



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

To: Board of County Commissioners

Through: Robert A. McMillan, County Attorney

From: Al Schwarz, Assistant County Attorney *AS for*
Ext. 5736

Concur: Bob Briggs, Administrative Manager, Environmental Services *RB*
Jeff Thompson, P.E., Environmental Services *JT*

Date: April 7, 2006

Subject: Settlement Authorization
Consumers/Lake Hayes Transmission Main Project
Parcel No. 1
Owner: Stephen and Wanda Ratcliff
Seminole County v. Ratcliff, et al.
Case No. 2005-CA-1559-13-L

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 1 on the Consumers/Lake Hayes Transmission Main Project. The recommended settlement is at the total sum of \$39,000.00 inclusive of all land value, severance damage, statutory interest, attorney's fees and cost reimbursements.

I PROPERTY

A. Location Data. The Ratcliff property is located on the east side of Aloma Avenue (SR 426), south of Chapman Road. A location map is attached as Exhibit A and a parcel sketch as Exhibit B.

B. Street Address. The street address is 2440 Aloma Avenue (SR 426 West), Oviedo, FL 32765-8611

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2003-R-118 on July 22, 2003, and Resolution No. 2005-R-118 on June 28, 2005, authorizing the acquisition of Parcel No. 1 and finding that the Consumers/Lake Hayes project serves a public purpose and is in the

best interests of the citizens of Seminole County. The Order of Take occurred on November 7, 2005, with Seminole County receiving the right to permanently use Parcel No. 1 on November 16, 2005, the date of the good faith deposit.

III ACQUISITIONS AND REMAINDER

Parcel No. 1 is a permanent, perpetual easement of 7,824 square feet. The parent tract consists of 273,204 square feet. The easement is within the boundaries of the existing 110' wide Florida Power & Light (FPL) easement currently encumbering the subject property and will follow the west and south perimeter of the existing FPL easement. The property in the after will remain 273,204 square feet encumbered by the 7,824 square foot easement. Under the terms of the easement, the property owners retain the right to pave over the parcel and use it for transitory parking and ingress and egress. However, this right of the property owner is subject to the County's right to excavate the parcel and to install and maintain subterranean piping as necessary.

Any paving or use of Parcel No. 1 for transitory parking and ingress and egress is subject to the property owners and their successors and assigns obtaining the necessary permits and other approvals from the County as specified by local ordinance. In the event the County performs any excavation on Parcel No. 1, the County shall be responsible for restoring Parcel No. 1 to its previous condition immediately prior to such excavation.

IV APPRAISED VALUES

A. County Report. An appraisal report was prepared by HDR Acquisition Services, Inc., and opined full compensation as of December 22, 2003, to be \$9,400.00. The update for the order of take opined full compensation to be \$11,000.00 as of September 1, 2005.

B. Owners' Report. A preliminary estimate of value was prepared by the property owner, who is a licensed real estate broker, opining the full compensation at \$60,910.90, exclusive of fees and costs. The report contended severance damage because the remaining northeast section of the parcel was allegedly rendered useless due to the configuration of the property to be taken. The property owner also hired an attorney to represent him in this matter.

V BINDING WRITTEN OFFER/NEGOTIATION

The BCC approved written offer was \$11,000.00. The negotiated settlement sum is a cost avoidance settlement inclusive of all fees and costs.

VI ATTORNEY'S FEES AND COSTS

The negotiated settlement at \$39,000.00 is inclusive of all attorney's fees and cost reimbursements. An allocation was not established as this was an inclusive settlement.

VII RATIONALE AND COST AVOIDANCE

This case involves a property owner who is currently in the process of developing the property as well as the impact of the uses of the easement on the value of the remainder property. The main consideration in this case was the potential effect on the property's development and the impact on value due to all of the potential uses allowable to the County under this easement in addition to constructing the water main facility. By this inclusive settlement, at this early stage, the County avoids all additional costs associated with litigation including increased exposure to expert fees, attorney's fees as well as the cost of the property owner obtaining appraisal report services if this matter were to proceed through discovery and trial.

VIII RECOMMENDATION

County staff recommends that the BCC approve this settlement in the total amount of \$39,000.00 inclusive of land value, severance damage, statutory interest, attorney's fees and cost reimbursements.

AHS/dre

Attachments

Exhibit A - Location map

Exhibit B – Parcel sketch

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