



Office of

Attorney's Matters 07/06/2021

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MEMORANDUM

TO: Board of County Commissioners

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

FROM: William K. DeBaal, Deputy County Attorney

DATE: June 29, 2021

SUBJECT: Resolution of Necessity for five Parcels of Right-Of-Way Located along 66th Avenue between 69th and 85th Streets, Vero Beach, FL 32967: Parcel 127 (Lipfert and tenant Tongay), Parcel 128 (Williams), Parcel 130 (Sexton), Parcel 132 (Van Antwerp) and Parcel 151 (Barker/Strickland)

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 between 69th and 85th Streets (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 roadways 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 five properties along 66th Avenue between 69th and 85th 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 127, 7905 66th Avenue is a 12.24-acre tract owned by Frederick Lipfert. The County needs a 1.07-acre strip of right-of-way along the eastern boarder of the property. The oblong strip extends 455' along 66th Avenue beginning at a width of 126 feet at the south narrowing to 68 feet at the north end of the property. The property is used for horse boarding and is improved with a barn, riding ring, a small residence and pastures divided into five paddocks. Improvements to the property to be taken include fencing, shade trees, a driveway and a part of the eastern most pasture paddock. The property is zoned A-1, Agricultural, up to one unit per five acres. The property also has a tenant, Empire Equine, owned by Amanda Tongay. According to state statutes, tenants are entitled to notice and possible damages due to the take.
- Parcel 128, 7950 6th Avenue is a 2.0-acre property zoned A-1, Agricultural, up to one unit per five acres. The parcel is developed with a two-bedroom, two bath house. The house is approximately 1,241 square feet in size and was built in 1964. The County needs to acquire a 0.04-acre (1,923 sq. ft.) triangle shaped parcel of right-of-way that is 160 long and 26 feet at the widest point. This property is on the east side of 66th Avenue. The only improvement in

the part to be taken are a palm tree and a bush. The landowner is Audrey Williams.

- Parcel 130, 8055 66th Avenue, is owned by Robert and Mary Grace Sexton. The parent parcel is on the west side of 66th Avenue and is 18.845 acres in size. The County needs a 0.40-acre triangle shaped parcel 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 an active citrus grove. Improvements within the 0.40 acres are approximately 10 citrus trees with accompanying irrigation.
- Parcel 132, 6555 81st Street is owned by Frederick and Florence Van Antwerp. The parcel is 4.39 acres in size and zoned A-1, Agricultural, up to one unit per five acres and lies on the northeast corner of 66th Avenue and 81st Street. The County needs to acquire a 0.99-acre parcel to be used as right-of-way. There are no improvements on the property, but the site has been the location of the corn maze in years past. The Van Antwerps lease this parcel and an adjacent parcel to Country Side Family Citrus. Countryside, as tenants, are entitled to notice and possible damages due to the take.
- Parcel 151, 7860 66th Avenue, Vero Beach, FL, contains a single-family residence owned by Ruby Strickland and Wesley Barker. The single story house built in 1961 has 3 bedrooms and one bath and is approximately 1,254 sq. ft. in size. The parent parcel is 0.55 acres and the County needs to acquire 0.10 acres to be used for right-of-way. Improvements in the area of take include two oak trees, two palm clusters and part of a marl driveway. The property is on the east side of 66th Avenue, north of 77th Street.

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 the proposed alignment in front of the five 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 rights-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