

APPROVED
PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING
CITY HALL 8TH FLOOR
COMMISSION CONFERENCE ROOM
THURSDAY, JANUARY 20, 2011 – 10:00 A.M.

Committee Members Present

Peter Partington, Chair
Carol Ingold, Parks and Recreation
John Gossman, Code Enforcement
Tom Terrell, Public Works
Tony Irvine, Public Works
Mark Darmanin, Utilities
Anthony Fajardo, Planning and Zoning
Robert Dunckel, Assistant City Attorney

Staff

Victor Volpi, Liaison, Senior Real Estate Officer
Keith Hutchinson, Utilities
Dennis Girisgen, Public Works
Leona Lettsome, Parks and Recreation
Carrie Sarver, Assistant City Attorney

Communications to City Commission

None.

Call to Order

Chair Partington called the meeting to order at 10:10 a.m., and stated this was a meeting of the City's Property and Right-of-Way Committee, a City Staff committee with the responsibility of advising the City Commission on matters affecting the dispensation of City property.

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

ITEM ONE

APPROVAL OF DECEMBER 16, 2010 MINUTES

Motion made by Mr. Darmanin, seconded by Mr. Irvine, to approve the minutes of the December 16, 2010 minutes. In a voice vote, the **motion** passed unanimously.

The members welcomed Chair Partington's return to the Committee.

ITEM TWO

TEMPORARY CONSTRUCTION EASEMENT

Address: S.R. 838 (Sunrise Boulevard)

Mr. Volpi explained that this Item is a request by the Florida Department of Transportation (FDOT) for a 3116 sq. ft. easement along Sunrise Boulevard in George English Park to facilitate construction of a new bridge. The land will be needed for seven years. The property will be restored as found and the Applicant will pay \$85,200 in compensation for the easement.

Chair Partington recalled that the City Commission has discussed the issue of compensation as related to this Item. He asked if the Commission had requested that reimbursement be made in the form of in-kind services or had otherwise discussed how to use the proposed compensation funds. Mr. Fajardo said this discussion was less about the amount of compensation and more in terms of how to manage the funds. He said one City Commissioner had wanted the compensation money put into a separate fund. It was determined that the discussion of funding by the City Commission would not affect the Committee's discussion of the Item.

Attorney Dunckel said the City has a contract with a paddle board concession near the location of the proposed easement. He was not certain whether the City or FDOT would deal with the concession on this issue. Barnette Diggs, Right-of-Way Specialist for FDOT, said if the concession is affected by the easement, it may be eligible for relocation or assistance. She requested information on the concession to take back to FDOT.

Attorney Dunckel asked if FDOT would still have to deal with the concessionaire if the Committee approved the easement. Ms. Diggs said FDOT would deal with the concessionaire directly. Attorney Dunckel explained that he was reluctant to make a recommendation that could result in a breach of contract with the concessionaire until he had a greater understanding of "how those pieces fit together." He suggested if the Committee approved the Application, it should not go to the City Commission until this understanding is achieved.

Mr. Darmanin said there is an existing 20 in. water main where the temporary bridge would be located, and the requested easement sits over another portion of the same water main. He advised that there has been discussion of whether or not this water main would be relocated or the temporary bridge would avoid it.

Mr. Irvine said there is currently no submerged easement under the Middle River for the water main; the water main presently "hangs on a bridge." He explained that it would be necessary for FDOT to make arrangements with Utilities and Engineering to support the water main on the new bridge.

He advised that the issues affecting the water main, and how water would be supplied during construction and after the new bridge is in place, are “all interlinked” and the Committee needed to consider the overall picture.

Chair Partington asked to know more about the procedure through which the easement would be approved. Attorney Dunckel explained that the Committee could recommend the easement and compensation to the City Commission “provided all other questions are answered first.” He advised that he would prefer to further address the questions on this Item before making such a recommendation.

Attorney Dunckel added that he could not tell if the easement would affect the boat launching facility at the park and create loss of parking revenues in the vicinity.

Chair Partington noted that the issues thus far are as follows:

- There is a concessionaire on the easement site who may be affected;
- A boat ramp and parking revenues may be affected;
- The disposition of the water main is not known.

He noted that this would mean asking FDOT to deal with four separate Departments in the City.

Mr. Fajardo added that Item 6 on the Agenda also has a proposed location in the general area of the easement request.

Attorney Dunckel asked if the water main could be placed on the temporary bridge if the temporary bridge is constructed before the old bridge is destroyed. Mr. Irvine said there is no formalized agreement that addresses this. He said a new connection could be made and the old water main could be abandoned. Attorney Dunckel noted that this action would require easements on the west bank of the property.

Mr. Darmanin clarified that there were two water mains: one that hangs under the bridge and one that is underwater. He said the water main under the bridge is being discussed by Engineering, but there have been no discussions thus far regarding the underwater main, as there is no submerged easement for it.

Chair Partington said he was not certain it would be fair to ask FDOT to deal with so many City Departments, and suggested that another meeting could be organized to bring all affected Departments together to discuss the issues. FDOT could be invited to attend this meeting. He suggested that a City Engineer could act as the point person for this issue, and representatives from the Engineering, Parks and Recreation, Parking and Fleet Services, Business Enterprises,

Utilities, and Planning Departments, as well as the City Attorney's Office, could attend.

He suggested that the Item be deferred until a future meeting to allow time for the proposed meeting to occur, after which time Ms. Diggs could contact him to set up the next PROW appearance for the Item.

Mr. Darmanin advised these were a lot of disciplines to discuss at a single meeting. Attorney Dunckel said the various Departments should be provided with an overview of the issue so they could bring prospective solutions to that meeting. Chair Partington suggested that the affected Departments be sent an excerpt from the minutes of today's meeting, which could provide an overview of the issues.

Ms. Diggs requested information on the concessionaire from Attorney Dunckel so FDOT can determine if the business is eligible for relocation or assistance by FDOT.

Chair Partington clarified that the special meeting between FDOT and various Departments would be separate from this future PROW Committee meeting.

Motion made by Attorney Dunckel, seconded by Mr. Darmanin, to continue this [Item] and that it be brought back to this Committee at the discretion of the Chair with regard to timing.

Attorney Dunckel added that Chair Partington could keep track of the decisions made by the various Departments, and would best know when the Item was ready to be heard by the Committee again.

In a voice vote, the **motion** passed unanimously.

ITEM THREE

PARTIAL VACATION OF ALLEY

Address: 400 N. Federal Highway

Mr. Volpi said the vacation of the alley would help the Applicant complete redevelopment of the property.

Damon Ricks, representing the Applicant, showed an aerial map of the redevelopment site and a visual of the underlying plat. Most of the 10 ft. alley in question has already been vacated. Most of the lots on the plat have given up 30 ft. of the right-of-way for Department of Transportation; the Applicant would give up another 5 ft. for a highway easement.

He showed the site plan with utilities, noting that there are two existing unoccupied buildings at the location. In vacating the alley, the Applicant will leave an improved 24 ft. wide access easement through the development site to maintain access and continuity through the remaining part of the alley. Chair Partington clarified that this will be a public access easement.

Mr. Ricks said the Applicant has met with Public Works and Utilities to discuss the utilities located within the alley. There is an existing 10 in. sanitary sewer running 340 ft. south to north. He said the owner of the site would take this utility into his ownership and install a manhole to designate the separation between private and public utilities. An existing 4 in. water main also services the currently unoccupied uses on the site; there have been discussions of abandoning this main, as services from the new development would come from 4 Street. The unoccupied uses would be re-fed with new services from 5 Street.

Mr. Ricks said the Applicant has the consent of all the franchise and retail companies that have rights to the alley.

Mr. Girisgen asked if the proposed manhole would be on-site. Mr. Ricks said it would be on the developer's site within a 10 ft. x 15 ft. easement.

Mr. Darmanin added that he had met with Mr. Ricks, and the location of the manhole is the result of changes to which they were both agreeable. He said the utility agreement would relieve the City of the aging 4 in. water main, and would transfer the responsibility for the manhole and roughly 350 ft. of sewer grout from the City to the property owner.

Mr. Girisgen asked if there was a particular design vehicle in mind for the area. Mr. Ricks said the Applicant wants to put a bank drive-through with a stacking requirement for vehicles in one corner of the site; they want to move the driveway further away from the intersection to facilitate this stacking. Mr. Girisgen explained he meant "what design vehicle fits through that S curve?" Mr. Ricks said WD-50 delivery vehicles could make the route in question.

Chair Partington asked if the City would have liability for the easement, as it grants public access. Attorney Dunckel said this would depend upon the nature of what happened, and asked if the City would have maintenance responsibilities for the easement. Mr. Ricks said the City would not have these responsibilities. Attorney Dunckel said the public access easement would not provide proximate cause that would give rise to damages, unless there is a design or other defect that contributed to an accident.

Mr. Girisgen asked if the alley is used as a loading/delivery area for the site, or if there is an alternate area. Mr. Ricks said it would serve as the delivery area. Mr. Girisgen said he was not certain that a WD-50 vehicle could stay in its own lane

and make the turn. Mr. Ricks said he could provide these elements from the DRC level.

Charlie Ladd of Riverbend South, LLC, developer, clarified that the design features a loading area set up in the bottom left corner of the site. Because there were several issues that had to be addressed to accommodate the development, including a 26 ft. setback from Federal Highway and a stepback from 4 Street. Based upon these and other restrictions, the Applicant felt the site plan was "very effective."

Attorney Dunckel said he had difficulty visualizing the site and "transitioning from a 24 ft. public easement down to a 10 ft. alley." Mr. Ricks submitted photos of the site, clarifying that the vacation is physically only 10 ft. wide.

Attorney Dunckel asked if patrons of the shopping center would "feel compelled to...go north through the 10 ft. alley." Mr. Ricks said the alley would be posted with a Do Not Enter sign. Attorney Dunckel said a public easement could not be posted Do Not Enter. Mr. Ricks clarified that the sign would refer to one-way travel through the alley. The 24 ft. access easement would be for two-way travel, but the remainder of the alley would be for one-way southbound travel.

Attorney Dunckel asked if someone two lots to the south would have to go through the shopping center instead of "[leaving] their back yard and [going] two lots north to get to the next street." Mr. Ricks confirmed this. Attorney Dunckel said in reality a 10 ft. alley has little traffic and is often used for travel in both directions; individuals living at the northern extremity of the property would be likely to exit there instead of going down to the next block.

Mr. Ladd agreed that "a one-way 10 ft. alley doesn't work" and said the alley needed to be vacated because it was obsolete. He noted that the property to the north of the site is in foreclosure, so the Applicant is not able to work with the adjacent neighbors to get rid of the alley altogether. He added "if somebody is leaving that site now, it's a one-way alley," and the Applicant has "made it better" by making it a "two-way south into our property."

Attorney Dunckel said it is counterintuitive to expect someone to drive "all the way south" to leave their property when the alley leads into their back yard. He noted that no photos of the part of the alley that has not been vacated are included in the Applicant's package.

Mr. Ladd said the lot to the north is an office building rather than a residence. Attorney Dunckel reiterated that if the alley is seldom used, it is probably already used as a two-way alley.

Mr. Ladd said 22 parallel spaces are being installed on 7 Avenue and a walkway into the shopping center is being created, with the intent that people who live in Victoria Park can park on 7 Avenue without going onto Federal Highway. He said when the property to the north is purchased and redeveloped, it is the Applicant's hope that it will become another 24 ft. drive so "a workable two-way system" evolves.

Mr. Irvine pointed out that the issue of the one-way alley "came up incidentally" and was not part of the stated request before the Committee. He said he felt "sandbagged," as the Committee did not learn the intention was to stop northbound traffic in the alley until a question was asked about transitioning the alley from 24 ft. to 10 ft.

Mr. Girisgen agreed with Attorney Dunckel that the volume of travel in the alley is probably sufficiently low that people will drive in both directions. Chair Partington asked Mr. Girisgen how or if the DRC would "condition" the recommendation on making the alley one-way. Mr. Girisgen said they would look at the existing volumes and uses to determine the circulation pattern; if the volume is sufficiently low, the DRC would not get involved in making the alley one-way or two-way, but would allow it to "[work] the way it works today." He said they would also look at the potential development of the site, and noted that in the future, dedication would be required on either side of the alley to make it a 20 ft. alley.

Chair Partington asked if Mr. Girisgen would be likely to recommend that the remainder of the alley become one-way. Mr. Girisgen said if the volume of traffic is so low that the alley is working today, he would not recommend that it be made one-way.

Chair Partington said if the Committee has concerns regarding the function of the remainder of the alley, Mr. Girisgen could address these by recommending that it be made one-way. Mr. Irvine said he had difficulty with this solution, pointing out that there are nearby properties in foreclosure and this recommendation could lead to their loss of access rights. He said he did not believe the development in question is contingent upon making the alley one-way.

Mr. Ladd said he has redeveloped most of the area "from Broward to Sunrise," and noted that one property on the site is a discontinued use, which meant anyone wishing to use the property would have to go through DRC. He asserted that "the system will work" and will result in a 24 ft. two-way driveway instead of a 10 ft. alley.

Mr. Ladd said he would not vacate the entire alley, as whoever develops the other property should be responsible for determining how they will incorporate the access into their development.

Attorney Dunckel stated that a private easement right survives the extinguishment of a public dedication, so if it is necessary to a property, an owner would retain this easement right.

Mr. Terrell said the DRC has not yet reviewed the Application, and it is possible that they could make the alley one-way or two-way based upon traffic use and the length of the alley. Chair Partington said the issue is if the Committee and Mr. Girisgen feel they must make the remainder of the alley one-way, this could affect the property rights of the eventual owner of the remainder of the alley. He added that it would not be unprecedented for the City to make this determination associated with a development.

Mr. Irvine said he did not want to tie the vacation to the act of making the alley one-way, which he felt was a separate decision; he would rather recommend the vacation and let the direction of travel be determined with at the Staff level.

Motion made by Mr. Irvine, seconded by Mr. Darmanin, that the Committee recommend the vacation of the alley as presented, with the condition that the alley vacation not become final until City engineers certify that all conditions have been met; among these conditions would be the granting of a 24 ft. public access easement, the geometry of which is to be reviewed by Engineering; the relocation of all City and public utilities as required; and that the transition from the 24 ft. paved easement to the rock alley be done in such a way as to not create a traffic hazard.

Mr. Irvine asked what would happen at the north end of the 24 ft. paved easement where it meets the rock alley, to ensure that a safe transition is created. Mr. Ricks said this would be determined in consultation with Mr. Girisgen.

In a show of hands, the **motion** passed unanimously.

ITEM FOUR

ENCROACHMENT IN RIGHT OF WAY

Address: 2401 NE 27 Avenue

Mr. Volpi noted that this Item was previously deferred twice by the Committee. At the last meeting, the issue had been discussed by Code Enforcement. The request has not changed from the previous meetings.

Jamie French, representing the Applicant, said after reviewing microfilm, an Inspector's Report from 1972 showed that the block wall was approved by both Zoning and Inspections. He said the Applicant does not want to remove the wall, as it is a part of the home.

Mr. French continued that the pool's closest point to the wall is 2 ft., and the pool itself extends 2 ft. over the property line, which was also approved in 1972. The Applicant is requesting a vacation to leave the pool where it has been for the last 38 years, along with a permit to renovate the pool area without extending its footprint.

Attorney Dunckel recalled that at the previous meeting, Mr. Irvine had been very concerned about the possibility of exposure to liability due to the concrete wall in the right-of-way. Upon reexamination of this issue, Attorney Dunckel said he is inclined to recommend a partial vacation to the point where the wall begins. He recalled that Mr. Girisgen had been comfortable with the distance between the edge of the pavement and the wall, and advised the owner that an encroachment agreement could cause problems with the future marketability of the house.

Chair Partington asked if a motion for partial vacation would cause the Applicant to come back before the Board, as the requested action was an encroachment agreement. Attorney Dunckel said the Applicant would not need to appear before the Committee again, but could continue through the process with Planning and Zoning and the City Commission.

Chair Partington said if the issue went before the City Commission, the analogy could be drawn that an individual could build outside his property line into the easement and then go before the Commission to request forgiveness for it. It was noted that today's building Code would not allow this to happen, as the initial survey would show the exact location of the wall and the pool. Mr. Gossman said he had consulted building inspectors regarding the Item, and was advised that the documents on file reflect the documentation required at the time the wall was built.

Motion made by Mr. Terrell, seconded by Attorney Dunckel, to vacate the encroachment in favor of the property owner.

Mr. Irvine said if a partial vacation is granted, the strip would then become the property line. He asked if the wall would still be in violation of a required setback. Attorney Dunckel recalled a recent similar case involving a chain-link fence that extended into the right-of-way, and said the Committee had recommended a revocable license. The applicant in that case had gone back to the Board of Adjustment to get a variance for that fence. He said theoretically Item Four would have to go before the Board of Adjustment as well.

Mr. Irvine asked if there was any action the Committee could take to relieve the owner of having to go before another Board before the Item is presented to the City Commission for final approval. Attorney Dunckel suggested they could make the partial vacation contingent upon the grant of a variance from the Board of

Adjustment, or a determination by the Zoning Department that a variance is not required in this case.

Mr. French asked if the owner would be required to go back to Zoning before he can obtain a permit. Attorney Dunckel said this was probably correct.

Mr. Girisgen said if the strict definition of a 25 ft. sight triangle is applied, the wall is likely to encroach into this area. Attorney Dunckel said this would probably also need to go before the Board of Adjustment, although he clarified that Code Enforcement would make the final determination on this. Mr. Girisgen said the City Engineer's Office is not empowered to waive the sight triangle requirement.

The property owner asked if the sight triangle requirement was adopted after 1972, pointing out if this was the case, the property would be grandfathered in. Attorney Dunckel said the portion in the public right-of-way could not be grandfathered.

Mr. Terrell **amended** his **motion** to include the following: the **motion** is contingent upon clearing the zoning issues of a 3 ft. setback requirement for the wall from the edge of the right-of-way, and sight triangle, by [Zoning Administrator] Terry Burgess or a variance by the Board of Adjustment.

Mr. Darmanin asked if the Applicant has looked at the locations of other utilities in the area. The property owner said there was nothing beneath the wall, and all utilities are in front of the home.

Mr. Irvine said he would prefer the vacation to cover a 5 ft. strip of land, rather than a 4.5 ft. or 4.8 ft. strip, in order to use a uniform right-of-way measurement. Chair Partington clarified that the strip is "just in the area of the encroachment."

Attorney Dunckel advised the property owner that the Item should go before Code Enforcement, where the Zoning Administrator may determine that there is no need to go before the Board of Adjustment.

In a voice vote, the **motion** passed unanimously.

Chair Partington asked if Mr. Irvine's request to make the partial vacation an even 5 ft. was intended to be part of the **motion**. Mr. Terrell said he would accept this addition as an **amendment**.

The **motion**, moved by Mr. Terrell and seconded by Attorney Dunckel, was ultimately restated as follows: **motion** to recommend a partial vacation, that the vacated area be an even 5 ft. in length, leaving the right-of-way in that immediate area as 20 ft. of width; contingent upon addressing two zoning issues, the two zoning issues being 1. the current requirement that a wall be placed 3 ft. set back

from the property line, and 2. the 25 ft. sight triangle, and these issues can be disposed of by [Zoning Administrator] Terry Burgess determining that it's okay as exists, and if not, then they would need to have a variance from the Board of Adjustment.

ITEM FIVE

STAGING PERMIT

Address: 2250 SW 31 Avenue

Barbara Howell, representing the Applicant, said the staging permit is for an area where a sewer is being added as part of the WaterWorks program. She distributed copies of the information packet to the members.

Mr. Darmanin asked if the storm drainage near the area would be guarded so sediment from the site does not reach the grate. Ms. Howell said it would.

Mr. Irvine asked Mr. Fajardo if there would be any problems using an area zoned for church property as a staging area. Mr. Fajardo said he did not believe this would be an issue.

Motion made by Mr. Darmanin, seconded by Ms. Ingold, to approve as presented. In a voice vote, the **motion** passed unanimously.

ITEM SIX

ROW LICENSE

Address: Various locations

Mr. Volpi said the Applicant, B Cycle, wishes to place bike sharing docking systems at various locations throughout the City. The dimensions of the kiosks are included, although he noted that there are no specific survey sketches as "there will be some tweaking involved."

Jose Basulto, representing the Applicant, acknowledged the assistance of City Staff for their counsel regarding the Application. He described it as a collection of proposed sites, which have been inspected and measured.

Chair Partington suggested that the Committee first discuss general questions about the Application before addressing specific sites. He asked if the Committee is being asked to give recommendations on specific sites at today's meeting. Mr. Basulto said he would like this if possible, but noted that he plans to come back before the Committee at a later time, as the implementation of this project is a five-year process during which sites will be added throughout the County.

Chair Partington asked if all sites are supposed to be on City property rather than in rights-of-way. Mr. Basulto said some sites are on City property and others may be in rights-of-way.

Chair Partington explained he was asking whether the kiosks are allowable in rights-of-way. Attorney Dunckel said he felt the Application could be “wrapped up” with a revocable license that deals with both rights-of-way and City property. He noted that more detailed site specifications may be required to determine whether the rights-of-way belong to the City, County, or State Road.

He advised that at least one site is on FDOT property; there is also a question regarding whether or not the site under the Andrews Avenue bridge is City or County property.

Chair Partington asked if there was a difference in principle between the kiosks and, for example, “red light cameras,” in that the City sponsors the cameras while the kiosks represent a private for-profit interest. Mr. Fajardo said the project is being managed by the Assistant to the City Manager, and he felt it had the City’s support.

Chair Partington asked if the issue has gone before the City Commission “as a question of principle.” Mr. Fajardo said the project went before the Commission at a Conference Agenda meeting and they directed Staff to move forward. He advised that he is not directly involved with the project. Attorney Dunckel said he has been involved in meetings about this project.

Mr. Terrell asked if the Applicant is requesting Florida Power and Light (FPL) to install electricity for purposes of air conditioning inside the kiosks. Mr. Basulto said it would be cost-prohibitive to meter the individual sites, as roughly 90 sites are expected over the next five years. He stated that the kiosks use less power than a light bulb when they are connected. He said they could estimate the amperage used, but reiterated that it made no sense to bring power to each station.

Mr. Terrell said if the City is expected to supply power, he would need a building permit. Mr. Basulto said they plan to apply for these permits and bear the expense of permitting and installation, while the City would pay the electric bill.

Mr. Partington asked if there is a difference in the legal mechanism allowing the kiosks in rights-of-way and on City property. Attorney Dunckel said the right-of-way agreement can also be used for real estate owned by the City, although there may be a need for “minor tweaking.”

Ms. Ingold said the Parks and Recreation Department had an issue with the location of a kiosk at the Cheesecake Factory, where they believed there was

insufficient room. Attorney Dunckel noted that this property would be leased by FDOT. Mr. Basulto said this location would be “a challenge,” although he also felt it would be an attractive site and worth any extra effort.

Mr. Darmanin said he did not know if the Committee has received all the information available to them at this point, and asked if there is a proposed agreement, a contractor, or a revenue source for the City, such as reimbursement from the rental portion of the operation, in return for the electricity the kiosks would use. He said none of this information is included in the backup, and while it may not apply to each location, he felt it entered into “the thought process when making a decision.” Chair Partington felt this also goes back to the relationship between the Applicant and the City.

Mr. Darmanin said from a utilities point of view, he would like to ensure that the kiosks remain at least 10 ft. away from any possible utility conflicts. He said in some cases there may be other specifications as well, depending upon each site and the utilities that may be below them.

Chair Partington asked Mr. Basulto to describe the terms of the agreement between the Applicant and the City. Mr. Basulto said bike sharing is new to the United States, and the proposed model for Broward County has not been tried elsewhere. He saw the program as an amenity that is being brought to the City, for which the City is not paying; he noted that most other bike-sharing programs are subsidized by local government. A small grant from FDOT will pay for a portion of the system, with these individual stations to be identified later. He concluded that he did not anticipate any compensation for the City, as the program is being brought to the area for free.

He advised that he is open to the idea that the program may work differently than it is currently stated, and said they are expecting a global revocable license, to which “some kind of...annex” would be attached as subsequent locations are identified.

Mr. Basulto said the issue of the revocable license arose earlier at a different meeting, and said B Cycle has begun to evaluate its licensing agreement. Danielle DeJean, representing B Cycle, said they would like to include all sites under a single license if possible rather than issuing several different licenses.

Mr. Irvine said he also did not feel enough information was included in the Application, and noted that there may be deed restrictions on some of the parcels listed. Chair Partington asked if he was satisfied with the principle of the program. Mr. Irvine said he did not have issues with the concept, but stated that there would be “several different mechanisms” to grant licenses to the sites.

Attorney Dunckel said in the abstract, there would be a revocable license with several different sites, some of which may be rights-of-way and some of which may require a fee simple. He said the Committee would eventually have to examine the request site by site and compile a list of the sites that could be problematic. He agreed that the locations should be more specific and include surveys.

Chair Partington asked if the Committee was generally in favor of a global revocable license for the Application, with specifics to be added later. Attorney Dunckel advised another option would be to wait until some of the specifics are "firmed up," pointing out that the Application is "a long way from being ready to go to the City Commission." He suggested that some sites may be ready for approval right away, while others would take more time.

Ms. Ingold noted that many of the kiosk sites have irrigation systems already installed, and asked if these must be adjusted so the irrigation does not hit the bicycles or kiosks. She asked who would pay for any such modifications to the system. Mr. Basulto and Ms. DeJean said they would work with the City on these sites.

Mr. Darmanin left the meeting at 11:46 a.m.

Mr. Terrell asked if there is a reason for the color-coding on the Applicant's documents. Mr. Basulto explained that he wanted to demonstrate that there are other sites within City limits that might not need City approval, such as FDOT, County, and transit properties. He said the properties are included on the list because they are within the City.

Mr. Terrell said some of the properties listed are "by no means small." Mr. Basulto said the chart to which Mr. Terrell was referring is meant to "try to explain the size, depending on what we have room for and how many docks we want at a given station." Mr. Terrell explained that he was trying to visualize the sites, and pointed out that the greater size magnified the concerns Mr. Darmanin had stated regarding distance from utilities. He requested that the next presentation show which specific sites are intended to be larger.

Mr. Basulto said they had an approximate idea of "what we'd like to put in" at each site, and he could provide some of this information. With regard to being 10 ft. from utilities per Mr. Darmanin's request, he said they had attempted to reach out to as many people as possible in advance of the meeting in order to address some concerns right away. He asked what the relationship might be "between the equipment and what constitutes conflict," noting that the temporary easement discussed in Item 2, for example, does not conflict with the Application.

Mr. Terrell explained that while a utility may not be visible, its meter could connect to a structure on the opposite side of the street. If concrete covered this meter, for example, it would have to be removed. Attorney Dunckel advised that in a revocable license, the Applicant's rights are subordinate to the City's utility rights.

Mr. Irvine agreed that there is not enough specific information available to make decisions on the sites, and said a "high-level resolution" should be made in order to move the project along to the next step. He agreed with Attorney Dunckel that a series of meetings would be necessary to approve the Application.

Mr. Irvine said the Committee could give the Application its approval to proceed, and the Applicant could then bring forward a package consisting of the first six sites so the Committee could determine what restrictions apply.

Attorney Dunckel said there were a list of sites that he felt the Committee might potentially approve. Mr. Basulto said some of these sites have been approved by the City.

Mr. Terrell said he was concerned with the City providing power from a City facility for a for-profit company. Attorney Dunckel advised that this would ultimately be a question for the City Commission, depending upon whether or not they find an appropriate public purpose.

Mr. Gossman asked if the kiosks brought in any revenue through advertising, such as placing signage on or at the kiosks. Mr. Basulto said advertising replaces the traditional subsidy by local government. Attorney Dunckel said there is an issue with signage and the zoning Code for off-premises advertising that will also need to be investigated.

Mr. Basulto added that the kiosks would not make a significant footprint, and could be moved physically if necessary.

Ms. DeJean asked who the Applicant would work with at FDOT and other potential leaseholders. Attorney Dunckel said the Applicant could contact the City Attorney's Office, which could supply the Applicant with copies of the leases.

The Committee members and the Applicant discussed several of the proposed sites, including the entities the Applicant would need to contact regarding permission to erect kiosks. These included the City, the County, and FDOT.

Chair Partington asked when the Committee could expect to see the Application again. Mr. Basulto said the contract with the County, and state funding, dictate a May launch for the B Cycle program; he expressed concern that they may not be able to make this deadline. Chair Partington suggested it might be useful for the

Committee to make a motion in favor of a blanket revocable license; the question would then be whether or not the Applicant can work with other entities in time to bring the Committee a list of specific sites.

Mr. Irvine proposed that the Applicant could select five sites in a particular area and seek approval for those sites first. Mr. Basulto said he was not able to take a "piecemeal" approach to gaining approval, and said he might bring a list of 40 potential sites throughout the City "hoping to get half of them approved." He explained that according to the contract with the County, a certain number of units have to be in place by the launch date.

Attorney Dunckel said he would recommend getting a revocable license in front of the City Commission as soon as possible, and agreed with Mr. Irvine's suggestion that the Applicant select a manageable number of sites for which to seek first approval. Mr. Basulto asked if there were five sites included in today's list that could be submitted for approval at this time. Attorney Dunckel explained that the list should also be site-specific, as the Committee would like to see the site plans and precise locations for each proposed site.

Chair Partington asked if the Applicant would come back before the Committee with a survey for each of these sites. Mr. Irvine suggested that some of the easier sites could come back after Staff review, such as "all of those [sites] on the east," which would not require the involvement of entities other than the City.

Mr. Basulto asked if the City has surveys for each of the proposed locations. Mr. Irvine said some surveys are available, but advised that some may be "outmoded" due to improvements made since the time of the survey. Mr. Basulto said the installation of kiosks would involve "a 30 [or] 40 ft. slab... [and] attaching a bike share station to them." Attorney Dunckel explained that this will still require either a building permit or an engineering permit.

Mr. Basulto said the Applicant done a wind load calculation, and hoped to develop a typical installation, in the hope that reviewing what the equipment looks like could lead to preliminary approval from the Building Department. He said while all the kiosks will be similar in terms of equipment and attachments, each individual site will be slightly different due to different numbers of bicycle docks, single- or double-sided kiosks, and on different materials, such as pavers or concrete, among other differences. He said if a surveyor must be hired for each site, it would make the stations "extremely expensive," which led to his request for copies of City surveys.

Mr. Irvine said there will be some surveys available for the Applicant to use, such as Holiday Park and the City parking garage, among others. Mr. Girisgen asked if in addition to the survey, there would be utility research showing the location of existing utilities at proposed sites. Mr. Basulto said the Applicant would work with

the City to determine if there are utility conflicts; if conflicts existed, the kiosks could be located elsewhere. Mr. Girisgen explained that for an engineering permit review, he could work with a survey showing existing utilities that included a footprint of a kiosk. He cautioned that he did not know what requirements Engineering might have with regard to a revocable license.

Mr. Terrell said for fee simple properties, the Applicant could work with City Staff to find out what is underground; for a right-of-way, they will be required to present letters from utilities, as kiosks would be placed over the utilities' underground equipment.

Chair Partington said ideally there would be some kind of approval the Committee could make "on the principle of a blanket revocable license." He reiterated that survey information is available for some of the proposed sites, and advised the Applicant to work with Mr. Irvine to research where this information is available. After that point, the Applicant will still face an engineering permit or building permit issue.

Mr. Irvine noted that for some sites, topographic information is available, but there are no boundary surveys that would qualify the sites for a building permit. He said the Building Department would need to work with the Committee and the Applicant regarding some of the sites.

It was determined that the simplest sites for which the Committee could recommend a revocable license were:

- Sebastian Street lot;
- Seabreeze Boulevard/Las Olas Boulevard;
- Esplanade Park;
- City Park Garage;
- 17th Street Bridge;
- 9 Avenue;
- Beach Community Center;
- Earl Lifshey Park.

Mr. Terrell said the Applicant will need to speak with Public Works regarding where they plan on making connections, explaining that some parking lots and all street lighting are not on metered circuits, and the City is prohibited by FPL from making any other attachments to these circuits.

Motion made by Attorney Dunckel, seconded by Mr. Irvine, that the Committee recommends utilization of a revocable license to implement the various locations in question, and that the ultimate recommendation of the revocable license obviously is contingent upon this Committee also approving the site specifics, and in the interim, the Applicant will work with Staff to bring back specific site locations for the Committee's review and approval.

Chair Partington commented that he felt the Committee was not going to review the simplest sites listed above for a second time. Mr. Irvine pointed out that Staff review would be necessary for these sites, and suggested the Committee could hold a special meeting to approve them if necessary. Attorney Dunckel agreed there is a multiplicity of issues that would prevent a single Department from being able to pass judgment on the proposed sites.

In a voice vote, the **motion** passed unanimously.

There being no further business to come before the Committee at this time, the meeting was adjourned at 12:41 p.m.

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