

**INDIAN RIVER COUNTY, FLORIDA
MEMORANDUM**

TO: Jason E. Brown, County Administrator
FROM: Richard B. Szpyrka, P.E., Public Works Director
SUBJECT: Report on 66th Avenue Right-of-Way Acquisition Costs
DATE: December 26, 2019

DESCRIPTION AND CONDITIONS

The Board requested that staff review the current costs of right-of-way acquisition to past costs for 66th Avenue right-of-way acquisition and report back to the Board with their findings. The following is a synopsis of the findings and the attached information shows differences in right-of-way purchases approved by the Board in the past and present for 66th Avenue.

The first segment of widening for 66th Avenue was from SR-60 to north of 49th Street and was completed in 2015. However, right-of-way acquisition for the construction of the first segment of the widening project began back in 2006. Staff analyzed a portion of the property purchased for right-of-way between 2006 and 2011 from south of 41st Street to 57th Street. This analysis showed that a total 52.54 acres was acquired at a cost of \$5,403,281 or an average cost of \$102,841 per acre. As the Board is aware, every property acquired had unique factors involved with each individual property, so the cost per acre ranged from \$55,600 per acre to \$569,117 per acre with some vacant land, some improved land, and some where the County purchased the entire parcel and removed the structures. A breakdown of each individual parcel that was obtained is attached.

As the County continues to grow and with the Florida Department of Transportation working on the widening of CR-510 from CR-512 to US-1, County staff saw the need in 2017 to restart the acquisition process for right-of-way to continue widening 66th Avenue from north of 49th Street to CR-510. The widening has been divided into two phases, phase one from north of 49th Street to north of 69th Street and phase two from north of 69th Street to CR-510. A total of 75.86 acres of right-of-way and stormwater retention pond sites have been acquired so far for the widening of 66th Avenue from north of 49th Street to CR-510 at a cost of \$5,120,996 or \$67,505 per acre. It should be noted that 6 of the 28 parcels purchased were obtained before 2017. As the Board is aware, every property acquisition has unique factors involved with each individual property, so the cost per acre ranged from \$23,333 per acre to \$605,212 per acre with some vacant land, some improved land, and some where the County purchased the entire parcel and removed the structures. A breakdown of each individual parcel that was obtained is attached.

The County continues to consider the eminent domain process as an option when acquiring needed right-of-way. Previous Board direction was to offer more funds toward property owners rather than having these dollars end up in the hands of outside attorneys and expert witnesses. As such, eminent domain has been considered as a last resort when staff is unable to negotiate what staff believes is a fair settlement that will save the taxpayers money by not enforcing eminent domain proceedings. The eminent domain process is costly and time consuming from the aspect of property owners attorney's fees, expert witness fees for both the County and the property owner, County outside council fees for litigation, outside appraisers fees, and other fees that the County ends up paying for in most cases.

On January 7th, 2020 the Board approved the 58th Avenue Corridor Study/S.C.A.L.E. Report. The acronym S.C.A.L.E., (Safety, Cost, Alternate Alignments, Long Range Planning, and Environmental Considerations) is used to identify the five factors necessary for the most feasible alignment of a roadway. This report is necessary for eminent domain proceedings to show that these aspects have been considered, along with negotiations with the property owner that the County has acted in good faith to acquire the necessary property for right-of-way prior to starting the eminent domain process.

On January 7th, 2020 the Board also approved an unconditional offer for right-of-way located at 4740 58th Avenue that is owned by Paulette Brown. Staff started negotiations with Ms. Brown back in October of 2018. However, staff was never able to negotiate an acceptable settlement with Ms. Brown and her attorney so we had no choice but to move forward with the first step in the eminent domain process. This is an example of the use of eminent domain when a fair and reasonable agreement can't be reached with the property owner. Staff plans to continue to consider eminent domain in cases where the County is unable to recommend an amicable purchase arrangement.

Past direction from the Board has been to negotiate with the property owner and their attorney to come to a fair settlement that will save the taxpayers money and provide the property owner with some comfort that the County did the best we could to ease the emotional impact on the property owner during the right-of-way acquisition process. County staff believes that we have been following past Board direction with regards to right-of-way acquisition.

It is important to consider that right-of-way costs make up a significant portion of the costs to construct capacity increasing projects like road widening. The last impact fee study, completed in 2014, right-of-way costs were 25.7% of the total cost of improvements. As a result, increases in right-of-way costs result in higher impact fee calculations. Whether funded by impact fees, gas taxes, or the Optional Sales Tax, higher right-of-way costs reduce the amount of road construction that can be funded with available resources.

FUNDING

No funding is needed for this report.

RECOMMENDATION

Staff recommends that the Board direct staff to continue with the current method of right-of-way acquisition, which includes the use of eminent domain proceedings if an agreement to a purchase right-of-way at a fair price is not obtainable.

ATTACHMENTS

66th Avenue (South of 41st St. – 57th St.) ROW Purchases
66th Avenue (49th Street – 85th Street) ROW Purchases

APPROVED AGENDA ITEM FOR: JANUARY 14, 2020