

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Waddle property

DEPARTMENT: County Attorney's Office

DIVISION: Litigation

AUTHORIZED BY: Lola Pfeil

CONTACT: Sharon Sharrer

EXT: 7257

MOTION/RECOMMENDATION:

Waddle property. Approve proposed mediated settlement relating to Parcel Number 111 on the County Road 15 road improvement project in the amount of \$70,000.00 inclusive of all compensation to the owners, attorney fees, statutory interest and all costs except for the appraiser's fee. Judge Dickey.

District 5 Brenda Carey

Robert A. McMillan

BACKGROUND:

see attached

STAFF RECOMMENDATION:

Staff recommends that the Board approve the proposed mediated settlement relating to Parcel Number 111 on the County Road 15 road improvement project in the amount of \$70,000.00 inclusive of all compensation to the owners, attorney fees, statutory interest and all costs except for the appraiser's fee.

ATTACHMENTS:

1. Waddle property

Additionally Reviewed By: No additional reviews



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Matthew G. Minter, Deputy County Attorney *Matthew G. Minter*

FROM: David G. Shields, Assistant County Attorney
Ext. 5736 *David G. Shields*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
Antoine Khoury, P.E./Assistant County Engineer/Engineering Division *AKR 9-29-08*

DATE: September 29, 2008

RE: Settlement Authorization
County Road 15 (CR 15)
Parcel No. 111; Timothy and Rhonda Waddle
Seminole County v. Timothy A. Waddle, et al.
Case No. 2007-CA-1604-0111-13-W

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel No. 111 at \$70,000.00, inclusive of all compensation to the owners, attorney fees, statutory interest and all costs **except for the appraiser's fee.**

I. THE PROPERTY:

A. Location Data

The subject property is located at the northwest corner of C15 and unpaved Narcissus Avenue in a portion of unincorporated Seminole County. A location map is attached as Exhibit A.

B. Property Address

The street address is 340 Monroe Road, Sanford, Florida 32771. A parcel sketch is attached as Composite Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2007-R-71 on April 10, 2007 authorizing the acquisition of Parcel No. 111. The C15 road improvement project was found to be necessary and serves a public purpose and in the best interests of the citizens of Seminole County. The Order of Take occurred on August 27, 2007, with title vesting in

Seminole County on September 4, 2007, the date of the good faith deposit in the amount of \$40,500.00 for this parcel as agreed by the parties.

III ACQUISITIONS AND REMAINDER

The acquisition of Parcel No. 111 is 3,670 square feet in fee simple from a parent tract of approximately 40,614 square feet with a remainder of approximately 36,952 square feet.

IV APPRAISED VALUES

The County's original report dated August 4, 2006, was prepared by Florida Realty Analysts, Inc. The appraisal report opined full compensation to be \$30,200.00. The updated report for the order of take hearing dated July 25, 2007, reported the same value for the parcel. By agreement of the parties, \$40,500.00 was deposited as the "good faith estimate of value" based on the County's first written offer.

The property owners' appraisal report prepared by Ward Valuation Services, LLC reported full compensation at \$88,200.00 as of September 4, 2007.

V BINDING OFFER/NEGOTIATION

The County's initial written offer was \$40,500.00. The BCC approved an Offer of Judgment which was served to the property owners on July 25, 2008 in the amount of \$45,000.00.

VI ATTORNEY'S FEES AND COSTS

Attorney's fees and costs, except for the appraiser's fee, are included in this settlement. As such, the attorney fees are not based on a statutory computation and the attorney fees and costs are not specifically allocated. A comprehensive settlement was attempted, but the \$40,000.00 fee claimed by the property owners' appraiser is unreasonable and the appraiser would not lower his fee to a reasonable amount. It appears that a cost hearing will be necessary to determine the appraiser's fee.

VII COST AVOIDANCE

The difference between the County's \$30,200.00 appraisal value and the owners' \$88,200.00 appraisal value is \$58,000.00. Both appraisals appear to represent good faith efforts to arrive at a fair valuation. The \$70,000.00 settlement is \$10,800.00 above the midpoint (\$59,200.00) between the parties' respective appraisals, but the attorney and two experts, an engineer and a contractor, are to be paid out of the \$10,800.00 amount which is reasonable. The settlement of the owners' compensation, attorney fees and two of the three experts is therefore reasonable.

Only the appraiser's unreasonable claimed fee prevented a global settlement of this parcel. Settling the other claims related to this parcel is especially appropriate, however, because continued litigation of all claims with the owners would likely lead to a higher and even more unreasonable claim from the appraiser, in addition to higher costs from the other experts. By approving this settlement, the County limits its remaining exposure for this parcel to the appraiser fee only.

It should also be pointed out that the Florida Rules of Civil Procedure do not permit a hearing on the appraiser's fee until after entry of the final judgment for the owners' direct compensation, whether the judgment is agreed to or the result of a trial.

VIII RECOMMENDATION

County staff recommends that the BCC approves this mediated settlement at \$70,000.00 inclusive of all compensation to the owners, attorney fees, and statutory interest and all costs **except for the appraiser's fee.**

DGS/dre

Attachments

Exhibit A – Location Map

Exhibit B – Sketch

P:\Users\Dedge\My Documents\Mem\Agenda Item Waddle 111 Settlement.Doc

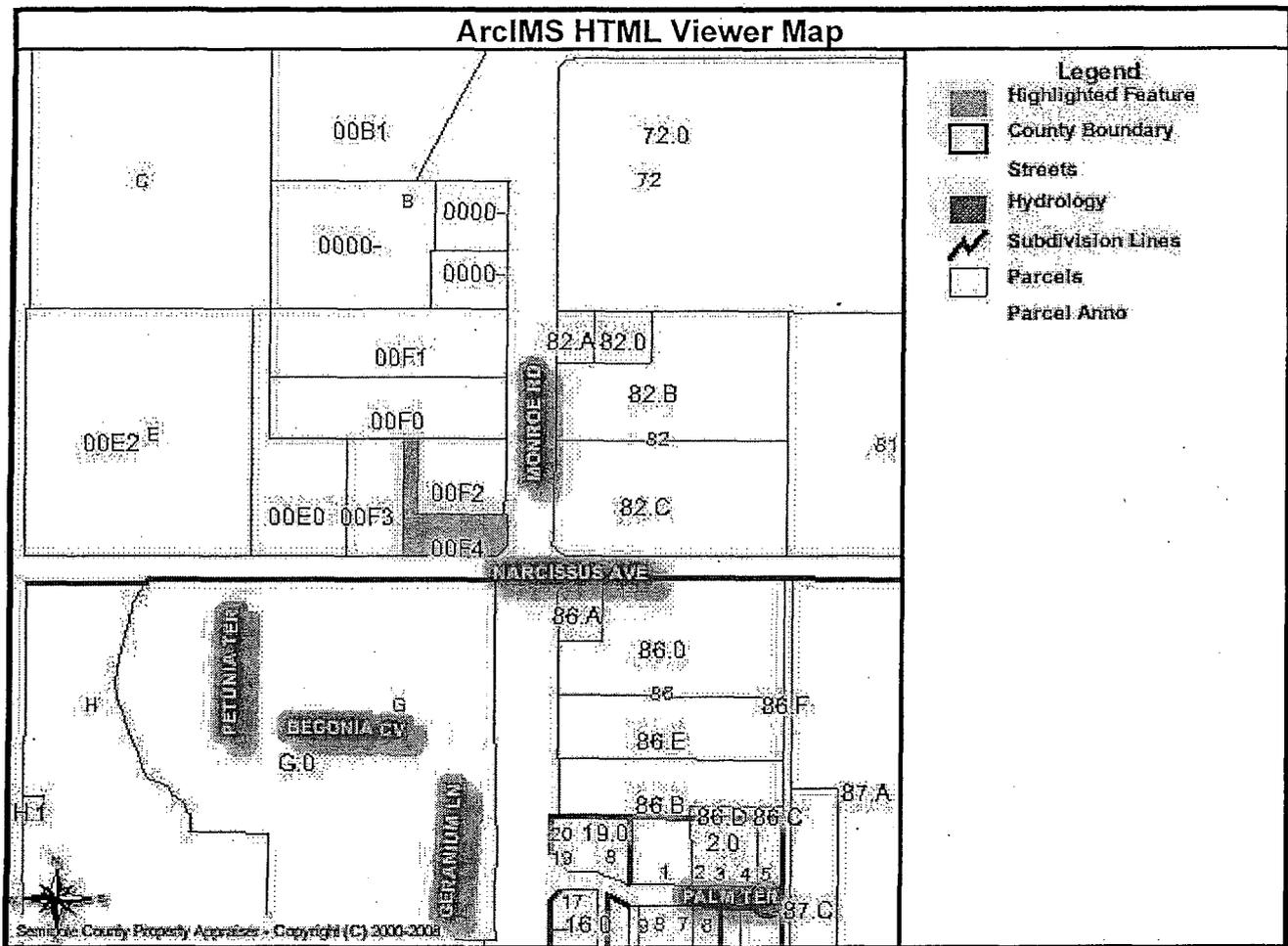


EXHIBIT A

