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Criminal investigation urged for Coconut Road earmark

By ELIZABETH WRIGHT

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After several years of questions and allegations, the Coconut Road earmark could now become a criminal investigation.

That's what the U.S. Senate is urging, after a vote Thursday to ask the Department of Justice to look into whether any laws were broken when one specific Lee County roadway — Coconut Road — became tied to a \$10 million item in a 2005 highway bill.

What has attracted all the attention is that while the road appeared in the version of the bill the president signed — providing money for a study of a controversial interchange proposal — it was a change from the version of the bill that the House and Senate voted on earlier that year.

Initially, the \$10 million was to pay for improvements along Interstate 75 in Lee and Collier counties.

Along with the vote urging an investigation, Senate also approved a technical corrections bill Thursday that revisits the 2005 highway legislation. The bill would take the Coconut Road restriction off the \$10 million, and send it back to Southwest Florida.

While the Senate's actions don't mean the money will return to the area just yet, Carla Johnston, the vice-mayor of Sanibel who has kept asking questions about how the earmark came to be, called this a big step toward fixing "the tampered version of the bill."

With the words Coconut Road pulled from the earmark, she said the money would be put toward the road priorities the Lee County Metropolitan Planning Organization selects: the proper "bottom-up" procedure.

And despite earlier being told that questioning the earmark could jeopardize federal highway funding for Lee County, Johnston said that Thursday's votes show that asking Congress to change the language of the earmark through a technical corrections process is working out.

"I'm very proud of the elected officials of the Lee County MPO who had the courage to recognize this problem," she said of the earmark.

Many residents of Estero objected to seeing an interchange being built at Coconut Road, and the issue of whether to accept the earmark — widely believed to be connected to the fundraising visit U.S. Rep. Don Young, R-Alaska, paid to Lee County in 2005 — became a drawn-out debate within the MPO.

Long-standing concerns about new development east of the interstate and scrutiny of the intentions of one large landowner in the area dovetailed with evidence that property owner, Daniel Aronoff of Agripartners, had been among Young's contributors and had helped organize the fundraiser. Together with the change in the earmark after Congress voted and the fact that no one in Congress was taking credit for bringing the funding to the area, it was enough for some to say something didn't seem right.

Over the past year, the earmark drew increasing attention nationwide, and, more recently, numerous members of both the House and Senate have talked of the need for a criminal investigation.

While the details of how the change occurred remained murky, Young, the then-House Transportation Committee chairman, has acknowledged that he backed the Coconut Road project at the request of community residents.

"I think it's the right thing for the state of Florida, and you know, right now, they're supportive of it," he said this week in an interview with The Associated Press.

"Mr. Young's office has welcomed any inquiry or examination of the earmark, and I would support that as well," said House Republican leader John Boehner of Ohio. "I think it's in everyone's interest that we know what happened and did not happen here."

As the Senate debated what form an investigation should take this week, some in Bonita Springs, the city closest to Coconut Road, said the issue is more nuanced than a story of tainted money and pointless road project.

Ben Nelson, the city's mayor-elect who will take office next week and who has previously chaired Lee County's road planning agency, isn't convinced the way this earmark came about was all that unusual.

"There's so much politics on both sides of this. Of all the things that we've seen come out of Washington in the last 20 years or so, when you look at this, probably this is not the only thing that has happened that is a little suspicious," he said.

The more the earmark gets singled out and national attention is being paid to the road that ends just west of the interstate and just north of the city limits, what Nelson sees is that "every bit of the language that's used is inflammatory, it makes assumptions. It's been sensationalized... There are a lot statements out there that are just not true."

For instance, he said, it seems the history of local interest in the interchange prior to 2005 is being ignored.

"This wasn't something totally unexpected as far as never been planned, never been talked about," he said.

"It's often compared to the bridge to nowhere," Nelson said, referring to a pricey bridge project in Alaska that Young has been criticized for supporting. "It's not the same thing."

For all the earmark caught many in the area by surprise in 2005, Nelson said, "it didn't raise any alarms until quite frankly, the people who were horrified at the prospect of this thing happening and started digging around."

Before the earmark ended up in the highway legislation, any prospect of an interchange at Coconut Road had been a conventional local planning debate, full of hypotheticals about how the area would grow and how to treat headaches drivers might encounter in the future.

Both Estero and Bonita Springs were booming, and there were questions about how the new mall the Indiana-based Simon Property Group was planning to build on former farmland at the intersection of U.S. 41 and Coconut Road.

There was talk about extending Coconut Road west across Estero Bay to the Gulf beaches — an idea later scrapped over environmental concerns — and there was talk about extending the road east over the interstate to connect with a proposed extension of County Road 951 north from Collier County.

Hints at a future interchange — predating any earmark — are in the deeds homeowners in some Estero communities near Coconut Road hold, and before the 2005 highway bill passed, Bonita Springs had already paid about \$15,000 to study if an interchange in that location would improve traffic within the city limits.

Nelson also has mixed feelings about calls for an investigation into the earmark for the Coconut Road interchange study.

"It's as if the only reason for doing the study was to benefit a developer. And that is not true," Nelson said. "It wasn't focused only on this developer. This was something that a lot of us thought needed to be done for this entire reason. That is what is lost in this whole thing.

"There has never been a road built in Florida — never — that has not benefitted a developer somewhere."

As for the allegations that Aronoff's contributions may have influenced the final text of the earmark, Nelson said it's never been clear to him just what that connection would have been.

"He donated some money to his campaign. I suppose that's the connection. It sounds much more insidious," Nelson said.

"Did a great number of people lobby this person when he was down here to get some money? Yes. Yeah, they passed the hat and did everything they do when a politician comes to town," he said. "Wherever these politicians go, people pass the hat. That's part of the problem with the system."

It was what happened next, he said — the entire earmarking process in Congress — that wasn't transparent.

But even with the changes to the language of the earmark before it hit the president's desk, Nelson said he isn't certain that's uncommon.

"The way it was explained to me by several attorneys of Washington is it is not all uncommon for the sponsor of a bill to make changes at various points in time," he said. "Of course we've heard the antithesis to that too. What is really abundantly clear is it's a really super-convoluted process."

There could have been criminal intent, he said. "I don't know."

But, he added, "This really seems to have a life of it's own over and above whether there's a need for an interchange in the next 20 years."

Like Nelson, John Spear, now a Bonita Springs city councilman, had seen a need to study the interchange early on.

At the point the earmark appeared in the legislation, he had been working as chair of a transportation committee for the Bonita Springs Area Chamber of Commerce to drum up interest in studying an interchange in that location as one of several possibilities to improve the area's roads.

While Spear said he wouldn't recognize anyone associated with Agripartners "if they walked in my office," once the earmark became an issue, "I was inadvertently put on the same side of the table."

At this point, the interchange itself is dead, he said, and watching the issue get national attention and get debated in Congress "is getting old."

Still, Spear is curious to know what actually happened with the earmark.

"I would like to know the truth myself," he said.

It doesn't matter to him how those questions get answered — whether it's a Justice Department inquiry, or simply having whoever made the change explain publicly what was done to the text of the bill after it was passed and why.

So far, he has seen nothing "black and white" to show anything illegal happened, but then again, he also hasn't seen proof that everything with the earmark was "pristine," either.

"It's sort of maddening that no one will stand up and say, yeah, I did it, and I've done it 100 times, that's how things are done in Washington. If that's the truth, I'd like to know that," Spear said. "I'd like to see that

person explain.”

The Associated Press contributed to this report.

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