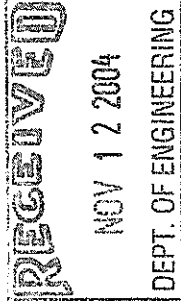


Dist.: Central File
Rob Meador
Carlo Monaco
Fawn Marcellus



No. 8 / 1 of 3
BCC 11-02-04
9:33 A.M. HARB/Smitke

8 Resolution No. 04-209 adopted ordering the completion of construction plans and improvements for 20th Avenue Southeast from Lake Avenue to Starkey Road (PID No. 880), establishing an assessment to be charged to each benefited property owner, approving the original assessment roll, and authorizing the recording of a "Notice of Pending Lien" by the Clerk of the Circuit Court (previously deferred at meetings of May 25, August 10, and October 5, 2004).

County Administrator Stephen M. Spratt introduced the item and noted that issues with the project have been ongoing for a number of years; and that at previous hearings the problems that triggered intense work on the project were not brought to the board's attention; whereupon, Director of Environmental Management William M. Davis provided a history of the environmental problems in the area relative to air and water quality. He stated that warning letters regarding air quality resulted in six consent orders; that six warning letters were issued for water quality and National Pollutant Discharge Elimination System violations, and the cases have not been closed. Mr. Davis indicated that during the process of the consent order there was an interim road built, which would only serve as a short-term solution due to the heavy truck traffic going in and out of the businesses, tracking of material onto the roadway, and materials falling from the trucks; whereupon, he noted the monetary penalties that could have resulted from the violations; stated that there are current violations; and that the monetary penalties have not been issued for the code violations because a permanent solution to the issue was being pursued.

Thereupon, Mr. Spratt stated that the road is not a priority project in terms of traffic congestion or things of that nature; that it is clearly driven by the violations; that the county is attempting to provide assistance to the businesses to remedy the situation; that a petition representing 64.9 percent of the benefiting property owners was presented to the county in July of 2003; that the county secured title to the CSX railroad property in order to make 20th Avenue a public road and improve it by means of special assessments; and that one last attempt is being made to arrive at a solution that would be acceptable to the majority of the petitioners; whereupon, he provided a document summarizing the assessment alternatives, a copy of which has been filed and made a part of the record. In response to query by Commissioner Stewart, Mr. Spratt provided information relative to the development of his proposal, and correspondence from Rick Cashman, President of Florida Forest Products, indicating that the petition would be withdrawn if the split for construction costs were to be changed; whereupon, Commissioner Stewart expressed concern relative to continuing the public hearing unless Mr. Cashman would agree to withdraw the written request to eliminate the petition. In response to query by Mr. Spratt, Attorney Churuti indicated that the board probably has the right to impose the assessment without a petition; that it would be unusual procedurally to do so; that the imposition of

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special assessments could be made with or without a public hearing; and that it is her opinion that an attempt to resolve the issue should be made and direction given to the administrator as to whether to go forward with the consent orders and prosecute the violating businesses or continue to make an effort to build the road. In response to query by Commissioner Stewart, Mr. Spratt indicated that the code violations have been suspended while staff endeavored to work with the property owners on a permanent solution, and Mr. Davis provided details relative to the amount of fines for air and water quality violations, and the number and names of the property owners that have been in violation. Mr. Spratt clarified that Mr. Cashman was speaking individually in his letter of November 2, indicating that if the rate offered to the original consenting owners were to change, his letter would serve as his formal withdrawal from the petition; and that correspondence from Mr. Cashman dated October 29 indicated that the property owners were willing to accept the rate of \$175.93.

Discussion ensued with regard to the inclusion of the estimated cost in the original petition, the acceptance of a new petition, and the affect on the percentages should Mr. Cashman withdraw. Mr. Spratt stated that Mr. Cashman has been the point of contact, and has indicated that the group would find a 50/50 split of the costs acceptable.

In response to the Chairman's call for persons wishing to be heard, Rick Cashman, representing Florida Forest Products; Sid Hilton, representing RMC Ewell Inc.; Raymond Menne, representing Florida Mining and Materials Concrete Corp.; Gary Bucholz, representing Stony Point Development Corp.; Doug Baskin, representing Tamp Terminal Properties LLC; Don Mastry, representing CNF Realty Inc. and Franklin C. Reinke; and Frank Kunnen, representing Space Center Inc., expressed their views.

Discussion ensued with input by Robert C. Meador, Transportation Planning, Attorney Churuti, and Mr. Spratt with regard to:

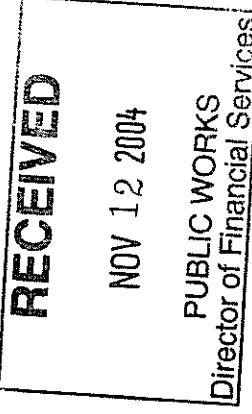
- 300 feet of frontage owned by the county
- application of a \$500,000 grant to other road projects
- economic benefits provided by the affected businesses
- source of the grant funds
- elimination of a contingency
- effect on other economic development projects
- discouraging thru traffic



No. 8 W13
BCC 11-02-04
9:33 A.M. HARB/Smitke

Following discussion, Commissioner Todd moved, seconded by Commissioner Morroni, that the project be approved at the 48/52 cost split recommended by the County Administrator. Following further discussion, during which Commissioner Stewart enumerated his reasons for not supporting the motion, the vote was:

Motion	-	Commissioner Todd
Second	-	Commissioner Morroni
Vote	-	5-2 (Commissioners Stewart and Welch dissenting)



AUTHORIZING RESOLUTION ORDERING THE COMPLETION OF CONSTRUCTION PLANS AND IMPROVEMENTS FOR 20TH AVENUE SOUTHEAST FROM LAKE AVENUE TO STARKEY ROAD, ESTABLISHING AN ASSESSMENT TO BE CHARGED TO EACH BENEFITED PROPERTY OWNER, APPROVING THE ORIGINAL ASSESSMENT ROLL, AND AUTHORIZING THE RECORDING OF A "NOTICE OF PENDING LIEN" BY THE CLERK OF THE CIRCUIT COURT

WHEREAS, the Board of County Commissioners of Pinellas County on July 29, 2003, adopted an Initial Resolution ordering paving improvements to 20th Avenue Southeast from Lake Avenue to Starkey Road, to be accomplished by assessment of the corresponding properties benefited thereby; and

WHEREAS, preliminary plans, an estimate of cost, and Original Assessment Roll were filed with the Board on August 10, 2004, in conformance with, and as required by, Section 110 of the Pinellas County Code / Pinellas County Land Development Code; and

WHEREAS, proper legal notice was published in conformance with, and as required, by law, calling a public hearing on the said resolution ordering the paving improvements to the subject street; and

WHEREAS, a public hearing was held, as advertised, on this date for the purpose of hearing objectors to the said resolution ordering paving improvements to the subject streets, or to the preliminary plans, estimate of cost, or other issues; and

WHEREAS, at the conclusion of the public hearing, the Board ordered the completion of construction plans, construction of the requested improvements, establishment of an assessment to be charged to each benefited property owner, approval of the Original Assessment Roll, and the recordation of a "Notice of Pending Lien" by the Clerk of the Circuit Court;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pinellas County, Florida, in regular meeting duly assembled this 2nd day of November, 2004, that the Initial Resolution adopted on July 29, 2003, ordering the paving improvements to the aforementioned streets and ordering the assessment of the properties benefited thereby, be, and it is hereby confirmed, in accordance with Section 110 of the Pinellas County Code / Pinellas County Land Development Code.

Commissioner Todd offered the foregoing resolution and moved its adoption, which was seconded by Commissioner Morrioni, and upon roll call the vote was:

Ayes: Latvala, Morrioni, Todd, Harris, and Seel.

Nays: Stewart and Welch.

Absent and not voting: None.



BOARD OF COUNTY COMMISSIONERS

DATE: November 2, 2004
AGENDA ITEM NO.

Consent Agenda **Regular Agenda** **Public Hearing**

County Administrator's Signature:

Subject:

Authorization to Adopt a Resolution Ordering the Completion of Construction Plans and Improvements for 20th Avenue Southeast from Lake Avenue to Starkey Road, Establishing a Maximum Assessment to be Charged to Each Benefited Property Owner, Approving the Original Assessment Roll, and Authorizing the Recording of a "Notice of Pending Lien".

PID No.: 880

Department:

Public Works

Staff Member Responsible:

Jan R. Herbst, P.E., Director

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BCC) ADOPT A RESOLUTION ORDERING THE COMPLETION OF CONSTRUCTION PLANS AND IMPROVEMENTS FOR 20TH AVENUE SOUTHEAST FROM LAKE AVENUE TO STARKEY ROAD, ESTABLISHING A MAXIMUM ASSESSMENT TO BE CHARGED TO EACH BENEFITED PROPERTY OWNER, APPROVING THE ORIGINAL ASSESSMENT ROLL, AND AUTHORIZING THE RECORDING OF A "NOTICE OF PENDING LIEN" AFTER HEARING PUBLIC COMMENT.

Summary Explanation/Background:

The recommendation presented above is the same as presented at the October 5, 2004, BCC meeting; however the back-up material now shows two (2) additional assessment alternatives: Table A, and optional methods of distributing assessable costs, Table B.

The first assessment alternative shows the application of a \$500,000 economic development grant to offset a portion of the construction cost. The potential grant funding sources include revenue generated from the sale of county owned land, or reallocation of current or anticipated county revenues.

The second assessment alternative represents a 50/50 split of the property owners' shares of the construction costs. The County's total estimated project expense, including drainage costs, shared construction costs, assessable costs for county owned land, and engineering costs is approximately \$1,442,526.72. Current County budget for this from Penny for Pinellas dollars is \$667,000. The additional \$775,526.72 of County funding would need to be derived from sale of County land or reallocation of current or anticipated County revenues.

Optional methods of distributing assessable costs to the benefiting property owners are shown in attached Table B. The optional methods show the difference in assessable property owner costs based on a front foot method, land area method, and equal share method. Staff is recommending the assessment be based on the front foot method. Combinations of these methods are also shown in the Table B.

The representative of the supporting property owners was contacted to set up a meeting to discuss the additional alternatives that have been prepared. The representative did not feel a meeting was necessary prior to the November BCC Meeting. Therefore, all property owners have been provided the information, letter and attachment Tables A and B. The representative of the supporting property owners further indicated their position has not changed from their September 8, 2004 letter in which they state their willingness to be assessed based on the 50/50 split of roadway construction costs.

History:

20th Avenue Southeast, a private road for most of its length between Starkey Road and Lake Avenue, was opened to through traffic for many years. In the more recent past, business and traffic along the road increased and dust generated by travel on the road became an issue. The Department of Environmental Management is addressing dust complaints. Temporary paving was put in place by the property owners to help control the dust. The road was blocked to through traffic as an additional dust control measure. The adjacent property owners want a permanent solution and have petitioned the County to improve the road to County Standards and take over future maintenance.

On July 29, 2003 the BCC accepted a petition, signed by owners of 64.9% of the benefiting property, to improve 20th Avenue Southeast from Lake Avenue to Starkey Road. The BCC authorized and directed the Director of Public Works to prepare preliminary plans, an estimate of cost, and develop an Original Assessment Roll. Section 110 of the Pinellas County Code requires a Public Hearing to hear comments from all persons regarding the project. Upon conclusion of the hearing, the BCC may adopt a Resolution to complete the design and construct the project. The petition and its acceptance were prerequisite to the County accepting the donation of land from CSX Transportation Corporation that held ownership of the road right-of-way.

A Public Hearing was scheduled for May 25, 2004; however, the public hearing was temporarily deferred in order for County staff to address property owners' concerns raised prior to that scheduled hearing. The owners are most concerned with the future actions of the Florida Department of Transportation (FDOT) plan to close the median opening at Lake Avenue and Ulmerton Road. If this occurs, it is probable that 20th Avenue Southeast will receive increased through traffic. Consequently, FDOT's plan elevated the discussion about whether 20th Avenue Southeast should be open to through traffic. The petition for improvements originated as a one hundred percent (100%) assessment. A Public Hearing was opened on August 10, 2004, and was continued to October 5, 2004, to again provide time for all parties to discuss project issues, costs and other cost sharing options prior to proceeding with the assessment process. The owners see a higher public purpose due to the expected increase in through traffic as the result of FDOT's plan and have voiced objection to the 100% assessment. After hearing from the owners, and having some understanding of future FDOT plans, staff agrees with the petitioners' concerns about the increase in through traffic and potential shift in benefit to the public in general. The resulting staff assessment is that this places the project into a more typical assessment project, subject to County cost sharing in accordance with adopted BCC policy. The assessment roll prepared does include the County sharing the cost of certain drainage and associated costs. The assessment per front foot changed from the range of \$400 to \$450 per front foot on the petition to \$328.96 per front foot on the assessment roll.

Staff has written a letter dated September 23, 2004, a copy of which is attached and is addressed to all adjacent property owners/legal representatives. It addresses as best as possible all of the various issues raised by both consenting and non-consenting owners. Essentially, the petitioners have countered our assessment of \$328.96 per front foot with an offer to pay only \$165.98 per front foot with reasons spelled out in their joint letter of September 8, 2004, copy attached. This would result in a total County expenditure of approximately \$1,400,000.00.

Fiscal Impact/Cost/Revenue Summary:

This assessment will reimburse the County's Special Assessment Roadway Paving Fund for the petitioners' shares of costs associated with this project. This is a revolving fund that provides the financial resources required to design and construct this project. The adopted County budget includes \$667,000 in revenue from Penny for Pinellas for this project. Supplemental County funds, if needed, would be secured as noted. See attachment for project cost detail.

Exhibits/Attachments Attached:

Resolution
Financial Overview
Project Data - Original Assessment Roll
Estimated Cost - Original Assessment Roll
Original Assessment Roll
Tables A and B
Letter to Property Owners Dated October 25, 2004
Board Order and Agenda Memo Dated October 5, 2004
Board Order and Agenda Memo Dated August 10, 2004
Board Order and Memo Dated July 27, 2004
Board Order and Agenda Memo Dated May 25, 2004
Board Orders and Agenda Memos Dated July 29, 2003
Initial Signed Petitions
Letter Dated September 23, 2004 and Distribution List
Letter Dated September 8, 2004
Letter Dated August 25, 2004
Site Map