

MANATEE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT	Proposed improvements to 63rd Avenue East; proposed Resolution R-01-10, authorizing delegation of authority to make binding settlement offers based on the values set forth in the approved appraisal reports for all parcels in the 63rd Avenue project to the County Administrator or his designee or the County's consultant Wade Trim, Inc., through its subconsultant American Acquisition Group, with the concurrence of the County Attorney or his designee.	TYPE AGENDA ITEM	Departmental Report
DATE REQUESTED	January 9, 2001	DATE SUBMITTED/REVISED	January 2, 2001
BRIEFINGS/WHO	None	CONSEQUENCES IF DEFERRED	Potential loss of grant from FDOT in the amount of \$1.3 million
DEPARTMENT/DIVISION	County Attorney's Office	AUTHORIZED BY TITLE	Teddy N. Williams, Jr. County Attorney
CONTACT PERSON TELEPHONE/EXTENSION	Michael H. Rosen, Assistant County Attorney Ext. 3750	PRESENTER/TITLE TELEPHONE/EXTENSION	Michael H. Rosen, Asst. County Attorney and Janet McAfee, Director Project Management Ext. 3750, Ext. 5047
ADMINISTRATIVE APPROVAL		<i>JWR 1/2/01</i>	

ACTION DESIRED

INDICATE WHETHER "REPORT or "DISCUSSION, "FORM OF MOTION, or "OTHER ACTION REQUIRED"

Form of motion--

Adoption of Resolution R-01-10, delegating the authority to the County Administrator or his designee, or the County's consultant Wade Trim, Inc., through its subconsultant American Acquisition Group, with the concurrence of the County Attorney or his designee, to make binding settlement offers based on the amounts set forth in the approved appraisal reports for all parcels identified in th 63rd Avenue East road project.

ENABLING/REGULATING AUTHORITY

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Chapters 73, 74 and 127, Florida Statutes

APPROVED IN OPEN SESSION

JAN 09 2001

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

444

BACKGROUND/DISCUSSION

The 63rd Avenue East project from U. S. 41 to 15th Street East, is an approved CIP project. The project was originally scheduled for 2002, but was moved up in order to obtain a grant for reimbursement of construction costs from the Florida Department of Transportation. Manatee County was successful in obtaining the grant of \$1.3 million from the Florida Department of Transportation. The grant is contingent upon obtaining ownership for all of the parcels, and letting the project by June 30, 2001. In order to meet the letting requirement, obtaining title to all parcels either through settlement or court action is required. Based on the scheduled for obtaining title, time is of the essence.

In order for Manatee County to condemn property it must comply with the requirements of Florida law. Florida law requires that all condemning authorities attempt to negotiate in good faith with the landowners prior to filing suit. Further, the County is required to notify every property owner in writing of the County's offer to purchase the property, and advise them of certain rights under the law. The County must wait a minimum of thirty (30) days after the property owner receives the County's good faith offer before filing suit. The purpose of this statute is to allow the parties to resolve the issue of full compensation prior to filing suit. The County's consultant Wade Trim, Inc., through its subconsultant American Acquisition Group, will be responsible for making the first written offer based on the amount set forth in the approved appraisal reports. Any settlements above the approved appraised value will require Board approval. Below is a list of the property owners and corresponding parcels.

<u>Parcel No.</u>	<u>Landowner</u>
101	Halstead
102, 700	Berg/Spen
103, 701	Ruiz
104, 702	Rahill
106, 801	Perreault
107	Lamb
109	Moore
110	Persalls
111, 705	Meiers
112, 708, 813	Sutton
113, 802	DAV
114	Sutton
115, 805, 807	School Board
118	Taylor
127	Kuntz
132	Powell
135	Meade
137	RAK
139	Miller
141	VOA
142	Avise
143	Gould
144	Willis/Wis
145, 703	Grossman
146, 704	Beidler
147	English
148	Diaz/Troy
149, 800	Handshoe
156	Yousse
157A	Wingray
157B	Wingray
157C	Wingray
159	Judge
803	Judge
804	Judge
161	Cosme
162	Johnson
163, 806	Thomason
164	Jones

BACKGROUND/DISCUSSION CONTINUED

<u>Parcel No.</u>	<u>Landowner</u>
165	Chamness
166	Jackson
167	Urban
168	Brust
169	Scavella
170	Giret
172	Cantu
173	Santiago
174	Kornfeld
175, 808	Hawk
176	Church
177	Church
178, 810	Huston
179	Ellis
180	Isham
181	Moninger & Hurley
182	Moninger & Hurley
183	Sadley
184	Bright
185A	Boschert
185B	Boschert
193	Pompey
195A	Church
195B	Church
196	Perat
197	Brunk
706	Saint George
809	Church of God
811	Shafer & H

HAS COUNTY ATTORNEY REVIEW BEEN REQUESTED? Indicate "NO" or "YES" @ right. (If "NO," proceed to 1) and if "YES," proceed to 2) below)

N/A

"NO" TO ABOVE

A) PLEASE EXPLAIN BELOW. (see also following section 1B) re: contract, agreement, lease, etc.

This is a County Attorney item.

B) IF A CONTRACT, AGREEMENT, LEASE OR OTHER DOCUMENT WAS PREVIOUSLY APPROVED, STATE YEAR OF LAST USE @ RIGHT

IF "YES" TO FIRST QUESTION IN THIS SECTION,

A) HAS ENTIRE MATTER, OR ONLY A PORTION, BEEN REVIEWED? IF ONLY A PORTION, WHICH PORTION?

B) HAVE ALL COMMENTS/SUGGESTIONS RAISED BY COUNTY ATTORNEY BEEN ADDRESSED/INCORPORATED. IF NOT PLEASE EXPLAIN. A COPY OF FINAL COUNTY ATTORNEY MEMO RE THIS MATTER MUST BE ATTACHED (if comments were verbal, so indicate.)

ATTACHMENTS (List in order as attached)	INSTRUCTIONS TO BOARD RECORDS:	
Resolution R-01-10	Return two (2) certified copies of the Resolution to Assistant County Attorney Michael H. Rosen. <i>Copy Included</i>	
COST	The ultimate total cost to the County to condemn these properties is presently unknown.	SOURCE (ACCT# & NAME) 309-6001860-561000-6001860
COMMENTS	AMT./REQ. OF RECURRING COSTS (ATTACH FISCAL IMPACT STATEMENT)	

cc: Larry Mau, P.E., Director, Transportation Department
 Janet E. McAfee, Director, Project Management Department
 Jim Staples, Manager, Land Acquisition, Transportation Department



Office of
**MANATEE COUNTY
ATTORNEY**

Tedd N. Williams, Jr., County Attorney

January 11, 2001

William C. Henry, Chief Assistant County Attorney
Jeffrey N. Steinsnyder, Deputy Chief Assistant County
Attorney for Land Use and Environmental Law*
Patricia McVoy, Senior Assistant County Attorney*
James A. Minix, Senior Assistant County Attorney†
Maureen S. Sikora, Senior Assistant County Attorney*
Michael H. Rosen, Assistant County Attorney
Robert M. Eschenfelder, Assistant County Attorney
Stephanie A. Crossman, Associate County Attorney

MEMORANDUM

TO: Board of County Commissioners

THRU: Tedd N. Williams, Jr., County Attorney *by Tedd N. Williams Jr. 1/11/01*

FROM: Michael H. Rosen, Assistant County Attorney *MHR 1/11/01*

RE: 63rd Avenue Road Project; CAO File No. 1148-090

Pursuant to your request at Tuesday's (January 9, 2001) Board meeting, attached please find copies of the offer letters that are being mailed to the property owners in the 63rd Avenue road project.

If you have any questions, or need anything further, please do not hesitate to contact me.

MHR/kc

cc: Janet E. McAfee, Director, Project Management Department
Board Records, Clerk of the Circuit Court



MANATEE COUNTY GOVERNMENT

Project Management Department

January 9, 2001

Re: 63rd Avenue Road Improvement Project

Dear Property Owner:

The Manatee County Board of County Commissioners has authorized the acquisition of the necessary land for this much needed transportation improvement project. To properly assist you during this phase of the project, Manatee County has contracted with the firm American Acquisition Group, Inc. to handle all property acquisitions and represent the County in negotiations with the property owners.

After you receive the enclosed notification and offer package, assigned staff from American Acquisition Group, Inc. will be contacting you to begin negotiations for the property needed, to offer assistance, and to answer any questions you might have. If for some unforeseen reason they are unable to contact you and you do not hear from them in the near future, I would encourage you to contact them after receiving this package so communications can begin. The attached notification and offer letter will indicate the name of the appropriate contact person with American Acquisition Group, Inc., along with their toll-free telephone number and address.

It is Manatee County's sincere desire to work with you in reaching a mutually satisfactory agreement for the purchase of your property. I encourage you to work with American Acquisition Group to share any information which would have a bearing on the value of your property and to ask any questions concerning our acquisition activities. Sufficient time is available for you to secure answers, to consider and understand your options, and to make all necessary arrangements. We will negotiate in good faith to purchase your property at a fair and reasonable value, and we will always do our best to be responsive and sensitive to your needs and situations.

This project is a priority for Manatee County, and we are excited to commence construction of this project in the very near future. We have received grant funding from the State of Florida for the project, and timely completion of the land acquisition and construction are very important. Please communicate with American Acquisition Group, Inc. at the earliest opportunity so this property purchase can be resolved.

I thank you for your continued support and cooperation with Manatee County as we move to move toward construction.

Sincerely,

Janet E. McAfee
Janet E. McAfee
Director of Project Management

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January 10, 2001

Certified Mail. Return Receipt Requested

Church of the Good Shepard, Church of the Brethren, Inc.
Attn: Ruth Lake, President
6323 13th Street Court East
Bradenton, Florida 34203

Re: Pre-Acquisition Property Owner Notice Letter
Project: 63rd Avenue Road Improvement Project
Limits: From east of U.S. 41 to 15th Street east
Parcel(s): 195A & B - Fee Simple
Tax I.D.# 65646.1000/1
6323 13th Street, Bradenton, Florida 34203

Dear Ms. Lake:

The Manatee County Board of County Commissioners has authorized the acquisition of the necessary land and improvements for the above project. A portion of your property is needed for this project. An appraisal of the needed property has been completed by an independent real estate appraiser. The project will require a total of 8,986 square feet of your property. The appraised value and our offer to you as the fee owner for the property sought to be acquired, and damages, if any, to the remainder property is \$16,500.00.

Our research shows that you own the property needed for this project. However, if you no longer own the property, please complete the enclosed questionnaire and return it to me in the pre-addressed stamped envelope. We recognize that a proposed transportation project, particularly one which requires the acquisition of private property, will usually result in many questions and concerns. Please be assured that you will have sufficient time to have your questions answered, to consider and understand your rights, options and responsibilities, and make the necessary arrangements. Throughout this process we will do our best to ensure that your questions are answered, that you are treated fairly according to all of the rights you are guaranteed by law, and that you receive a fair price for your property.

If you do not wish to sell the land to the County or contribute the land as a tax-deductible donation, you have the option of contesting the appraised value. Florida law requires that Manatee County pay your reasonable attorney's fees as provided in Section 73.092, Florida Statutes (2000), and all reasonable costs in the defense of condemnation proceedings, as provided in Section 73.091, Florida Statutes (2000), including, but not limited to, reasonable appraisal fees. A copy of both of these statutes has been provided for your review.

Church of the Good Shepard, Church of the Brethren, Inc.

January 10, 2001

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Pursuant to Section 73.015, Florida Statutes (2000), within fifteen (15) business days after receipt of a request by the fee owner, Manatee County, through its agent American Acquisition Group, Inc., will provide a copy of the appraisal report upon which the offer is based; copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed area needed for the improvements; and copies to the extent prepared, of the construction plans that depict the project improvements to be constructed on the property needed, including, but not limited to, plan, profile, cross section, drainage, pavement marking sheets and driveway connection detail. Manatee County as the condemning authority shall provide any additional plan sheets within fifteen (15) days of a request. A copy of this statute has been provided for your review.

In the event that our negotiations are unsuccessful and an acceptable agreement is not reached, it will be necessary for Manatee County to file eminent domain proceedings to ensure that construction deadlines are met. However, we will not file suit until at least thirty (30) days after you receive this letter.

I would like to discuss this matter with you and the prospect of the County acquiring the property without a court proceeding. Please contact the assigned right of way agent from our staff, **Christopher S. Scodius** (or, if you are represented by counsel, please ask your attorney to contact him) at (800) 954-0369 or (813) 287-8191. If Mr. Scodius is not in the office when you call, please leave your name and telephone number, and he or a member of my staff will contact you as soon as possible. Regardless of whether we are able to reach an agreement regarding the purchase price of the property, we will try our best to be sensitive and responsive to your needs.

Sincerely,

D. Wade Brown, SR/WA
Consultant Project Manager
American Acquisition Group, Inc.

DWB/
Enclosures

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REAL ESTATE QUESTIONNAIRE

I (WE) NO LONGER OWN THE PROPERTY IN QUESTION. THE PROPERTY IS NOW OWNED BY

Name(s)

Address

City

State

Zip Code

Phone

(ALL) _____ OR _____ (A PORTION) OF THE PROPERTY IN

QUESTION WAS SOLD ON _____ (Insert date of conveyance) AND IS

RECORDED IN OFFICIAL RECORD BOOK _____ PAGE _____.

January 10, 2001

Certified Mail, Return Receipt Requested

Church of the Good Shepard, Church of the Brethren, Inc.
c/o Don E. White, Registered Agent
912 62 Street Court West
Bradenton, Florida 34209

Re: **Pre-Acquisition Business Owner Notice Letter**
Project: 63rd Avenue Road Improvement Project
Limits: From east of U.S. 41 to 15th Street east
Parcel(s): 195A & B - Fee Simple

Dear Don E. White:

Manatee County is seeking to acquire the necessary right-of-way for the above project. Our records indicate that you are the registered agent for a business located on property needed for this project. Pursuant to Section 73.015, Florida Statutes (2000), a copy of which is enclosed, Manatee County is required to notify you of the following:

1. It is necessary for this project that Manatee County acquire fee simple interest for a portion of the property on which your business is located.
2. The purpose of this project is to improve 63rd Avenue. Your business appears to be located on property which is needed for this project and is designated as Parcel Number(s) 195A and 195B. However, if you no longer own the property, please complete the enclosed questionnaire and return to me in the pre-addressed stamped envelope.
3. Within fifteen (15) business days after receipt of a request from you, Manatee County through its agent American Acquisition Group, Inc., will provide you with a copy of its appraisal report; copies, to the extent prepared, of right-of-way maps or other documents depicting Parcel Number(s) 195A and 195B; and to the extent prepared, copies of the construction plans depicting the project improvements to be constructed on Parcel Number(s) 195A and 195B and adjacent to the remaining property. Such construction plans may include plan, profile, cross-sections, drainage, and pavement marking sheets, and driveway connection detail. You will also be provided with any additional plan sheets within fifteen (15) days of your request.
4. If Manatee County files an eminent domain lawsuit to acquire Parcel(s) 195A and 195B,

you may be entitled to compensation for business damages if your business

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qualifies for such damages pursuant to Section 73.071(3)(b), Florida Statutes. A copy of Section 73.071 is enclosed. You also have certain rights under Sections 73.091 and 73.092, Florida Statutes, for the recovery of your costs and attorney's fees in the event an eminent domain lawsuit is filed. Copies of these sections are enclosed.

5. Your receipt of this notice does not entitle you to business damages. By law, in order to qualify for business damages, your business must meet the following conditions:
 - You must hold a real property interest, in the form of a lease, deed, etc. in the portion of the property being acquired by Manatee County.
 - The acquisition must be a partial acquisition of the property on which your business is located. If Manatee County acquires all of the real estate on which your business is located, your business will not qualify for payment of damages.
 - Your business must have been in operation on the site for at least four years immediately prior to Manatee County's acquisition.
 - You must be able to show that any damages you are claiming result directly from the loss of property. The effects of construction activities or other effects incidental to construction are not compensable.

As the owner of a business located on the property, you have certain rights and responsibilities under Section 73.015(2)(b) and (c), and Section 73.015(4), Florida Statutes. The following is intended only as a summary of these portions of the statute: If your business qualifies and you intend to claim business damages pursuant to Section 73.071(3)(b), Florida Statutes, you must submit to Manatee County, through American Acquisition Group, Inc., a good faith written offer to settle your business damage claim. You must send your written offer by certified mail, return receipt requested, within 180 days of your receipt of this notice letter, or by a later date that is agreed to by you and by Manatee County. If you fail to submit a written offer to Manatee County within this time, your claim for business damages may be stricken by the court in the eminent domain proceeding filed by Manatee County. However, the court also may extend the time for you to send your written offer to Manatee County.

Your written offer must be prepared by the business owner, a certified public accountant, or a business damage expert familiar with the nature of the operation of your business, and it must include an explanation of the nature, extent, and monetary amount of your business damage claim. Additionally, you must provide Manatee County with copies of your business records that substantiate your good faith offer to settle. Such business records include federal income tax returns, federal income tax withholding statements, federal miscellaneous income tax statements, state sales tax returns, balance sheets, profit and loss statements, and

state corporate income tax returns for the five (5) years preceding this notice letter, and any other records that you rely on to substantiate your business damage claim.

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Within 120 days after its receipt of your good faith business damage offer and accompanying business records, Manatee County must, by certified mail, either accept or reject your offer or make a counteroffer.

However, if we reach a negotiated settlement of your claim for business damages prior to Manatee County's filing an eminent domain lawsuit to acquire Parcel(s) 195A and 195B, you are still entitled to recover your reasonable costs and attorney's fees in accordance with Section 73.015(4), Florida Statutes.

I urge you to carefully review all of the enclosed copies of the referenced Florida Statutes. If you have any questions or need additional information, please call the assigned right of way agent, **Christopher S. Scodius** (or if you are represented by counsel please ask your attorney to contact me at **(800)-954-0369** or **(813) 287-8191**. If Mr. Scodius is not in the office when you call, please leave your name and number and he or a member of my staff will contact you as soon as possible. Regardless of whether we are able to resolve your business damage claim, we will try to be sensitive and responsive to your needs.

Sincerely,

D. Wade Brown, SR/WA
Consultant Project Manager
American Acquisition Group, Inc.

DWB/
Encls. as noted

BUSINESS QUESTIONNAIRE

I (WE) NO LONGER OWN THE BUSINESS IN QUESTION. THE BUSINESS IS NOW OWNED BY

(Name(s))

(Address)

(City) (State) (Zip Code)

(Phone)