF-WAY**

ADDRESS OR GENERAL LOCATION: 2800 E. Sunrise Boulevard 5-A

Mr. Volpi stated Sunrise East Condos Inc., would like a positive recommendation to allow them to place pavers in the cul-de-sac at the western most end of NE 9<sup>th</sup> Court. There are utilities under the pavement. Their Association will agree to maintain, repair or replace the pavers should the City need to repair/replace anything under them and normal wear and tear. Photos were provided showing other condominiums using similar treatments.

Chuck Murawski and Dan Ruvtyier, representing Sunrise East Condos, were present. Mr. Murawski provided a brief background of the project and stated 9<sup>th</sup> Court was originally used as the main entrance for the building, which required tenants to go through the parking lot to reach the front door. The street suffered severe decay, and the City has cooperated by clearing up thirty-three violations to assist with clean up of the street. Mr. Murawski explained the cul-de-sac leads to a garage entrance, and would like to put in a brick paving circle.

Mr. Dunckel asked how the garage would be accessed during the construction period. Mr. Murawski explained half would be done at a time to allow access, and the construction would not affect anyone on the street.

Mr. Irvine asked if Hal Barnes was contacted in Neighborhood Services. Mr. Murawski explained the applicant was working with Mr. Feldman from Code Violations to perform the clean up activities.

Mr. Partington felt a less extensive project may have required only an engineering permit. Mr. Dunckel agreed, and noted an addendum to the engineering permit was being worked to allow projects to be approved with an engineering permit versus the revocable license. Robert Lochrie stated improvements all along the street were a condition of the original site plan.

Mr. Partington asked what agreement was made when a developer wanted to make improvements in the right-of-way at the time of development. Mr. Dunckel stated either a developer's agreement or a site plan condition with engineering permits were required. Mr. Lochrie felt the site plan condition was all that was required at the time of the original development. Mr. Prizelee, representing the Beach CRA, advised an engineering permit would be required even with a developers permit.

Mr. Irvine expressed concern regarding contact with Hal Barnes and NCIP to make sure the pattern chosen was compatible with other developments in the area. Mr. Partington stated there was a master plan for the Sunrise area. Mr. Irvine also expressed concern regarding previous projects where promises were made when going outside the site plan which later cost the City money in maintenance. Mr. Dunckel stated those issues were a product of the policies of Public Services in footing the bill on some of those things.

Mr. Irvine asked how the tax payer was served by having a committee make the decision to spend money after developers made a covenant to provide the maintenance. Mr. Partington felt the instances Mr. Irvine referred to did not happen often, and felt a revocable license would have more "teeth" than conditions attached to an engineering permit. Mr. Dunckel reminded the Committee the revocable license would be recorded with public records.

Mr. Partington asked the applicant to touch base with Hal Barnes. Mr. Ruvtyier stated Hal Barnes had been contacted, and applicant agreed to use the same colors to match all along the beach.

Mr. Darmanin suggested a sub-surface utility investigation be performed to check the condition of the sewer. Mr. Darmanin felt the photographs showed the water meters close enough to the edge of the circle, with the sanitary sewer well past the center of the circle. Mr. Murawski stated the sewers were recently redone. Mr. Darmanin felt the area needed to be looked at so any necessary work could be performed prior to construction. Mr. Dunckel asked if the investigation would be at the applicant's expense or the City's expense. Mr. Darmanin stated the City would bear the cost of the investigation. Assuming no problems were noted prior to construction, the applicant would bear the cost of any repairs required after the construction. Mr. Darmanin agreed the project needed to be held to a revocable license versus the engineering permit due to the size of the project.

**Motion** made by Mr. Dunckel, seconded by Mr. Irvine, to recommend approval of the application predicated on a revocable license, and that the pattern and color of the pavers be coordinated with Hal Barnes. Before any work commences a sub-surface utility investigation be conducted by the City. If deficiencies were noted, the City would correct prior to construction. If no deficiencies were noted prior to construction and deficiencies were noted after construction, the homeowners would bear the cost of repairs.

Mr. Terrell reminded the applicant the compaction process for installing pavers could damage the clay piping used under the manhole in front of the building. Mr. Partington felt the responsibilities subsequent to construction should have a time limit as ten years after construction would not be reasonable. Mr. Darmanin stated the normal time period was one year. Mr. Partington suggested an amendment to the motion to add the one year timeframe for repairs.

Mr. Irvine asked about the cost of replacing one run with something other than the clay piping. Mr. Darmanin did not feel it was prudent for the City to spend the money. Mr. Darmanin noted if the homeowner wanted to replace the portion underneath the brick pavers that would be fine. Mr. Dunckel suggested making replacement of the clay piping in that area a condition of the revocable license. Mr. Terrell stated even if the pipe was cracked during construction other repair methods were possible not requiring excavation, and felt the Committee was trying to fix something that had not happened yet. Mr. Darmanin explained the cost of repair would be dependent on the type of damage.

**Motion** amended by Mr. Dunckel, seconded by Mr. Irvine, to recommend approval of the application predicated on a revocable license, and that the pattern and color of the pavers be coordinated with Hal Barnes. Before any work commences a sub-surface utility investigation be conducted by the City. If deficiencies were noted, the City would correct prior to construction. If no deficiencies were noted prior to construction and deficiencies were noted after construction, the homeowners would bear the cost of repairs for one year following construction.

In a voice vote, the amended motion passed unanimously.

Mr. Partington noted the point of contact for the next stage of the project would be the City Attorney.

**ITEM THREE:**                    **VACATION OF RIGHT-OF-WAY**

ADDRESS OR GENERAL LOCATION: 2600 W Broward Boulevard

Mr. Volpi explained Charlie Ladd with Riverbend South, LLC would like a positive recommendation to vacate SW 26<sup>th</sup> Avenue (SW 24<sup>th</sup> Avenue as per plat) from Broward Boulevard South to SE 2<sup>nd</sup> Street. Riverbend owns all of the property on either side of SW 24<sup>th</sup> Avenue and intends to construct a unified retail and office development. All existing utilities in the right-of-way will be relocated at the applicant's expense.

Mr. Lochrie provided a brief overview of the history of the application, and described the area being discussed as south of Broward Boulevard, east of 27<sup>th</sup>. The specific request for vacation was for a segment of 26<sup>th</sup> Avenue running parallel to 27<sup>th</sup> where the street ends in a dead end. Mr. Lochrie explained the reason for the vacation was for the Supervisor of Election's office to be placed on the site. Using photographs and maps, Mr. Lochrie described a new access road with fountain and turn-around. A new access to Broward Boulevard would also be provided. Mr. Lochrie noted applicant was also requesting the existing 26<sup>th</sup> be vacated, running parallel to applicant's driveway, directly to the west, to add an additional opening.

Mr. Lochrie noted one water line, a dead end connection up to Broward. Mr. Darmanin, having met with Mr. Damon Ricks from Flynn Engineering Services, stated Utilities was in favor of the vacation due to the applicant's agreement to privately maintain all internal utilities.

Mr. Fajardo asked if the round-about would allow the connection to 2<sup>nd</sup> Street to be maintained. Mr. Lochrie confirmed the connection would be maintained for flow. Mr. Lochrie explained at final completion of the project there would be an internal network of roads, which would be interconnected with the private driveway system.

In response to questions from Mr. Partington, Mr. Lochrie used maps and graphics to demonstrate areas to remain in the public right-of-way, and areas previously vacated. Mr. Partington asked if DOT would allow for a signal light. Mr. Lochrie stated presently there would be a right turn out, however in the future adding a signal light would be pursued with DOT. Mr. Ricks confirmed the applicant was negotiating with DOT to modify the intersection.

Mr. Irvine noted some single family homes in the area with access to Broward and 26<sup>th</sup>. Mr. Lochrie stated the intent was to purchase the land from the homeowners. In the meantime, Mr. Lochrie felt the homeowners would be provided with improved access to Broward Boulevard. Mr. Ricks stated the homeowners would have access to the site for access. Mr. Irvine suggested a right-of-way or ingress/egress easement out to Broward Boulevard. Mr. Dunckel did not feel the access needed to remain open for the private parties as the access being provided would be sufficient.

Mr. Ricks stated there were twenty lots in the area, with applicant owning twelve of them. Mr. Ricks and Mr. Lochrie noted only four to five homes were occupied, some of which were trailers.

Mr. Partington requested a time line for the proposed vacation. Mr. Lochrie explained the vacation process was lengthy, with the street remaining open during the process. Mr. Lochrie suggested the vacation could be conditional on the granting of the new road. Mr. Irvine felt an ingress/egress easement would be sufficient, which could be vacated at a later date. Mr. Dunckel agreed the vacation should be contingent upon the opening of the internal roadway.

Mr. Fajardo asked if the City would maintain the opening to the new internal driveway system. Mr. Dunckel stated the opening would remain a public right-of-way until a new road was provided. Mr. Irvine expressed concern with the neighborhood being pushed out to 27<sup>th</sup> Avenue. Mr. Dunckel noted 27<sup>th</sup> was probably the primary ingress/egress for the neighborhood anyway. Mr. Ricks noted vehicles could go to the signalized intersection at 27<sup>th</sup> for east/west traffic. There followed a discussion of traffic flow and possible alternate routes for home owners.

Mr. Partington asked if applicant would object to the vacation being predicated on the central spine road and the connector to 26<sup>th</sup> Avenue being in place. If all the properties were later acquired by the applicant, the connection to 26<sup>th</sup> could be renegotiated. Mr. Terrell noted if the road was moved to the east a left turn from Broward would not be possible. Mr. Lochrie confirmed the area was the previously discussed intersection being negotiated with DOT.

Mr. Irvine expressed concern with drivers cutting through the development, and felt the vacation would be the best solution. Mr. Partington asked if the roadway system for the development would be public rights-of-way. Mr. Darmanin stated Utilities would prefer them not to be public rights-of-way. Mr. Partington noted if the roadways would not be publicly accessible there would be no reason for the vacation to be predicated on the roadways. Mr. Irvine did not feel any harm would be done by vacating 26<sup>th</sup> Avenue.

Mr. Partington raised for discussion the possibility of the vacation being granted and the development not proceeding, and asked if there would be future problems with the vacation. Several Committee members felt there would not be future problems with the vacation. Mr. Darmanin noted the approval would need to be conditional upon master metering the site, and all utilities on the site remain private.

**Motion** made by Mr. Darmanin, seconded by Mr. Irvine, to recommend approval of the requested vacation with a condition that all utilities on site be private, the site be master metered, all sewer be private, and the roads be maintained by the applicant. The Certificate of Engineering would not be granted until the requisite utility relocations were completed.

Mr. Fajardo stated Planning was strongly in favor of the alternate routes being provided rather than the right-of-way simply being vacated. Mr. Fajardo understood the arguments presented against the additional requirement, but felt Planning could not vote favorably without the approval being contingent upon completion of the internal roadways.

In a show of hand vote, the motion passed with Mr. Fajardo opposed.

**ITEM FOUR:           WALK ON - BEACH CRA UTILITY EASEMENT**

ADDRESS OR GENERAL LOCATION: 1368/1372 NE 14<sup>th</sup> Street

Mr. Volpi explained Earl Prizelee with the Beach CRA would like a discussion regarding Committee concerns with an FP&L easement for the South Beach parking lot.

Mr. Prizelee provided a map of the area, and described the project to rehabilitate the South Beach parking lot, beginning with the sidewalk and the line along the beach and the sand. Using provided diagrams, Mr. Prizelee noted the following:

- Lighting would be replaced
- New landscaping would be provided
- The majority of the lot was would be milled and resurfaced

- The middle islands and most curbing would remain in place
- The curbing on the east and west side would be replaced
- Crosswalks would be added to the middle

Mr. Prizelee noted one issue plaguing the lot was the utilities diverting to the parking lot and continuing down the middle of the lot did not allow for the landscaping to flourish. Mr. Prizelee explained a proposal to underground the utilities in a clear path under the asphalt. Applicant would relocate the FP&L, telephone, and cable. Mr. Darmanin asked if water utilities were located in the area. Mr. Prizelee stated no water utilities were present, but one six inch service was located to the south. Mr. Prizelee informed the Committee FP&L had begun the design process, so a clear path needed to be agreed upon to allow the project to be implemented.

Mr. Partington asked if an easement was currently present through the lot. Mr. Prizelee stated there was no easement. Mr. Prizelee and Ms. Alarcon confirmed the costs for the undergrounding would be provided as a joint partnership by the CRA and Parking.

Mr. Dunckel stated a developer came before the Utility Advisory Committee who was going to voluntarily underground some utilities in an area where there was required landscaping. Since the undergrounding would cause problems for the required landscaping, a suggestion was made to put the utilities in the parking lot area. The developer decided not to do that due to interference with parking in the case of repairs being needed to the underground utilities. Mr. Dunckel asked if alternative designs were considered. Mr. Terrell stated if the construction was moved into the sand areas coastal construction permitting would be a problem. Mr. Terrell also noted Florida Wildlife would not want to see anything in the sand requiring maintenance or possible excavation during turtle season.

Ms. Alarcon explained whether the utilities were placed in the parking spaces or in the travel way parking would be shut down for maintenance. Mr. Partington asked if FP&L would proceed with the project without the easement. Ms. Alarcon stated FP&L was requiring an easement. Ms. Alarcon stated several areas were considered, none of which would work for various reasons. Mr. Darmanin asked about a joint trench agreement where the costs would be shared between the CRA, Parking and WaterWorks. Mr. Terrell pointed out the project was already under a timeline. Ms. Alarcon confirmed strict time constraints due to required ADA improvements to the entire lot.

Mr. Partington asked about special requirements needed to provide FP&L with an easement. Mr. Dunckel explained in addition to the easement, an agreement would be necessary with FP&L, AT&T, and Comcast. Mr. Dunckel was not aware of any other considerations due to beach requirements.

Mr. Volpi asked for clarification regarding rebates from the utilities. Ms. Alarcon stated there would be none since the work was not being done in the right-of-way. Mr. Partington asked about the possibility of telling FP&L to move the utilities since the utilities were not located in an easement. Ms. Alarcon suggested the same approach be taken with AT&T and Comcast. There followed a discussion regarding other options for placement of the utilities. Mr. Prizelee noted FP&L felt the requested plan was the best path for the utilities, and quoted two hundred thousand dollars to move the utilities to the west side, not including restoration work.

Mr. Irvine asked about going into A1A with a joint trench agreement, would allow the rebate from FP&L. Mr. Prizelee felt the length of the project made it ineligible under the rebate program. Mr. Dunckel suggested "getting aggressive" with FP&L in attempting to get credits, as FP&L utilities were present without benefit of an easement. Mr. Terrell emphasized the importance of the timing of the project.

Mr. Darmanin suggested similar discussions with WaterWorks regarding installing the water main in the easement. Mr. Volpi suggested a "quid pro quo" approach with FP&L to move the utilities. Ms. Alarcon explained FP&L does not want the utilities moved. Mr. Partington noted the utilities were placed without an easement, and FP&L should contribute a portion of the costs. Mr. Morris asked if the plan would need to be approved by DP. Mr. Prizelee stated the project would require City Commission approval.

Mr. Darmanin suggested granting the easement in the proposed construction area. Mr. Dunckel asked about traffic circulation patterns during construction. Mr. Prizelee stated the milling, resurfacing, and moving the utilities would be staged.

There followed a discussion regarding the benefits of reaching an agreement with WaterWorks versus the scheduling and time constraints.

Mr. Prizelee stated the issue was brought to the Committee in order to reach a consensus on the plan. Mr. Irvine expressed concern regarding the location being discussed for the utilities. Mr. Dunckel suggested making an argument to FP&L the

area is part of a right-of-way, and the project should be eligible for the discount program. Ms. Alarcon mentioned there were also constraints due to an existing gas line. Mr. Prizelee stated the gas line was near the curb line, and would only require the asphalt to be cut. Mr. Terrell stated the manholes could be required to be placed in the parking spaces through the design process.

Ms. Ingold asked if there were would still be provisions made for special event tents to tap into the electricity. Ms. Alarcon stated no electric was available currently, and none would be added. Special events would continue to provide their own electricity through generators.

Mr. Partington summarized the discussion, stating the best case would be for Mr. Dunckel to make an argument for a de facto right-of-way, allowing the plan to qualify for the rebate. Mr. Partington suggested a motion be made to approve the easement in concept, which would save a trip back to the Committee.

**Motion** made by Mr. Partington, seconded by Mr. Terrell, to recommend approval of the easement through the South Beach lot where shown on the plans. Recommendation subject to exploring the dimensions of the easement and cost sharing with WaterWorks. Also subject to the Committee defining the best place for manholes for access to the underground facilities.

In a voice vote, the motion passed unanimously.

There being no further business to come before the Committee the meeting adjourned at 11:18 a.m.

[Minutes prepared by K. Bierbaum, Prototype, Inc.]