

**Nassau County Board of County Commissioners
Special Session, December 4, 2019, 4:00 P.M.
Commission Chambers, 96135 Nassau Place, Yulee, Florida**

Call to Order, Invocation and Pledge of Allegiance to the American Flag

Commissioners:

Present: Chairman Justin Taylor, Commissioners Daniel B. Leeper, Aaron C. Bell, Pat Edwards, and Thomas R. Ford.

Other Officials Present: Michael S. Mullin, County Attorney/County Manager, and Taco Pope, Assistant County Manager.

Staff Present: Megan Diehl, Office of Management and Budget Director; and representing the Clerk's office Brenda Linville and Peggy Snyder, Deputy Clerks.

Official Agenda Summary:

Audience Input:

SS191204 - 4:01:21

None.

NEW BUSINESS:

SS191204 - 4:02:13 (Tab A) Discussion of acquisition of property for the William Burgess Extension Project.

Discussion: Mr. Mullin explained that the County has been in discussions and negotiations with John "Sandy" Semanik, SEDA Construction Company, for acquisition of approximately 9.62 acres located in the Hideaway Subdivision off US 17 in Yulee necessary for the proposed William Burgess Extension. He provided an overview of the Board's Resolution to utilize their condemnation authority for this property if it is necessary to accomplish the extension. The County consulted with the Florida Department of Transportation (FDOT) who advised they would oversee the process as it was their \$2 million in funding to acquire the property. This property has a development potential of 82 single-family

lots. The first appraisal came in at \$561,000.00; however, following a conversation with FDOT, a second appraisal came in at a market value of \$1,278,000.00. During a recent negotiation session with Mr. Semanik and his attorney, Mr. Humphrey, there was discussion of the possible use of impact fee vouchers or credits as part of the compensation; however, further research disclosed that using impact fee credits was not feasible due to the varying market. Mr. Semanik's proposal was to sell the property to the County at a cost of \$2.3 million plus \$460,000.00 in legal fees based upon SEDA's valuation.

Mr. Mullin advised that the County's revised counter offer submitted to Mr. Semanik was \$1.8 million cash with a check to Mr. Humphrey for attorney's fees in the amount of \$360,000.00 payable on or before December 31, 2019 subject to the Board's approval. By Florida Statute, Mr. Semanik's attorney is required to be paid a certain percentage of the amount over \$1 million which the County is obligated to pay. Mr. Mullin explained how the condemnation process works with an order of taking whereby a jury decides the value of the property as well as the costs associated with the eminent domain process which can be costly. Commissioner Leeper expressed his disappointment that the offer by Mr. Semanik greatly exceeded the appraisal value. Discussion followed. It was noted that there was no other options to extend William Burgess Boulevard except thru Mr. Semanik's property that would not affect multiple property owners. Commissioner Edwards felt that the Engineering Services Department should recognize what future connections would be along these major roads and set money aside to buy needed rights-of-way in order to avoid this situation in the future.

Discussion: Bruce Humphrey, attorney representing Mr. Semanik, came forward to explain the numerous infrastructure improvements already made to the Hideaway property making it ready for horizontal construction with fully developable lots worth \$70,000.00 each for a total of \$2.1 million; these are costs Mr. Semanik will not reap the benefit of. He mentioned the difference between his offer and the appraisal is "entrepreneurial profit". Discussion followed regarding costs associated with a trial for prejudgment interest.

Commission Edwards explained that he would be more comfortable with a motion to counter offer in order to keep

negotiations in this room instead of a courthouse. A lengthy discussion followed. In response to the timeframe in acceptance of an offer, Mr. Mullin suggested December 9, 2019 by 6:00 p.m.

Motion: Approve to submit an offer in a letter to Sandy Semanik in the amount of \$1.8 million for acquisition of the 9.694 acre parcel located in the Hideaway Phase 1C required for the William Burgess Extension and \$360,000 for attorney fees for Mr. Humphrey for a total of \$2.16 million. The deadline for acceptance of the offer is December 9, 2019 at 6:00 p.m.

Maker: Commissioner Leeper

Second: Commissioner Bell

Action: Aye: Commissioners Leeper, Bell, Edwards, Ford, and Taylor

Follow Up: County Attorney

SS191204 - 4:43:55 (Tab B) Discussion by Mr. Mullin regarding recent IRS Audit.

Discussion: Mr. Mullin explained the recent changes to the Internal Revenue Service's regulations which require Board of County Commissioners' appointed Board members to be considered W-2 employees for tax purposes.

Motion: Approve that any individuals appointed to a board created by the Board of County Commissioners will be considered W-2 employees for tax purposes.

Maker: Commissioner Ford

Second: Commissioner Edwards

Action: Aye: Commissioners Leeper, Bell, Edwards, Ford, and Taylor

Follow Up: Finance, County Manager, Planning Department

SS191204 - 4:59:20 (Tab C) Discussion by Mr. Mullin regarding Bar Report.

Discussion: Mr. Mullin provided a brief history and a chronology of a case involving a client he represented in 2006, Joseph Amellio, while in private practice. Mr. Amellio was trying to develop 120 lots along Davis Road, a dirt road in the west side of the County. Mr. Amellio hired Mr. Mullin to secure a dirt road pavement waiver which was

granted by the County Engineer, Douglas Seaman. The waiver was granted with the condition that there would be a maintenance agreement between the Board of County Commissioners and Mr. Amellio addressing how much money his development would contribute towards the maintenance of the dirt road; all contingent upon him getting his plat for Hawks Landing approved. Mr. Mullin's representation of Mr. Amellio terminated at that time. Gillette and Associates, Inc., Engineers, took over then to address the plat and engineering plans; however, Mr. Amellio did not move forward with his building plans stating funding issues.

In 2015, Mr. Mullin returned to the position of County Attorney. In 2016, Mr. Amellio called Mr. Mullin to say he was ready to construct Hawks Landing but he was having an issue with Engineering Services; they said that they could not find any record of the Hawks Landing plat approval. Mr. Mullin volunteered to look into this. Following numerous phone calls and emails among staff, Clerk's office, and former interim County Attorney, Mr. Mullin advised that following extensive research, the documents for Hawks Landing could not be found.

Following denials by the Planning and Zoning and Conditional Use and Variance Boards of the paving waiver in 2017, Mr. Amellio filed an appeal to the Board of County Commissioners who rejected the waiver as well since the rules for paving roads had changed. Mr. Mullin recused himself from the matter and the County hired outside counsel for representation. An outside engineering firm hired by the County to hear the request also opposed the waiver. There were concerns that Mr. Amellio never filed a plat and Gillette and Associates, Inc. advised that they were told that Mr. Amellio was not going through with the project. Mr. Amellio's complaint then moved forward to the Florida Supreme Court, Board of Governors, who found probable cause and the court recommended admonishment of Mr. Mullin, even though the respondent maintained his innocence. Mr. Mullin outlined the legal fees involved to go to trial and he agreed to the admonishment as his record is unblemished. He wanted to discuss this in a public forum for the sake of transparency and assured the Board that this would not happen again. He added that the prudent plan would have been to send Mr. Amellio's telephone call to someone in Engineering Services.

SS191204 - 4:45:25 (Tab D) Discussion of proposed rezoning of County-owned properties located within the City of Fernandina Beach.

Discussion: Adrienne Burke, Planning Director, came forward to review the request. She advised that there were four County-owned parcels in the Fernandina Beach area that the City of Fernandina Beach was considering to rezone. She provided an overview of the four parcels and discussion followed.

Request: Staff to contact City of Fernandina Beach staff to request that they bring the City Commission up to date on discussions between the City and County staff regarding the South Fletcher Avenue lot. If rezoned Recreation (REC), Kailey Porter, Senior Planner, and Doug Podiak, Facilities Maintenance Director, are directed to work with technical staff with the City of Fernandina Beach to come up with a feasible plan to provide beach parking and additional access to the beach at the South Fletcher Avenue lot.

Motion: Approve to rezone the County-owned property located on South Fletcher Avenue, Parcel No. 00-00-31-1520-0008-0030 from Low Density Residential (LDR) to Recreation (REC).

Maker: Commissioner Leeper

Second: Commissioner Bell

Action: Aye: Commissioners Leeper, Bell, Edwards, Ford, and Taylor

Follow Up: Planning Department, Property Appraiser, City of Fernandina Beach

Notice: Ms. Burke will be bringing the recommendations and policies drafted by the Essential Housing Advisory Committee (EHAC) to the Board regarding potential affordable housing uses for County-owned property.

Motion: Approve: (1) Keep the Dade Street County-owned Parcel No. 00-00-31-1800-0067-0050 as Medium Density Residential (MDR). (2) Rezone Dade Street (Parcel No. 00-00-31-0067-0040) and Calhoun Street (Parcel No. 00-00-31-2900-0034-0050) to Conservation (CON).

Maker: Commissioner Leeper

Second: Commissioner Edwards

Action: Aye: Commissioners Leeper, Bell, Edwards, Ford, and Taylor

Follow Up: Planning Department

EXPANSION ITEMS:

SS191204 - 4:01:36 Approve and authorize the Chairman to sign a budget amendment for \$2,000,000.00 in unanticipated Fiscal Year 2019/2020 funds from the Florida Department of Transportation [FDOT] for the William Burgess Extension Project.

Motion: Expand the meeting to consider one (1) item as stated above.

Maker: Commissioner Edwards

Second: Commissioner Ford

Action: Aye: Commissioners Leeper, Bell, Edwards, Ford, and Taylor

Follow Up: County Manager, County Attorney

SS191204 - 4:48:25 Approve and authorize the Chairman to sign a budget amendment for \$2,000,000.00 in unanticipated Fiscal Year 2019/2020 funds from the Florida Department of Transportation (FDOT) for the William Burgess Extension Project.

Discussion: Mr. Diehl reviewed the request.

Motion: Approve expansion item as stated above and authorize the Chairman to sign budget amendment, Resolution 2019-170, regarding same.

Maker: Commissioner Bell

Second: Commissioner Edwards

Action: Aye: Commissioners Leeper, Bell, Edwards, Ford, and Taylor

Follow Up: Finance, OMB, County Manager

DISCUSSION ITEMS:

SS191204 - 5:26:43 Commissioner Edwards' Business:
None.

SS191204 - 5:26:47 Commissioner Bell's Business:
None.

SS191204 - 5:26:51 Commissioner Ford's Business:
None.

SS191204 - 5:26:52 Commissioner Leeper's Business:
None.

SS191204 - 5:26:56 Commissioner Taylor's Business:
None.

COUNTY ATTORNEY BUSINESS:

SS191204 - 5:27:05 Mr. Mullin updated the Board regarding the Transition Plan and a discussion he had with the Chairman, Mr. Pope, and Ms. Diehl. He advised that the Transition Plan is for him to return to County Attorney and Mr. Pope to become County Manager in August of 2020. The intent is to bring this item back to the Board at the beginning of 2020 for the Board to confirm and make this change at that time. An Assistant County Manager and Assistant County Attorney will also need to be addressed.

There being no further business, the special session of the Nassau County Board of County Commissioners adjourned at 5:31 p.m.

Justin Taylor, Chairman

Attest:

John A. Crawford, Ex-Officio Clerk