

1. Requested Motion:

Meeting Date: September 20, 2010

Authorize staff to proceed with the work necessary to bring the overhead electric crossings along North Estero Boulevard underground as part of the drainage project currently underway.

Why the action is necessary:

To make the final decision regarding placing overhead electric underground.

What the action accomplishes:

Moves the project forward.

2. Agenda:

Consent
 Administrative

3. Requirement/Purpose:

Resolution
 Ordinance
 Other

4. Submitter of Information:

Council
 Town Staff - Public Works
 Town Attorney

5. Background:

Several months ago consideration was given to place overhead electric crossing underground as part of the North Estero Blvd. drainage project. The Town authorized the planning and design fee to FPL. FPL has now provided the estimated project costs to accomplish this at approximately \$480,000.00. To proceed with this project it will be necessary to secure easements on private property. An opinion has been received by the Town Attorney that it is acceptable to use project funds to accomplish this. No private service connections will be provided as part of this effort. The project budget can manage these costs, but it will be an overall project cost increase. A memo further detailing this is attached.

6. Alternative Action:

Do not proceed with the underground placement of the overhead electric crossings.

7. Management Recommendations:

Proceed with this project change.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
			C. Lewis			

9. Council Action:

Approved Denied Deferred Other



MEMO

DATE: September 8, 2010

TO: Terry Stewart, Town Manager

FROM: Cathie Lewis, Public Works Director

SUBJECT: North Estero Blvd. Drainage Improvement Project –
Underground Overhead Electric Crossings

As you know consideration is being given to convert the overhead electric wire crossing to underground crossings as part of the North Estero Blvd. project. I have been working with Florida Power and Light (FPL) to move this matter forward for final consideration by Town Council. The Town Attorney has opined that with an easement instrument in place and the Town not funding any costs associated with private property service connections that it is acceptable to use project funds to cross private property in order to reach the terminus of the primary electric service (a copy of that e-mail is attached).

The Town paid FPL to proceed with planning and design of the underground crossings which has been completed. FPL has estimated the cost to bring the overhead crossings underground to be \$480,000, including surveying. This also includes the infrastructure and appurtenances associated with the work.

The budget for the North Estero Blvd. project, excluding water line rehabilitation, is \$4,012,000. The construction contract including change orders to date totals \$2,288,919. I anticipate not more than \$200,000 in change orders to complete the project. Based on this it is viable to proceed with bringing the overhead roadway crossings underground.

Should Council decide to move forward with this, there is considerable work that will need to be accomplished prior to FPL starting the conversion. It will be necessary to secure easements associated with this. Based on preliminary communications I believe most property owners are interested in this improvement. I need Council to determine that if there are some property owners that do not want to provide the easement do we cancel the project or work around them. This has the potential of leaving some overhead crossings.

pc: file

Cathie:

As we discussed, I don't see any problem with the Town entering into an agreement with FPL to underground the "primary" service (lateral) to a transformer on the other side of the road, provided that the work is done within existing or acquired easements or rights-of-way. If FPL does not have an express easement for some of the existing secondary poles and transformers, but those poles and transformers have been there in excess of 20 years, FPL may have a claim to a prescriptive easement and as long as the undergrounding is along the same route, then an express easement may not be required. The Town cannot legally pay for any undergrounding for the secondary services; the owners of the affected properties would have to bear that expense. If FPL is unable to acquire easements for some of the secondary service lines, and there is no basis for claiming a prescriptive easement, then the Town cannot pay to have those lines installed underground. Those areas would have to be excluded from any undergrounding agreement the Town has with FPL.

Let me know if you have any questions concerning the foregoing.

Marilyn