

**ADDITIONAL MATERIAL  
10:00 A.M. REGULAR MEETING**

**JANUARY 23, 2018**

**SUBMITTED AT THE REQUEST OF  
OFFICE OF THE COUNTY ATTORNEY**

**MEMORANDUM**

**TO:** Board of County Commissioners

**FROM:** Michael J. Kerr, Deputy County Attorney 

**DATE:** January 22, 2018

**RE:** Substitute Motion for Agenda Item #10 on the January 23, 2018, Broward County Commission Meeting

Attached please find substitute motions for agenda item #10 on the January 23, 2018, Broward County Commission Meeting Agenda, based upon additional appraisal information received by our Office on Friday, January 19, 2018.

Motion A addresses the parcel known as the "DDK parcel," inclusive of more than 500 royal palm trees, which the state trial court found the County to have "taken" in its entirety. Motion A would authorize the County Attorney to make a written offer of up to \$5 million. Our Office is still awaiting certain valuation information including information from an arborist regarding the trees, which is why we seek authority for a maximum offer instead of authority based on a fixed value.

Motion B addresses the finding by the state trial court that the County took a "flowage easement" over the balance of the properties south of 10<sup>th</sup> Street (the "South Parcels"). Motion B authorizes the County Attorney to make three alternate offers relating to the South Parcels:

Alternative Offer 1 includes a cash offer of \$421,200 for a flowage easement, as well as a commitment by the County to provide a construction solution to redirect the flowage, if any, of water from the County's property to a drainage system that would empty into the Dania canal. The estimate to construct the drainage system is approximately \$600,000 to \$1 million. Thus, this alternative would result in the County acquiring only a narrow strip of land upon which it would construct a system to fully mitigate the "flowage."

Alternative Offers 2 and 3 are based on the fair market value of the South Parcels. Alternative Offer 2 is for the flowage easement across the entirety of the South Parcels; Alternative Offer 3 is to acquire fee ownership of all of the South Parcels. The valuation of the South Parcels became more complex late last week due to the discovery of two issues: (1) Florida Power & Light owns easements on some of the South Parcels (the

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easements were not identified during the due diligence review); and (2) there are building restrictions on other portions of the South Parcels. This new information was presented to the County on Friday, January 19, 2018, and information is still being obtained to determine the nature of the building restrictions. Both of these issues significantly affect the fair market value of the South Parcels. However, taking these restrictions into account, based upon the opinions provided by the County's retained experts, the Office believes that the proposed written offers reflect the fair market value of the South Parcels. While the third option (acquiring the property in fee instead of merely acquiring a flowage easement) would appear to be preferable, the second alternative is being offered to ensure compliance with the trial court finding of a taking of a flowage easement.

Should you want or need further information, please contact me at your convenience.

MJK/ml  
Attachment

c: Bertha Henry, County Administrator  
Bob Melton, County Auditor

Item #10 The Office of the County Attorney requests the following:

**REPLACEMENT MOTIONS:**

A. **MOTION TO AUTHORIZE** the Office of the County Attorney to submit a written offer to Plaintiffs in *Shaw Farms & Land Company of Florida, LLC and Dania Place, LLC v. Broward County, et al.*, 17<sup>th</sup> Judicial Circuit Court Case No. 15-011648 (09) ("Shaw Litigation"), for the DDK Parcel, which consists of approximately seven acres inclusive of the royal palm trees determined to have been taken, in an amount up to but not exceeding \$5,000,000, as determined by the County Administrator in conjunction with the Office of the County Attorney based upon current appraisal information and engineering and other considerations; and

B. **MOTION TO AUTHORIZE** the Office of the County Attorney to submit the following alternative written offers to Plaintiffs in the Shaw Litigation for the balance of the property at issue (the "South Parcels"), which consists of approximately 30 acres that are subject to the declared flowage easement and are on the south side of 10<sup>th</sup> Street and east of US 1:

1. The amount of \$421,200 for a 26,000 square foot flowage easement, together with a binding, written commitment from the County to promptly construct a drainage system of approximately 1300 linear feet in length by 20 feet in width from 10<sup>th</sup> Street to the Dania canal;
2. The amount of \$10,500,000, which represents 90% of the fair market value of the fee simple value of the South Parcels, conditioned upon a covenant that runs with the land that no development is permitted to take place on the South Parcels due to the County's right to use the entire site for drainage;  
or
3. The amount of \$11,666,667, which represents 100% of the fair market value of the South Parcels, in exchange for fee simple title to the South Parcels.