

FEB 09 1999 VS/AA

RESOLUTION
of the
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS
regarding an
AIRPORT-TO-INTERNATIONAL DRIVE
LIGHT RAIL TRANSIT SYSTEM

Resolution No. 99-M-03

WHEREAS, the Central Florida Regional Transportation Authority (“LYNX”) hopes and intends to design, build and operate a light rail transit system (the “I-Drive/Downtown leg”) from downtown Orlando to Universal Studios (the “downtown segment”) and from Universal Studios to Sea World (the “I-Drive segment”); and

WHEREAS, on January 26, 1999, the County Chairman received a letter from Congressman John Mica urging Orange County to commit to its share of the capital cost of and operation subsidy for the proposed I-Drive/Downtown leg and to make the commitment before February 10, 1999, which is the date Congressman Mica will testify before the House Appropriations Transportation Subcommittee regarding federal funding for the I-Drive/Downtown leg; and

WHEREAS, by letter to the County Chairman dated and delivered on January 29, 1999, LYNX Executive Director Leo P. Auger has asked for a commitment from Orange County on an expedited basis, such “commitment” to take the form of a resolution stating the Board’s continuing commitment to the project; and

WHEREAS, LYNX has determined that funding for the construction and operation of the I-Drive/Downtown leg should come from a “partnership” of the Federal Transit Administration (“FTA”), the Florida Department of Transportation (“FDOT”), Orange County, the City of Orlando, and others. The numerous agreements necessary for the complex and complicated funding scheme were drafted and distributed by LYNX to the various funding “partners” in January, 1999. The agreements are still being drafted and negotiated; none has been executed; and

WHEREAS, on November 10, 1998, despite the absence of the necessary financing agreements, the Board of County Commissioners adopted Resolution No. 98-M-51, which tentatively expressed (i) the Board’s support for the proposed “finance plan” for the I-Drive/Downtown leg (such “finance plan” being a one-page attachment to that resolution) and (ii) the Board’s willingness to cooperate with LYNX and others in negotiating the required financial agreements for the I-Drive/Downtown leg; and

WHEREAS, subsequent to the Board approving Resolution No. 98-M-51, Orange County Chairman Mel Martinez took office and promptly impaneled the Martinez Transportation

Commission ("MTC"), an ad hoc advisory board, to study and analyze the I-Drive/Downtown leg. After eight weeks of intense study, the MTC reached, among others, the following express or implied conclusions which are cause for concern:

1. Understated Capital Cost. Although LYNX estimates that the total capital cost of the I-Drive/Downtown leg will be approximately \$600 million, it has substantially understated the likely cost for right-of-way. A better estimate for the total capital cost would be \$685 million (which would not include the estimated additional amount of \$12 million for realigning the I-Drive portion of the system, as described below).

2. County's Likely Capital Share. LYNX has asked the County to assume a share of the total capital cost of the proposed I-Drive/Downtown leg equal to \$108 million (\$11 million to be paid from general revenues, \$23 million to be paid from assessments against International Drive properties, and \$74 million to be paid from tourist development tax revenues). If the MTC's \$685 million estimate for capital costs proves accurate, the County's general-revenue share under the currently proposed formula (assuming the federal and state shares are adjusted accordingly) would be \$20.6 million, not \$11 million. Also, if certain "cost of capital" assumptions prove to be understated, additional tourist taxes may be required from the County for the capital cost of the I-Drive/Downtown leg.

3. Out-Year Costs and One-Cent Sales Tax. The I-Drive/Downtown leg is projected to have "out-year" capital costs of an additional \$171 million, for which funding commitments will be required in the future. LYNX documents contemplate, perhaps even assume, the future levy of a half-cent sales tax to constitute a "dedicated funding source" for those out-year costs.

4. "Credit Enhancement" Risk to Road Program. The request of LYNX that the County pledge its gas tax revenues as backup collateral for LYNX's bonds creates risk that the County's road building and widening program may be adversely impacted in the future if the gas tax monies eventually are needed to pay the debt on the bonds.

5. Understated Operations Subsidy. If Orange County's current bus subsidy increases at 5% per year, which is a reasonable projection, it will increase from \$16.8 million in the current fiscal year to \$20.4 million in fiscal year 2003. However, if the I-Drive/Downtown leg is built, LYNX expects to ask for \$22 million or a net additional annual increase of \$1.6 million. Therefore, the net increase in operating subsidy expected from Orange County in 2003, for both buses and light rail, in connection with the I-Drive/Downtown leg is \$5.3 million, not the published figure of \$3.7 million.

6. Feeder Buses and LRT Farebox. LYNX intends to create a "feeder bus system" to complement the I-Drive/Downtown leg by rerouting the existing fleet of buses. Whether this plan will succeed is unclear. If it does not, the light-rail farebox revenues may be substantially less than projected, creating pressure for higher operating subsidies from the County.

7. The CSX Unknown. The total capital cost may escalate radically, even above the MTC's higher estimate (see paragraph 1, above), if CSX Transportation, Inc., refuses to grant LYNX the right to use its right-of-way for the sum now budgeted by LYNX for that purpose.

8. Other ROW Uncertainties. The total cost of the I-Drive/Downtown leg will be manageable and reasonably predictable only if and when LYNX obtains final, legally binding purchase prices for required portions of right-of-way on lands now owned by CSX, Universal Studios Escape,

Sea World, Busch Properties, and other owners of land from which large portions of right-of-way must be obtained.

9. **Final ROW Costs Needed.** Because of the foregoing, Orange County should not enter into any final, binding financial commitments until the cost of those portions of the right of way are final, certain and reasonably within the project budget.

10. **Future Routings Through Municipalities.** Future additional segments of the I-Drive/Downtown leg should be routed through the boundaries of municipalities only if expressly approved by the Board of County Commissioners.

11. **Ridership Primarily in Tourist Area.** The heaviest ridership on the I-Drive/Downtown leg -- some two thirds of all ridership -- will occur in the I-Drive segment. Only one third of the ridership will occur in the downtown segment.

12. **The I-Drive Realignment Premium.** The property owners and businesses on International Drive will support the project only if it is realigned away from north I-Drive. That realignment reportedly will add another \$12 million to the estimated capital cost of the project, and funding for the added amount has not been identified.

13. **I-4 Congestion.** The proposed I-Drive/Downtown leg will not relieve existing congestion on Interstate Highway 4 or any other state or local roads.

14. **Concurrency Compliance.** The I-Drive/Downtown leg is not necessary for purposes of Orange County's compliance with state "concurrency" requirements.

15. **Air Quality.** The proposed I-Drive/Downtown leg will not have a material effect, either positive or negative, on regional air quality.

16. **Economic Benefits.** The near-term economic benefits of the proposed I-Drive/Downtown leg are modest. It will, however, provide a mobility alternative to the traveling public. The ultimate economic and social benefits of the I-Drive/Downtown leg will arise in the future after the system is expanded to cover and serve the region.

WHEREAS, after receiving the MTC report, and after discussing the report and its conclusions with members of the MTC at a public meeting on February 2, 1999, the Board of County Commissioners has determined that the interests of the citizens, businesses and taxpayers in Orange County are best served by the County providing funding for the construction and operation of a "T-shaped" light rail transit system (the "I-Drive/Airport leg") instead of the I-Drive/Downtown leg. The I-Drive/Airport leg would consist of a line running from Universal Studios south to Sea World -- in other words, the same I-Drive segment -- and a line running from International Drive in the vicinity of the Canadian Court parking garage east to the Orlando International Airport (the "Airport segment"); and

WHEREAS, on January 15, 1999, the Florida Department of Transportation (District 5) issued a Final Order selecting a lessee for the Bee Line Expressway. In that order, FDOT recited detailed findings of fact awarding the competitively-bid right to lease the Bee Line Expressway to

the Bee Line Monorail System, Inc. The Bee Line Monorail System, Inc. proposes a 54-mile, privately funded transportation system for passenger and freight service utilizing the German-developed Transrapid magnetic levitation technology (MagLev). The system will connect a proposed intermodal station just east of the intersection of International Drive and the Bee Line Expressway with a proposed station at Port Canaveral. Also planned is an intermodal station at Orlando International Airport. Bee Line Monorail System, Inc. proposes to complete its project in two phases. Phase I is completion of passenger service between International Drive and the intermodal station at Orlando International Airport. Construction for Phase I is scheduled to commence January 2000, with revenue service scheduled to begin December 2002; and

WHEREAS, on February 4, 1999, FDOT terminated the franchise issued to Florida Overland eXpress, L.P., the Highspeed Rail Project. Florida Overland eXpress had planned terminals at Orlando International Airport and a site near Orlando attractions; and

WHEREAS, the Board is now ready to express its commitment to an I-Drive/Airport leg.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. I-Drive/Airport Leg. The Board of County Commissioners hereby declares its willingness to consider Orange County participation in the funding of the construction and operation of a light rail transit system for the I-Drive/Airport leg, and the several bases for the Board's willingness are the following:

- Public confidence in the initial leg of any light rail system is essential to ensure the successful future expansion of the system to serve the region. The best option to build public confidence in light rail is pursuing the "T-shaped" I-Drive/Airport leg.
- Based on LYNX's ridership projections, the Board declares that it is in the best interests of Orange County residents, businesses, and taxpayers to pursue the I-Drive/Airport leg as the initial leg of a regional light rail system.
- The Board agrees that future expansion of an I-Drive/Airport leg along the Interstate Highway 4 corridor north to Sanford and south to Celebration is desirable to ensure alternate mobility options for the citizens of Orange County and the surrounding counties. The Board believes, however, that any such expansion must occur within the boundaries of municipalities in this county only with the express authorization of the Board.
- Both the Orange County Convention Center and the Orlando International Airport are major centers of economic activity, and connecting these centers

as well as the tourist corridor along International Drive by light rail is in the best interests of Orange County citizens, businesses and taxpayers. To that end, the Board declares that expenditure of tourist development tax revenue for these light rail purposes is in the best interests of the citizens, businesses and taxpayers of the county.

- The Board hereby encourages the development of the “Bee Line Monorail System” as a privately-financed transportation project between Orlando International Airport and International Drive. The Board further encourages Bee Line Monorail System, Inc., to develop services that are complementary to the light rail project described in this resolution. The need for compatibility of the Bee Line technology and light rail technology is essential for the efficient operation of the intermodal stations at I-Drive and the airport.
- The Board expressly acknowledges the leadership of Congressman John Mica in helping pursue federal funding for the I-Drive/Airport leg as an initial leg of a regional light rail system.

Section 2. Direction to County Staff. Those staff members of Orange County assigned by the County Chairman or the County Administrator to light rail matters are hereby authorized and directed to draft and negotiate such agreements, financial and otherwise, as may be necessary or useful for the design, construction, acquisition, financing, and operation of a light rail system to serve the I-Drive/Airport leg.

Section 3. Board Intent to Approve Agreements. The Board hereby declares its expectation that, unless the need for the Airport segment has then been met by the proposed Bee Line Monorail System, at the appropriate time the Board will authorize and direct the County Chairman and the County Comptroller to execute and deliver financing agreements pertaining to the capital costs of and operating subsidy, if any, for an I-Drive/Airport leg. The Board will consider such agreements at such time as they are properly presented to the Board for its consideration, one or more public hearings are held thereon, and the Board is satisfied that the following terms, conditions, and requirements have occurred or are properly incorporated in the agreements:

1. **Capital Funding Shares.** The funding for the construction of the Airport segment will be substantially in the following shares:

55.0% federal funding

22.5% state funding

22.5% funding from the county (from tourist development taxes, assessments on benefitted properties, and other appropriate revenue sources, excluding ad valorem taxes), the Greater

Orlando Aviation Authority, and other appropriate local agencies

2. **Operating Subsidies.** Orange County shall be obligated to pay no more than one-third of operating subsidies, if any, for the I-Drive/Airport leg.
3. **Route.** The I-Drive/Airport leg shall be the “T-shaped” system consisting of the I-Drive segment and the Airport segment.
4. **No County Funding for Downtown Segment.** No Orange County funding (including ad valorem taxes) shall be obligated, pledged, or used for the cost of either constructing or operating the downtown segment. Specifically, if LYNX elects to construct and operate the downtown segment, the following requirements must be met:
 - a. Lynx must enter into separate construction contracts for the downtown segment and the I-Drive segment. Alternatively, LYNX must establish separate construction funds or accounts, and the allocable cost of constructing the downtown segment and the allocable cost of constructing the I-Drive segment must be paid from the separate funds or accounts.
 - b. The funding shares for construction of the I-Drive segment, by itself, must remain as follows:
 - 55.0% federal funding
 - 22.5% state funding
 - 22.5% local funding, to consist of funding from the City of Orlando and Orange County, in the same ratios as has been contemplated for the I-Drive/Downtown leg.
 - c. Orange County must be obligated to pay for only those operating deficits, if any, allocable to the I-Drive segment, and then for only one-third of such deficits. Any such obligation must be capped at a defined, acceptable amount. The county must not be obligated to pay for any operating deficits for the downtown segment.
 - d. Orange County must have no obligation whatsoever to pay for any overruns in the capital cost of either the Airport segment or the I-Drive segment.

Notwithstanding the foregoing, the Board declares that it is willing to see only the required environmental impact studies for the Airport segment, not the design, financing, and construction of and land acquisition for the Airport segment, go forward in the upcoming months. Decisions to design, finance, construct, and acquire right of way for the segment shall be made only after the environmental studies are completed and Board members and county staff have had time to review them.

5. ***LYNX Governing Board.*** The governing board of LYNX must be restructured to reflect better the extent to which Orange County currently subsidizes its operations and the extent to which Orange County likely will subsidize the construction and operation of light rail systems in the future.
6. ***Future Legs Through Municipalities.*** LYNX must have a legally enforceable contractual duty to obtain express authorization from the Board before constructing any future legs of a light rail system through any municipalities in Orange County. Furthermore, MetroPlan Orlando shall revise the 2020 Transportation Plan to reflect the concerns generated north of Orlando. The light rail corridor north of Orlando shall be revised from the CSX Alignment to an area extending from west of Interstate 4 to east of the current CSX tracks.
7. ***1999 Federal Funding.*** Unless the county later agrees otherwise, any federal funding appropriated for fiscal year 1999-2000 for light rail in Orange County must be used for the planning, environmental studies, design, and land acquisition for the I-Drive/Airport leg.
8. ***Oversight Committee.*** The efforts by LYNX to plan, design, finance, acquire land for, construct, and operate both the I-Drive segment and the Airport segment shall be overseen by a committee to be established by resolution adopted by the governing board of LYNX, but only after the membership, terms, and other material aspects of the oversight committee have first been approved by the Board of County Commissioners.

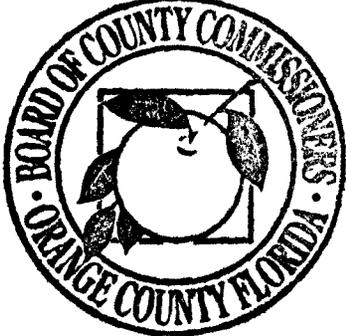
Section 4. I-Drive Circulator System. Orange County shall simultaneously conduct a study for a circulatory system for the I-Drive corridor using the Convention Center revenues and I-Drive properties' funding, if necessary, originally intended for light rail. This section shall survive any sunset or repeal under Section 6.

Section 5. Repeal of Previous Resolution. Resolution 98-M-51, approved by this Board on November 10, 1998, is repealed.

Section 6. Effective Date; Sunset Date. This resolution shall take effect upon its adoption. This resolution shall "sunset" and be deemed repealed in its entirety as of April 13, 1999,

without the necessity of further action by the Board, unless the City Council of the City of Orlando, by majority vote on or before April 12, 1999, (i) approves this resolution in its entirety, without exception, addition, or modification of any kind, and (ii) simultaneously declares the willingness of the City to participate in the funding of the I-Drive segment in the manner and subject to the requirements set forth in this resolution, without qualification of any kind.

ADOPTED THIS 9th DAY OF FEBRUARY, 1999.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: Mel Martinez

Mel Martinez
Orange County Chairman

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: Martha O. Haynie
Asst. Deputy Clerk

tjw\ordres\lghtrai5.wpd
(02/10/99)