



Office of

Attorney's Matters 02/02/2021

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MEMORANDUM

TO: Board of County Commissioners

THROUGH: Richard B. Szyrka, P.E., Public Works Director

FROM: William K. DeBaal, Deputy County Attorney

DATE: January 25, 2021

SUBJECT: Resolution of Necessity for four Parcels of Right-Of-Way Located along 69th Street west of 66th Avenue, Vero Beach, FL 32967: Parcel 303 (Chesnut), Parcel 313 (Dent), Parcel 316 (Mandina) and a perpetual access easement in Parcel 317 (AC Veterinary)

INTRODUCTION: The following information is submitted for consideration by the Board of County Commissioners (Board) in approving the Resolution of Necessity for property acquisition associated with the construction of 66th Avenue north of 57th Street (hereinafter referred to as "Project"), in Indian River County. The limits of the overall Project are from the intersection of SR 60 to Barber Street in Sebastian.

PROJECT PURPOSE AND CHRONOLOGY: The project consists of expanding 66th Avenue from a 2-lane road to a 4-lane road with turn lanes, improved drainage, replacement of bridges over the canal, 8' sidewalks and signalization. The project also includes roadway signing and pavement marking items. Right-of-way is needed on the side streets to accommodate increased bridge elevations and turn lanes for the three lane bridges over the canal.

There are four properties along 65th and 69th Streets where the County needs to acquire right-of-way for side street improvements which will include paving, drainage, signage and striping. The parcels are as follows:

- Parcel 303, 6900 65th Street, is a 9.5 acre tract owned by Ken Chesnut. The County needs a 50' strip of right-of-way along the southern boundary of the property totaling 0.38 acres. Improvements to the property to be taken include fencing, fruit and shade trees and two driveways. The property is zoned A-1, Agricultural, up to one unit per five acres. There is a pole barn/equestrian facility on the property but it is not involved in the take.
- Parcel 313, 6890 69th Street is a 9.89 acre property zoned A-1, Agricultural, up to one unit per five acres. The parcel is undeveloped with no structures on the property. The County needs to acquire a 70' wide parcel or 0.53 acres to be used as right-of-way. There is barbed wire fencing and a few shade trees located in the area of take. The landowners are Jackie and Johnny Dent.

- Parcel 316, 6730 69th Street, is owned by Dr. Leonardo and Maria Mandina. The parent parcel is 9.85 acres in size and the County needs 0.53 acres to be used as right-of-way. This parcel is also zoned A-1, Agricultural, up to one unit per five acres. The property is improved with a four-bedroom three bath home, horse stables, a barn and guest house near the stable area all of which are not involved in the take. Improvements within the 0.53 acres to be taken include a decorative masonry wall with lighting features, decorative aluminum entry gates, four board fencing, concrete driveway and landscaping.
- Parcel 317, 6580 69th Street is owned by AC Veterinary Specialty Services, LLC, doing business as Treasure Coast Animal Emergency and Specialty Hospital. The parcel is 11.35 acres in size and zoned A-1, Agricultural, up to one unit per five acres. As a result of the improvements to 69th Street, the Indian River Farms Water Control District will lose access to the canal that runs parallel to 66th Avenue. As the County is the entity eliminating the Farms' existing access point, we must provide them with a new access point. Thus, we do not need to take any property in fee simple from AC Veterinary, rather obtain a 637 square foot access easement from them. There are no improvements in the proposed easement.

A Resolution of Necessity does not require a public hearing. It requires the Board to review the safety, cost, alternative routes, long-range planning and environmental aspects of the project in relation to the proposed take. The Board considered all of those factors at the meeting of March 17, 2009 and approved the Corridor Study for 66th Avenue and proposed 65th and 69th Street alignment in front of the four properties. A copy of the Corridor Study is available for review at the County Commission Office or the Office of the Clerk to the Board.

The property owners are represented by various law firms. Upon approval of this Resolution of Necessity, and after a Board approved Unconditional Offer, the County will file a lawsuit in eminent domain and file a motion for an Order of Take. If the Court approves the motion, the County will deposit its appraised value into the Court Registry and take title to the rights-of-way and access easement, and the landowners may access the deposit in the Court Registry, less any taxes, liens or mortgages owed on the property. The parties will then attend a mediation conference in order to settle the issue of compensation. If the mediation is unsuccessful, the parties will proceed to a twelve (12) person jury trial and the jury will determine the amount of compensation to be paid to each landowner.

Acquisition of these parcels is important as it provides needed right-of-way for the expansion of 65th and 69th Streets at their intersection with 66th Avenue. The attached Resolution of Necessity with copies of the sketches and legal descriptions of the needed rights-of-way and the access easement are attached to this memorandum and provides for the following:

- The Board finds it necessary to acquire the property using eminent domain
- Authorizes the County Attorney or outside counsel to file a lawsuit against the owners of the needed property
- Authorizes County employees and its agents to take action necessary to prosecute the lawsuit to final judgment

FUNDING: There is no impact to County funding with the Resolution of Necessity.

RECOMMENDATION: Staff recommends that the Board approve the Resolution of Necessity and authorize staff to proceed with the necessary right-of-way acquisition through the County's power of eminent domain.

Attachments:
Proposed resolution
Parcel sketches and legal description of property to be taken