



Office of

Attorneys Matters 07/02/2024

**INDIAN RIVER COUNTY
ATTORNEY**

William K. DeBraul, County Attorney
Susan J. Prado, Deputy County Attorney

MEMORANDUM

TO: Board of County Commissioners
FROM: William K. DeBraul, County Attorney
DATE: June 25, 2024
SUBJECT: 74th Avenue Property Exchange

It is common throughout the County to use canal rights-of-way for County roads. Most of the canal rights-of-way are 100 feet in width, so there is room for a canal and a road within that 100 feet. Historically, the roads along side the canals were used to maintain the canal, but as the County grew in population, those roads were improved to accommodate the increase in traffic. An example of this would be 74th Avenue. The canal is on the east side of 74th Avenue and the road itself is adjacent to the canal to the west, within the canal right-of-way. But along 74th Avenue between 1st Street SW and 5th Street SW, private property lies to the west of the canal, then there is a 20-foot gap, and then there is a 30-foot wide strip of right-of-way. There is no roadway in the 30-foot right-of-way strip, as the roadway lies next to the canal in the seemingly privately owned property. Please see the attached sketch as a sample of the situation along this stretch of 74th Avenue. The County maintains 74th Avenue between 1st Street SW and 5th Street SW as a two lane, paved, public roadway.

While this situation has existed since 1956, it now needs to be resolved. Florida Public Utilities, formerly known as Florida City Gas, needs to install a gas line along 74th Avenue to supply natural gas to the improvements being constructed at the County Landfill. As it stands now, there is insufficient room to install the line without correcting the right-of-way configuration. In order to rectify this error, the County proposes an even exchange of land without consideration with the affected property owners along 74th Avenue. The effected property owners are Pellegrino and Michelle Barone (Barone), Oslo Road Agriculture, LLC (Oslo) and Beale Holdings, Inc. (Beale). The County has prepared the attached Property Exchange Agreement and approving Resolution in order for the parcels to be exchanged. The Parties will exchange Quit Claim Deeds as provided in the Agreement for equal amounts of property and the County will record the deeds with the corrected legal descriptions.

Pursuant to Florida Statutes §125.37 the proposed exchange was published in the local newspaper once a week for at least two weeks before the Board can adopt the Resolution authorizing the exchange. Approval for permission to advertise this proposed exchange was heard by the Board on June 18, 2024.

Funding. The only impact to County funds brought about by this exchange are advertising costs of approximately \$285 and recording fees in the amount of \$228.90 which is currently budgeted and available from SWDD/Landfill/Legal Ads, Acct#41121734-034910 and SWDD/Landfill/Recording Fees. Acct# 41121734-034830.

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Recommendation. Staff recommends the Board of County Commissioners approve the Property Exchange Agreement with Pellegrino and Michelle Barone, Oslo Road Agriculture, LLC and Beale Holdings, Inc., approve the accompanying Resolution and authorize the Chairman to execute the Agreement and Resolution together with authorizing the signature of any deeds or document needed to complete the Exchange.

Attachments: Sketch of 74th Avenue
Property Exchange Agreement
Resolution

Copies to: RJ Sicre, Florida Public Utilities at rsicre@fpuc.com