

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: January 24, 2012

☒ Consent

☐ Regular

☐ Workshop

☐ Public Hearing

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Acquisition Section

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: A Resolution to declare the acquisition of property designated as Parcel 113 as right-of-way necessary for the construction of Lyons Road, from north of Atlantic Avenue to south of Boynton Beach Boulevard.

SUMMARY: The adoption of this Resolution will initiate eminent domain proceedings against one parcel having an appraised value of \$182,000.

District 5 (PM)

Background and Justification: The property owner of Parcel 113 has not accepted the offer to purchase made by Palm Beach County (County). It is therefore necessary to file eminent domain proceedings to acquire the parcel. The acquisition of the parcel is required for right-of-way that is necessary for the construction of Lyons Road from north of Atlantic Avenue to south of Boynton Beach Boulevard, which was approved as a Five-Year Road Program line item. The acquisition of this parcel is for a public purpose and necessity, which is deemed to be in the best interest of the County.

Attachments:

1. Location Map
2. Resolution with Exhibit "A" and Exhibit "B"

Recommended by:

NR
Ornela G Fernandez 12/07/11
Division Director Date

Approved by:

Sy J. Webb 1/3/12
County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2012 | 2013 | 2014 | 2015 | 2016 |
|--|-------------------------|-------------------|-------------------|-------------------|-------------------|
| Capital Expenditures | <u>\$182,000</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |
| Operating Costs | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |
| External Revenues | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |
| Program Income (County) | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |
| In-Kind Match (County) | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |
| NET FISCAL IMPACT | <u>\$182,000</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |
| # ADDITIONAL FTE POSITIONS (Cumulative) | | | | | |

| | | | |
|--|------------|----------|-----------|
| Is Item Included in Current Budget? | Yes | X | No |
|--|------------|----------|-----------|

Budget Acct No.: Fund 3505 Dept. 361 Unit 1153 Object 6120

Recommended Sources of Funds/Summary of Fiscal Impact:

Road Impact Fee Zone 5
Lyons Rd/W Atlantic to S of Boynton Beach Blvd.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

OFMB

SW 1/4/12
1/4/12
cc =
2/1/12

B. Approved as to Form

Dr. J. Jacobson 115/12
Contract Dev. and Control

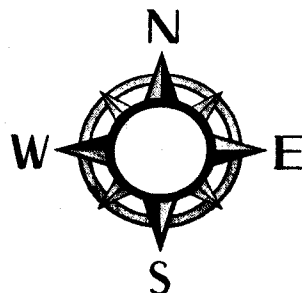
B. Approved as to Form and Legal Sufficiency:

Philip M. Garano
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.



RESOLUTION NO. R-2012-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, DECLARING THE ACQUISITION OF A PARCEL OF LAND DESIGNATED AS PARCEL 113, RIGHT-OF-WAY, NECESSARY FOR THE CONSTRUCTION OF LYONS ROAD FROM NORTH OF ATLANTIC AVENUE TO SOUTH OF BOYNTON BEACH BOULEVARD PROJECT TO BE FOR A PUBLIC USE AND PURPOSE, AUTHORIZING THE EMPLOYMENT OF APPRAISERS AND OTHER EXPERTS AND THE FILING OF EMINENT DOMAIN PROCEEDINGS.

WHEREAS, the County Engineer has recommended the acquisition of this parcel to the Board of County Commissioners of Palm Beach County, necessary for the construction of Lyons Road from north of Atlantic Avenue to south of Boynton Beach Boulevard project in Palm Beach County, Florida; and,

WHEREAS, the funds are available for the acquisition of the Parcel designated as Parcel 113 as right-of-way; and,

WHEREAS, the property owner has not accepted the offer to purchase made by Palm Beach County; and,

WHEREAS, the Board of County Commissioners of Palm Beach County is exercising its authority of Eminent Domain pursuant to Florida Statutes 73, 74, 127 and 337.27, as amended; and,

WHEREAS, this Board has considered the required factors pursuant to Florida law including Safety, Costs, Alternate Routes or Methodologies, Long Range Plans and the Environment, as applicable to this parcel, more fully described in Exhibit "B"; and,

WHEREAS, after considering the factors as set forth above, this Board has determined that the acquisition of the real property identified as Parcel 113, a right-of-way acquisition, which is more fully described in Exhibit "A", is necessary for the following public use and purpose, to wit: the construction of Lyons Road from north of Atlantic Avenue to south of Boynton Beach Boulevard and as such, the acquisition of said property is for a public use and purpose deemed to be in the best interest of Palm Beach County; and,

WHEREAS, the construction limits shall not extend beyond the limits as outlined in Exhibit "A"; and,

WHEREAS, the property as described in Exhibit "A" to be acquired through Eminent Domain as authorized by this resolution is not being acquired for the purpose of abating or eliminating public nuisances, slum or blighted conditions, and is subject to any applicable conveyance restrictions pursuant to Florida law, to the extent they may apply; and,

WHEREAS, in order to accomplish the acquisition of Parcel 113, the County Engineer and the County Attorney are authorized to take legal action, including the filing of Eminent Domain Proceedings, and to employ real estate appraisers and other experts deemed necessary to accomplish this purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:

- a. This Board adopts and ratifies those matters set forth in the foregoing recitals.
- b. The County Engineer and County Attorney are authorized and directed to proceed to take all necessary steps, including the hiring of accountants, appraisers, or other experts and witnesses, for Palm Beach County to acquire in its own name by donation, purchase or Eminent Domain Proceedings, the real property described in Exhibit "A", and prepare all papers, pleadings and other instruments required for that purpose, and to see that all Eminent Domain Proceedings are prosecuted to judgment.
- c. The County Engineer and County Attorney are hereby further authorized and directed to take such further actions as are reasonably required to fully accomplish the purposes herein above directed, including the making of minor changes in the description of any real property described in Exhibit "A" that may be necessary to fully accomplish those purposes.

BE IT FURTHER RESOLVED that the property described in Exhibit "A" is to be used for the following public use and purpose; right-of-way necessary for the construction of Lyons Road from north of Atlantic Avenue to south of Boynton Beach Boulevard.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

| | |
|---|-------|
| Commissioner Shelley Vana, Chair | _____ |
| Commissioner Steven L. Abrams, Vice Chair | _____ |
| Commissioner Karen T. Marcus | _____ |
| Commissioner Paulette Burdick | _____ |
| Commissioner Burt Aaronson | _____ |
| Commissioner Jess R. Santamaria | _____ |
| Commissioner Priscilla A. Taylor | _____ |

The Chair thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2012.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY,
FLORIDA, BY ITS BOARD OF
COUNTY COMMISSIONERS

Sharon R. Bock, Clerk & Comptroller

BY: _____
County Attorney

BY: _____
Deputy Clerk

EXHIBIT "A"

TRACT "E", DELRAY MARKETPLACE PRESERVE 1, PLAT BOOK 111, PAGES 98-99, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID PARCEL CONTAINS 124,523 SQUARE FEET OR 2.8587 ACRES MORE OR LESS.

BEING SUBJECT TO ANY/ALL EASEMENTS, RESERVATIONS, DEDICATIONS OR RESTRICTIONS.

NOTE: THE ENCUMBRANCES ASSOCIATED WITH TRACT "E" ARE AS FOLLOWS PER THE PARENT PLAT: "TRACT "E", AS SHOWN HEREON, IS HEREBY RESERVED FOR ASCOT AG LAND, LLC, THEIR SUCCESSORS, ASSIGNS AND LEASEHOLDERS, FOR FUTURE LYONS ROAD RIGHT OF WAY ACQUISITION PURPOSES BY PALM BEACH COUNTY AND IS THE PERPETUAL MAINTENANCE OBLIGATION OF SAID OWNER, THEIR SUCCESSORS, ASSIGNS AND LEASEHOLDERS, TRACT "E", AS SHOWN HEREON, IS SUBJECT TO THE RESTRICTIONS SET FORTH IN OFFICIAL RECORDS BOOK 21979, PAGE 1078 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, IN FAVOR OF LAKE WORTH DRAINAGE DISTRICT."

LEGEND

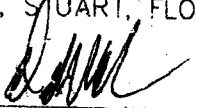
L.A.E. = LIMITED ACCESS EASEMENT
LWDD = LAKE WORTH
DRAINAGE DISTRICT
O.R.B. = OFFICIAL RECORDS BOOK
R/W = RIGHT OF WAY
STA = STATION
U.E. = UTILITY EASEMENT

BEARING BASE;

BEARINGS SHOWN HEREON ARE REFERENCED TO STATE PLANE COORDINATES, NORTH AMERICAN DATUM OF 1983/1990 ADJUSTED, FLORIDA EAST ZONE, REFERENCE A BEARING OF SOUTH 01°03'00" EAST ALONG THE EAST LIMITS OF THE PLAT OF DELRAY MARKETPLACE PRESERVE 1, PLAT BOOK 111, PAGES 98-99, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.


NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY THE SIGNING SURVEYOR.

THIS INSTRUMENT WAS PREPARED BY DAVID JOSEPH WICHSER, P.S.M., IN THE OFFICE OF BETSY LINDSAY INC., SURVEYING & MAPPING, 7997 S.W. JACK JAMES DRIVE, STUART, FLORIDA, 34997.


DAVID JOSEPH WICHSER, P.S.M.
FLORIDA CERTIFICATE NO. 5565

10/14/10
DATE

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

| | | | | | | | | | |
|------------------------|-----------------------|---|---------------------------|---|-----|----------|----|------|---|
| PROJECT NO. 2005503 | SHEET 1 OF 2 | PROJECT: PARCEL 113 LYONS ROAD ADDITIONAL ROAD RIGHT OF WAY | | SCALE NO. SCALE APPROVED D.J.W. DRAWN D.B. CHECKED D.J.W. DATE 10/04/10 FIELD BOOK NO. | NO. | REVISION | BY | DATE |  B BETSY LINDSAY, INC. SURVEYING AND MAPPING 7997 S.W. JACK JAMES DRIVE STUART, FLORIDA 34997 (772)286-5753 (772)286-5833 FAX LICENSED BUSINESS NO. 6852 |
| | | DESIGN FILE NAME Parcel 113 Lyons Rd. | DRAWING NO. Parcel 113 | | | | | | |

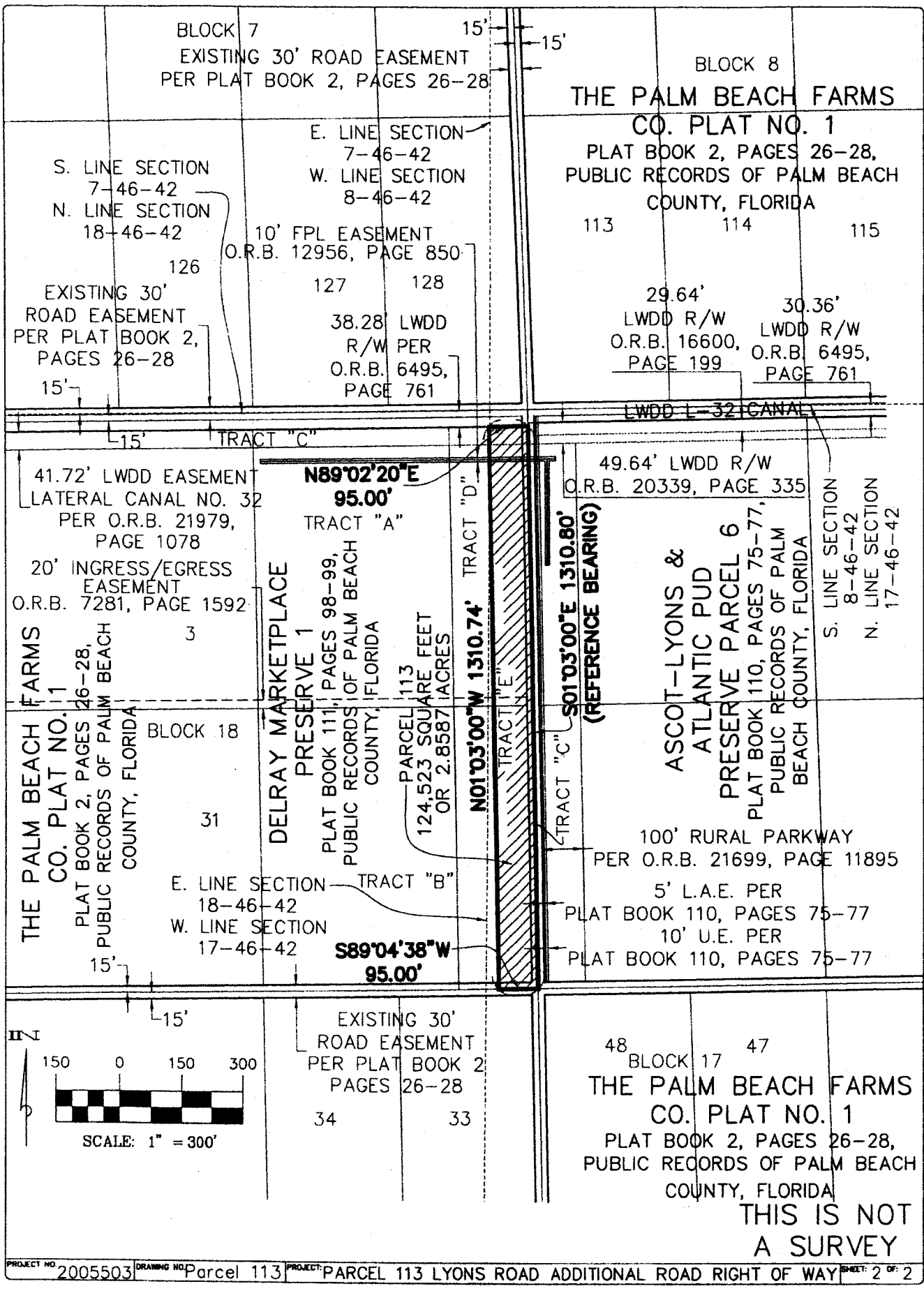


EXHIBIT "B"

LYONS ROAD FROM NORTH OF ATLANTIC AVENUE TO SOUTH OF BOYNTON BEACH BOULEVARD PALM BEACH COUNTY PROJECT #2005503

SAFETY

The design includes construction plans for a two-lane undivided rural arterial from north of Atlantic Avenue to south of Boynton Beach Boulevard. The purpose of the project is to construct one of the final missing links in the Lyons Road corridor thereby relieving congestion on nearby roadways and improving traffic flow within the area.

The design of this project has been done in accordance with the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and highways (The Florida Greenbook), as adopted and approved by the Florida Department of Transportation (FDOT).

COST

The cost of constructing Lyons Road from north of Atlantic Avenue to south of Boynton Beach Boulevard as a two-lane undivided rural arterial had been estimated prior to beginning design. The appropriate funding for design, easement and right-of-way acquisition, and construction was budgeted in the County's Five-Year Road Program. Throughout the roadway design process, reasonable efforts have been made to minimize the areas to be acquired through condemnation.

After considering Safety, Alternate Routes, and Methodologies, Planning, and Environmental factors, the cost of the acquisition of right-of-way parcels for this project fits into the planned funding for this project, and the acquisition of this parcel was necessary, in furtherance of this public project.

ALTERNATE ROUTES

Alternate routes were considered based on the Lyons Road Alignment Studies performed for the County as project numbers 2003603S and 2004610S. In both cases, the Central Alignment options were chosen as the preferred alignment. The Palm Beach County Comprehensive Plan (Thoroughfare Right-of-way Identification Map) has for many years, defined this route as necessary to meet traffic demands at full development of the County. Palm Beach County's Comprehensive Plan has been prepared to meet the requirements of Chapter 163, F.S. and Rule 9J-5, F.A.C., and to address the needs and interests of the County's residents and visitors.

LONG RANGE PLANNING

The development of this project is in conformance with the Palm Beach County Comprehensive Plan (Thoroughfare Right-of-Way Identification Map). The Palm Beach County Comprehensive Plan (Thoroughfare Right-of-Way Identification Map) identifies this section of Lyons Road as 110' right-of-way width. The 110' right-of-way width is designed to accommodate an ultimate six (6) lane divided roadway, which is required to meet traffic demands at full development of the County.

ENVIRONMENTAL IMPACTS

The alignment of the roadway is mainly within agricultural areas. This roadway project has been permitted through all appropriate environmental regulatory agencies.

Below is a more detailed outline of the reasons acquisition needed for the construction of Lyons Road.

FEE ACQUISITION OF ADDITIONAL RIGHT-OF-WAY

This parcel is required for the construction of the main roadway features, inclusive of pavement, embankment and drainage swales. There are minimal and sporadic existing rights-of-way along this corridor. While existing rights-of-way are being utilized whenever possible, acquisition of additional right-of-way is unavoidable.