

APPROVED
PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING
CITY HALL, 8TH FLOOR
COMMISSION CONFERENCE ROOM
THURSDAY, JUNE 18, 2009 – 10:00 AM

COMMITTEE MEMBERS PRESENT

Mike Fayyaz, Engineering (for Peter Partington)
Tom Terrell, Public Works
Tony Irvine, Engineering
Mark Darmanin, Public Works
Carol Ingold, Parks & Recreation Supervisor
Mike Maloney, Code Enforcement
Yvonne Redding, Planning (for Anthony Fajardo)
Bob Dunckel, Attorney

STAFF

Victor Volpi, Senior Real Estate Officer
Antoinette T. Butler, Project Engineer, Parking Services
Jennifer Picinich, Recording Clerk, Prototype, Inc.

CALL TO ORDER

Mr. Fayyaz called the meeting to order at 10:10 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.

As of this date there were eight appointed members to the Committee, which means four would constitute a quorum. Following a roll call it was determined that a quorum was present.

COMMUNICATIONS TO CITY COMMISSION

None.

ITEM ONE: APPROVAL OF MAY 21, 2009 MINUTES

Mr. Irvine pointed out Antoinette Butler, Project Engineer, Parking Services was present for the May 21, 2009 meeting and should be added to the minutes. Ms. Redding noted Adrienne Ehle was also present for the May 21, 2009 meeting.

Motion made by Mr. Irvine, seconded by Mr. Terrell, to approve the May 21, 2009 minutes with the suggested changes.

In a voice vote, the motion passed unanimously.

Mr. Volpi stated Item Three was removed from the agenda, and two walk-on items would be presented.

ITEM TWO: UNDERGROUND CONVERSION OF UTILITIES (FPL) DEL LAGO DRIVE

ADDRESS OR GENERAL LOCATION: 2400 Del Lago Drive

Mr. Volpi explained FPL would like a positive recommendation to convert all of their overhead lines at 2400 Del Lago Drive to underground. The exact terms and conditions would be worked out at this meeting, and of course Engineering and Permitting Divisions.

Ms. Lynn Shatas, Internal Affairs for FPL, thanked the members for allowing the item to be added to the agenda. Ms. Shatas explained a customer, Mr. Hall, requested service be placed underground, which required private easements from other customers. One customer refused to grant the easement, which would require the service to be placed in the City right-of-way. Ms. Shatas stated FPL had a right-of-way agreement with the City, and was requesting Committee approval. Ms. Shatas introduced the Account Manager, Mike Keightley and Christa del Sol.

Ms. Shatas noted the area is at the end of a cul-de-sac, with no alternative other than going underground. Mr. Terrell noted a street light pole at the end of the cul-de-sac, and asked if the pole would remain. Mr. Keightley confirmed the pole could remain, although the customer was asking the wood pole be replaced by concrete or some other material. Mr. Terrell stated as long as the pole was a standard FPL pole in the same location, it could be replaced.

Responding to questions by Mr. Fayyaz, Mr. Keightley explained everything west of 24/30 would be underground, all around the cul-de-sac, both north and south. Mr. Irvine confirmed a pole fitting FPL standards would remain in the location. Mr. Dunckel emphasized all costs resulting from the pole being replaced would be on the property owner and not the City.

Mr. Dunckel also noted a discrepancy in the agenda regarding the property owner. Mr. Rodney Sarkela, Seppala Corporation, explained there were actually two properties involved with two owners, and both owners were fully aware the costs would fall to the owners. Mr. Dunckel stated the standard undergrounding right-of-way agreement would need to be modified to reflect the costs falling to the two owners as the current agreement showed the City paying the costs. Ms. Shatas stated the applicants would pay the City, and the City would send the check to FPL. Mr. Dunckel stated the City

would want to know all final costs as opposed to the stated estimates. Mr. Dunckel emphasized the City would not sign an agreement prior to the monies being deposited with the City. Ms. Shatas agreed.

Mr. Volpi asked if the agreement would be modified to cover future relocations. Mr. Dunckel confirmed the clause regarding future relocations would remain as it was written in this limited case. Mr. Terrell indicated the wood pole should remain since any upfront cost for modification would be paid by the customer, but the City would have to pay an increased monthly maintenance fee. Mr. Fayyaz summarized by saying the property owner could make a request to modify the pole, the Committee could approve the request as a separate issue.

Mr. Darmanin asked if the City normally requires a relocation due to the right-of-way why an exemption was being allowed in this case. Mr. Irving explained this case involved a cul-de-sac, and the City did not anticipate needing preemption rights. Mr. Dunckel explained the standard agreement stated in the future, if the City requires relocation of the undergrounded utilities, it would be at the City's expense. Mr. Dunckel stated in this limited circumstance the standard agreement was acceptable to the City.

Mr. Dunckel asked for clarification regarding the underground services being placed two foot inside the right-of-way. Mr. Keightley confirmed Mr. Dunckel's understanding, and added the undergrounding would need to avoid going underneath the driveways at 2420 and 2410. Mr. Dunckel asked if there would be a minimum of twelve inch separation from all other utilities. Mr. Keightley confirmed the separation from other utilities. There followed a discussion regarding the existing facilities and the proposed changes using provided drawings and maps. Mr. Irvine noted the plans would be subject to Engineering review, so some criteria needed to be set by the Committee with Engineering to enforce.

There followed a discussion by the Committee members regarding other areas actively pursuing undergrounding of services. Mr. Dunckel noted the residents were currently being served by AT&T and Comcast overhead service, and similar agreements would be needed with AT&T and Comcast. Ms. Shatas noted an approval was received from the Public Service Commission for a twenty-five percent savings to the customer. Ms. Shatas explained a variety of criteria required for the undergrounding.

Mr. Fayyaz asked about the construction method for the undergrounding. Mr. Keightley stated the construction would be directional bore in order to not disrupt the properties. Some pits would be dug for the boring. Mr. Keightley stated FPL would encourage AT&T and Comcast to use the same bore contractor for uniformity.

Mr. Dunckel requested Ms. Shatas provide contact information for AT&T and Comcast people involved in the undergrounding projects.

Motion made by Mr. Dunckel, seconded by Mr. Irvine, to recommend approval of the project, and recommend the City Commission authorize the proper City officials to execute the right-of-way undergrounding agreement with FPL, and to the extent needed with AT&T and Comcast, and that there be a separate agreement between the City and the property owners with regard to the costs, with all final costs being paid up front prior to the City executing the underground agreements with the various utility companies.

In a voice vote, the motion passed unanimously.

ITEM THREE (WALK ON ITEM): **NEW TOY STORE/PASEO DEL MAR I, PL/
SUBORDINATION OF RESERVED UTILITY
EASEMENT**

ADDRESS OR GENERAL LOCATION: NE 16th Terrace and NE 16th Avenue

Mr. Volpi explained the Committee was being asked to subordinate utility easements for the declaration of restricted covenants. Mr. Volpi explained the City closed the area, and there was no current development.

Mr. Dunckel explained some environment remediation was required on the property. Under standard operating procedure, a “no further action” by the environment regulator would be the end result. The “no further action” typically required recording a declaration of restrictive covenant. Mr. Dunckel explained the request was for subordination of the retained utility easements remaining after the two vacations. Mr. Dunckel read pertinent sections from the restrictive covenant provided to the members. Mr. Dunckel noted there was no absolute prohibition, but required preapproval.

There followed a discussion regarding storm drains utilizing diagrams provided to the Committee members. The Committee members did not feel a subordination to the declaration of restrictive covenant would impede future use of the retained utility easements.

Motion made by Mr. Dunckel, seconded by Mr. Darmanin, to recommend to the City Commission that the proper City officials be authorized to execute a subordination to the declaration of restrictive covenant.

In a voice vote, the motion passed unanimously.

ITEM FOUR (WALK ON ITEM): **ABANDONMENT OF OLD EASEMENT AND
RELOCATION OF NEW PLANTATION 441
LIMITED**

ADDRESS OR GENERAL LOCATION:

Mr. Dunckel stated the matter was before the Committee several months ago, approval was recommended, and the issue went to the City Commission's most recent meeting. Mr. Dunckel explained there were five areas of conflict with what the City Commission approved. Mr. Dunckel stated the resolution would be rescinded until a new arrangement could be worked out. Mr. Dunckel noted approval was not needed by the Committee, and the matter was being added to the agenda to explain the areas of conflict and to work out a new plan.

Mr. Dunckel provided a copy of the plat to the members and pointed out the following areas of conflict.

- In the northeast corner there was a ten foot Plantation gateway beautification and landscape easement. The newly relocated easement would run through the beautification easement. Mr. Dunckel emphasized the beautification easement would have priority over the new twenty-five foot utility easement.
- On the western five feet of the plat there was a five foot buffer wall and wall maintenance easement recorded before the utility easement would hit the public records, and would therefore have priority over any conflicting uses with respect to the twenty-five foot utility easement.
- On the face of the plat there appears a ten foot utility easement on the western ten feet of the property. In Mr. Dunckel's opinion the utility easement was not for the purpose of the City of Fort Lauderdale putting utilities in there, but was more likely for utilities for the City of Plantation. To the extent there would be a conflict between Plantation and Fort Lauderdale, the ten foot platted utility easement would have priority over Fort Lauderdale.
- A few feet north of the forty foot utility easement was an anchor easement, five feet running north/south, twenty feet running east/west. Twenty feet of the anchor easement would conflict with the present configuration of the proposed twenty-five foot utility easement.
- Security Lien/Agreement for Installation of Required Improvements would extend into the easement area. The instrument would create potential lien rights in favor of the County in the event that certain improvements are not constructed. Mr. Dunckel did not feel there would be a big problem, as the item was only \$21,000, and the County would not foreclose on the property. A bigger concern was the agreement calling for an eight foot by sixty foot expanded sidewalk for a bus landing pad, which would conflict with the utility easement.

Mr. Darmanin hoped some construction in the easement would commence in three to five years. Mr. Dunckel stated the construction would interfere with the sidewalk for the bus landing and with the Plantation gateway easement. The City would bear the cost of repairing and replacing anything destroyed during construction.

Ms. Catherine Donn, Planner, Craven Thompson and Associates, Inc. summarized a previous discussion with Mr. Darmanin, and felt an expansion would not be needed in the western portion. Mr. Darmanin felt the discussions only covered maintaining the existing wall, and did not cover additional construction, additional footers, or the anchor easement crossing the area. Mr. Darmanin also was not aware in the earlier discussions the utility easement would not be superior.

Mr. Irvine suggested there was a five foot buffer wall the City was not entitled to use to place utilities, however for construction purposes a permit could be granted. If the easement were to be thirty feet off of the property line instead of twenty-five feet there would still be an effective twenty-five foot easement. Mr. Irvine demonstrated his suggestion using provided diagrams.

Mr. Paige Preswell, West City Partners/Plantation 441, stated there were several possible site plans, and asked if landscaping could be planted in the easement. Mr. Dunckel stated the easement would have priority over the landscaping to the extent the landscaping conflicts with the City use, the cost being borne by Plantation. Mr. Irvine stated in reality the pipe would not need to be accessed for twenty years.

Mr. Dunckel stated the anchor easement would still be a problem. Mr. Irvine asked if there was an agreement for a twenty-five foot easement from the east edge of the five foot buffer wall and overlap the five feet with a plat utility easement. Mr. Dunckel noted the property owners present were nodding their heads in agreement.

Mr. Irvine expressed a greater level of discomfort with the anchor easement. Even with a shallow anchor, the anchor could be undermined and the anchor easement should be moved elsewhere.

Ms. Donn provided clarification, stating the anchor easement and the ten foot utility easement were requested solely by FPL. Mr. Keightley explained the overhead facility runs north and south on the west side of the property. FPL established an easement to protect the right to be on the property. The anchor easement was for a set of anchors present holding a pole line to the west. Mr. Keightley emphasized FPL was willing to work with the Committee, but the anchor was necessary and could not be moved too far in either direction.

Mr. Irvine stated the anchor would still prove to be a problem in the event of excavation. Mr. Keightley stated the anchor could be extended further east if the property owner

would grant an easement. Mr. Irvine pointed out the excavation equipment would not go under the anchor. Mr. Keightley stated the overhead could be extended higher and further east, but could not go much shorter.

Mr. Dunckel felt some technical things would need to be worked out before potential solutions could be discussed. There followed a discussion utilizing provided diagrams of the area.

Mr. Dunckel summarized the discussion saying there were two potential solutions:

- Moving the pole and the anchor to the east. Some details would need to be worked out as to the extent the solution would work.
- Relocation of the new easement down on the south end of the property.

Mr. Dunckel felt in either event no resolution would be reached at the meeting, and Staff would need to take a closer look at the details.

There followed a discussion, utilizing diagrams and maps, regarding putting pipes through parking lots versus green spaces.

Mr. Fayyaz asked if the discussion should be tabled to allow for the details to be worked out. Mr. Dunckel stated no final solution could be reached at the meeting, and felt Mr. Irvine, Mr. Darmanin, Engineering, and Crane Thompson should be involved in discussions of the details of the two options.

Motion made by Mr. Dunckel, seconded by Mr. Terrell, to continue and refer the item to the appropriate Staff, including Mr. Irvine, Mr. Darmanin, and Engineering, for review of the two options, with the item to be brought back to the Committee with a more workable solution.

Ms. Donner asked to be included in those discussions. There followed a conversation regarding possible solutions.

Mr. Dunckel explained when the easements were originally drafted, an overlap between the new and the old easements were not vacated. Mr. Dunckel noted the vacation would need to be reevaluated for whatever realignment was decided. Referring to provided diagrams, there followed a discussion clarifying the history of the project.

In a voice vote, the motion passed unanimously.

Referring to Item Two, Ms. Shatas asked if a decision to underground less than the seven houses would need to come back before the Committee. Mr. Fayyaz stated the

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request was for “up to” seven houses, and would not need to come back before the Committee.

Mr. Dunckel thanked the Committee for their indulgence in the two walk on items.

There being no further business to come before the Committee the meeting adjourned at 11:12 a.m.

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