



Office of

Attorney's Matters 08/17/2021

**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBraal, Deputy County Attorney  
Susan J. Prado, Assistant County Attorney

MEMORANDUM

TO: The Board of County Commissioners

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

FROM: William K. DeBraal, Deputy County Attorney

DATE: August 11, 2021

SUBJECT: Acquisition of Right-Of-Way from the Frederick W. Van Antwerp and Florence B. Van Antwerp Revocable Trust for Phase II of 66th Avenue Improvements  
6555 81<sup>st</sup> Street, Parcel 132

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Frederick W. Van Antwerp and Florence B. Van Antwerp, as Co-Trustees of the Frederick W. Van Antwerp and Florence B. Van Antwerp Revocable Trust Agreement (the Van Antwerps) are the owners of a 4.39 acre parcel of property at 6555 81<sup>st</sup> Street, Vero Beach, on the east side of 66<sup>th</sup> Avenue and south of 81<sup>st</sup> Street as shown below as *Figure 1*.



*Figure 1. Van Antwerp property aerial photo*

The County needs to acquire a 0.99-acre strip of right-of-way along the western border of the property. The oblong strip extends 333' along 66<sup>th</sup> Avenue beginning at a width of 126 feet at the south widening to 168 feet at the north end of the property. The property

is unimproved. The property is zoned A-1, Agricultural, up to one unit per five acres. The property also has a tenant, B&B Farms, LLC, owned by the Banack Family. The parcel is part of the Countryside Citrus and Countryside Family Farms business which is located further to the east. The area of take is not part of the day to day business operations of Countryside and part of the easternmost portion of the take may have been used in years past for the corn maze operated by Countryside. According to state statutes, tenants are entitled to notice and possible damages due to the take. Staff is reviewing documents in order to assess B&B's possible damage claim. This settlement with the Van Antwerps will not affect the potential claim of B&B Farms.

Please see the sketch and legal description attached to the Agreement that is included with this memorandum. The County's appraisal for Parcel 132 was performed by Armfield & Wagner in 2021. They assigned a value of \$29,800 for the land and did not find any severance damages. Recent purchases in the area used a land value of \$42,500 per acre. The Van Antwerps contended that a corner lot should be valued higher and settled at a price of \$45,530 per acre.

**Total acquisition cost for Parcel 132** 0.99 acres @\$45,530/acre = \$45,075.00. There are minimal expert witness fees consisting of an appraisal fee in the amount of \$344.00 to Calhoun, Dreggors & Associates, Inc. Attorney's fees in the amount of \$4,508.00 representing 10% of the purchase price to Raymer Maguire, the attorney for the Van Antwerps.

By comparison, in February 2017, the County purchased the 18.72-acre Greene property located at the northeast corner of 66<sup>th</sup> Avenue and 53<sup>rd</sup> Street for a future stormwater park for \$558,900 (\$29,855 per acre) which was an arm's length transaction without the threat of eminent domain. The County previously purchased the Miami Block from Central Groves at the southwest corner of 66<sup>th</sup> Avenue and 69<sup>th</sup> Street for \$35,250/acre for the entire 18.59 parcel (\$655,298.00) and \$42,500/acre for 13.78 acres from Central Groves on the west side of 66<sup>th</sup> Avenue at 61<sup>st</sup> Street.

**STAFF RECOMMENDATION:** Staff recommends the Board approve the Agreement for the Van Antwerp property and authorize the Chairman to execute the document on behalf of the Board.

**FUNDING:** Funding in the amount of \$49,927.00 for the acquisition is budgeted and available from Traffic Impact Fees/District I/ROW/66<sup>th</sup> Ave/69<sup>th</sup> Street – 85<sup>th</sup> Street, Account # 10215141-066120-16009

**ATTACHMENTS:** Agreement with the sketch and legal description of right-of-way Parcel 132.

Copies to: Raymer Maguire, Esq.