

Michael Elswick

From: Pamela DAgostino
Sent: Friday, March 04, 2016 5:49 PM
To: Charlie Hunsicker; Margaret Daniell
Cc: Alicia Stull; Juliet Shepard
Subject: FW: Conservation Easements

Mr. Hunsicker and Ms. Daniell:

Please review the email I provided below to Mr. Richards at SWFWMD with my legal reactions to their revisions. I will wait to hear from both of you as to the substantive revisions. Please let me know if a meeting would be appropriate and Alicia or Juliet can coordinate scheduling same.

Sincerely,

Pamela D'Agostino
Assistant County Attorney
Manatee County Government
1112 Manatee Avenue West
Bradenton, Florida 34205
pamela.dagostino@mymanatee.org
Phone: 941-745-3750
Fax: 941-749-3089



From: Pamela DAgostino
Sent: Friday, March 04, 2016 5:44 PM
To: 'Erica Richards' <Erica.Richards@swfwmd.state.fl.us>
Cc: Alicia Stull <alicia.stull@mymanatee.org>
Subject: RE: Conservation Easements

Ms. Richards:

Thank you very much for sending these revised documents. I have reviewed them and provided them to the appropriate staff for their review and input.

Preliminarily, I have a few comments/questions:

As far as the CE for the Tom Bennett project, I have not been asked to review that easement by my client. When you say "at the request of staff" do you mean staff at the District or staff at Manatee County? I have shared this document with the Manatee County staff I am working with on the other four preserves, but I have no further information about this project nor any CFA pertaining to same. While I am eager to assist in this endeavor, I need to know who in Manatee County Government the District has been working with so I can make sure this gets to the right person.

Just to clarify, our mailing address is Post Office Box 1000, Bradenton, Florida 34206. Our physical address is 1112 Manatee Avenue West, Bradenton, Florida 34205.

As far as the CE for Robinson, was the CFA amended at some point? If so, when and can you send me the amendment. Nothing in my file reflects that the CFA was ever amended. Furthermore, I have the effective date as being January 1, 2006 pursuant to paragraph 5 of the CFA. Am I mistaken?

Similarly, as to the CE for Ungarelli, was the CFA amended at some point? If so, when and can you send me the amendment. Nothing in my file reflects that the CFA was ever amended. Am I mistaken?

Also, as to the CE for Neal, I have that the CFA No. does not end in "-A" and was effective October 1, 2006. Am I mistaken on these points? If so, please explain and provide proof or documentation of same.

Finally, I revised the clerk's attestation to reflect recent events.

Once I hear back from our staff on the more substantive issues, I will let you know where we stand. Have a great weekend.

Sincerely,

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From: Erica Richards [<mailto:Erica.Richards@swfwmd.state.fl.us>]
Sent: Thursday, March 03, 2016 12:32 PM
To: Pamela DAgostino <pamela.dagostino@mymanatee.org>
Subject: FW: Conservation Easements

Hi Pamela,

I have revised the CEs as requested and included some comments/questions. At the request of staff, I have also included the CE for the Tom Bennett project in with this group.

Since this is our standard CE language, please indicate what language, if any, you would like included pursuant to Section 125.411, F.S.

We are not able to agree to the acceptance page you propose; however, I included an acknowledgement of Governing Board action that we use for other land transactions. Please review and let me know if it satisfies your concerns.

Thanks,

Erica E. Richards
Staff Attorney
813.985.7481 x 2139

From: Jessica R. Stephans
Sent: Tuesday, January 05, 2016 2:15 PM
To: Erica Richards <Erica.Richards@swfwmd.state.fl.us>
Subject: FW: Conservation Easements

Jessica Stephans, Esq.
Senior Attorney
Southwest Florida Water Management District
7601 US Highway 301 North
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From: Jessica R. Stephans
Sent: Thursday, October 22, 2015 11:55 AM
To: 'Pamela DAgostino' <pamela.dagostino@mymanatee.org>
Subject: RE: Conservation Easements

Pamela,

Afternoon! I have talked to District staff about your concerns with the standard language in the conservation easement document. District staff informed me that all four restoration sites have been completed as follows:

- Robinson Preserve completed in 2007
- Neal Preserve completed in 2011
- Ungarelli Preserve completed in 2012
- Perico Preserve completed in 2013

Due to the sites being completed we are now requiring conservation easements pursuant to the Cooperative Funding Agreements. Therefore, some of your concerns should be alleviated by discussing with Charlie Hunsicker what is already on the properties. The conservation easement document prohibits activities going forward – after the restoration. For example, you brought up the possibility of placing a bathroom at some of these sites. According to District staff bathrooms have already been constructed at some sites and would not be necessary at the other sites. Also, it would be helpful to discuss with Mr. Hunsicker what improvements are anticipated in the future to account for those activities in the conservation easement document.

In addition to the conservation easement document, the District also requires a sketch of the properties and a title commitment / O & E report prior to accepting the conservation easement. Do you know when we should expect these additional items?

Thanks,

Jessica Stephans, Esq.

Senior Attorney

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From: Pamela DAgostino [<mailto:pamela.dagostino@mymanatee.org>]

Sent: Monday, October 19, 2015 12:05 PM

To: Jessica R. Stephans <Jessica.Stephans@swfwmd.state.fl.us>

Cc: Tracy Hanrahan <Tracy.Hanrahan@mymanatee.org>; Alicia Stull <alicia.tull@mymanatee.org>

Subject: RE: Conservation Easements

Ms. Stephans,

Thank you for taking my call a short while ago. I hope I was able to shed some light on the revisions we proposed to the standard conservation easement language. As we discussed, I have shared your comments and questions with our staff. We look forward to hearing back from you on some alternative language which will be agreeable to both the District and the County.

Although I did not mention it in our discussion, since the form and content of the easements are subject to district review and approval, we thought it best to memorialize that the District has approved of the form and is accepting same with a formal acceptance page. Although the District may not typically sign an acceptance page, we thought including one would eliminate any confusion as to whether or not the form was reviewed and approved by the District, as required. Do you disagree?

Sincerely,

Pamela D'Agostino
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From: Jessica R. Stephans [<mailto:Jessica.Stephans@swfwmd.state.fl.us>]
Sent: Thursday, October 15, 2015 10:24 AM
To: Pamela DAgostino
Cc: Tracy Hanrahan
Subject: Conservation Easements

Pamela,

Morning! I have reviewed the Conservation Easements for the following properties: Perico, Robinson, Ungarelli, and Neal. The documents are not approved by the District as amended. All of the CEs are the same so the following comments apply to all. Also, most of the document is in conformance with the sample provided. The following are my concerns and questions with the changes made:

- Paragraph 3(a): The term “buildings” has been removed as a prohibited use. What type of “building” do you believe will be constructed on the conservation easement? For example, is it just a pavilion without a foundation?
- Paragraph 3(a): The term “utilities” has been removed as a prohibited use. What type of “utility” might be placed in the conservation easement?
- Paragraph 3(a): The prohibition of placing billboards and advertising on the property was more specifically changed to “commercial billboards and commercial advertising.” What other types of billboards and advertising does the county want to place in the conservation easement?
- Paragraph 3(d): The phrase “for commercial purposes” was added to the prohibition of removing loam, peat, gravel, soil, rock, or other material substances. For what other purpose would the county remove these substances?

The change to Paragraph 3(c) is acceptable since it still meets the desired purpose of the conservation easement. Please explain for the changes above why the county wants such changes and if possible please provide a proposed substitution for the language. Also, when the District accepts a conservation easement we typically do not sign an acceptance page. Why do you think this is necessary? I look forward to working on these conservation easements with you.

Thank you,

Jessica Stephans, Esq.
Senior Attorney
Southwest Florida Water Management District

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