

Lee County Board of County Commissioners

Agenda Item Summary

Blue Sheet No. 20021335

1. **REQUESTED MOTION:**

ACTION REQUESTED: Approve the Amended Resolution of Necessity for the acquisition and condemnation of Parcels 159 and 159 TCE, required for the Pondella Road Widening Project, No. 4656.

WHY ACTION IS NECESSARY: The Board must formally approve the Amended Resolution of Necessity prior to proceeding with condemnation of parcels necessary for the project.

WHAT ACTION ACCOMPLISHES: Allows the County to proceed with condemnation, if necessary, so parcels can be acquired for the Pondella Road Widening Project, No. 4656.

2. **DEPARTMENTAL CATEGORY:** 12
COMMISSION DISTRICT #: 4

A12A

3. **MEETING DATE:**
 12-03-2002

4. **AGENDA:**
 CONSENT
 ADMINISTRATIVE
 APPEALS
 PUBLIC
 WALK ON
 TIME REQUIRED:

5. **REQUIREMENT/PURPOSE:**
 (Specify)
 STATUTE 73, 74, 125, 127
 ORDINANCE
 ADMIN. CODE
 OTHER

6. **REQUESTOR OF INFORMATION**
 A. COMMISSIONER
 B. DEPARTMENT County Attorney
 C. DIVISION Litigation
 BY: John Renner, Assistant County Attorney

7. **BACKGROUND:** Pondella Road Widening, Project No. 4656, will improve Pondella Road from two lanes to five lanes, with sidewalks and utilities, from near McNeill Road to Del Pine Drive, in North Fort Myers.

Approval of the Amended Resolution of Necessity is required should condemnation proceedings be necessary for the acquisition of Parcels 159 and 159 TCE, required for the project. The original Resolution of Necessity is being amended to reduce the size of Parcel 159 and add a temporary construction easement to Parcel 159.

The Resolution of Necessity presented with Blue Sheet No. 20021199 is being amended to clarify language in the body of the resolution.

8. **MANAGEMENT RECOMMENDATIONS:**

9. **RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other Colants	E County Attorney	F Budget Services				G County Manager
			K. Forsyth		QA 11/19/02	OM 11/20/02	RISK 11/20/02	GC 11/20/02	DW 11-20-02

10. **COMMISSION ACTION:**
 APPROVED
 DENIED
 DEFERRED
 OTHER

RECEIVED BY
 COUNTY ADMIN. RY
 11/19/02
 COUNTY ADMIN. DS
 11/21/02

CO. ATTY.
 11/18/02
 3:00 PM
 CO. ATTY.
 FORWARDED TO:
 11-19-02

**AMENDED RESOLUTION OF NECESSITY
OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

WHEREAS, after consideration of the availability of alternative routes, the costs of the project, environmental factors, long range area planning, and safety concerns, The Board of County Commissioners of Lee County, Florida, desires to exercise its right to condemn property for public use or purpose and that the property to be condemned is necessary for that use.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY FLORIDA, that:

The Capital Improvement Project provides for the construction of the Pondella Road Widening, Project No. 4656, by widening Pondella Road from near McNeill Road to Del Pine Drive, in North Fort Myers.

SECTION ONE: USE, NECESSITY AND DESCRIPTION OF PROPERTY

The Board of County Commissioners finds that the fee simple rights to property described in the attached Exhibit "A", and a temporary construction easement described in the attached Exhibit "B" are necessary for the Pondella Road Widening Project and is being acquired for the following specific public use or purpose:

To improve traffic flow and transportation safety, increased traffic flow for public as well as private vehicles, improved evacuation routes, improve Pondella Road to five lanes, with sidewalks, storm water drainage and utilities. Exhibit A consists of Parcel 159. Exhibit "B" consists of Parcel 159 TCE.

The prior Resolution of Necessity is being revised to address the reduction in size of Parcel 159, and to add a temporary construction easement to Parcel 159 to be known as Parcel 159 TCE.

SECTION TWO: AUTHORITY AND ESTATE

By virtue of the authority granted to the Board of County Commissioners of Lee County by Chapters 73, 74, 125 and 127, Florida Statutes, and all other statutory or

Resolution of Necessity

common law which grant to the Board of County Commissioners the power to institute and proceed with acquiring property under the exercise of the power of eminent domain, the Board of County Commissioners hereby authorizes and directs the County Attorney's Office to commence and prosecute any and all proceedings necessary to acquire the fee simple interest in the properties described in Exhibit "A", and the temporary construction easement interest in the property, described in Exhibit "B", for the above described public use or purpose.

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

Robert P. Janes	_____
Douglas St. Cerny	_____
Ray Judah	_____
Andrew W. Coy	_____
John E. Albion	_____

DULY PASSED AND ADOPTED this _____ day of _____, 20__.

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

Chairman

APPROVED AS TO FORM:

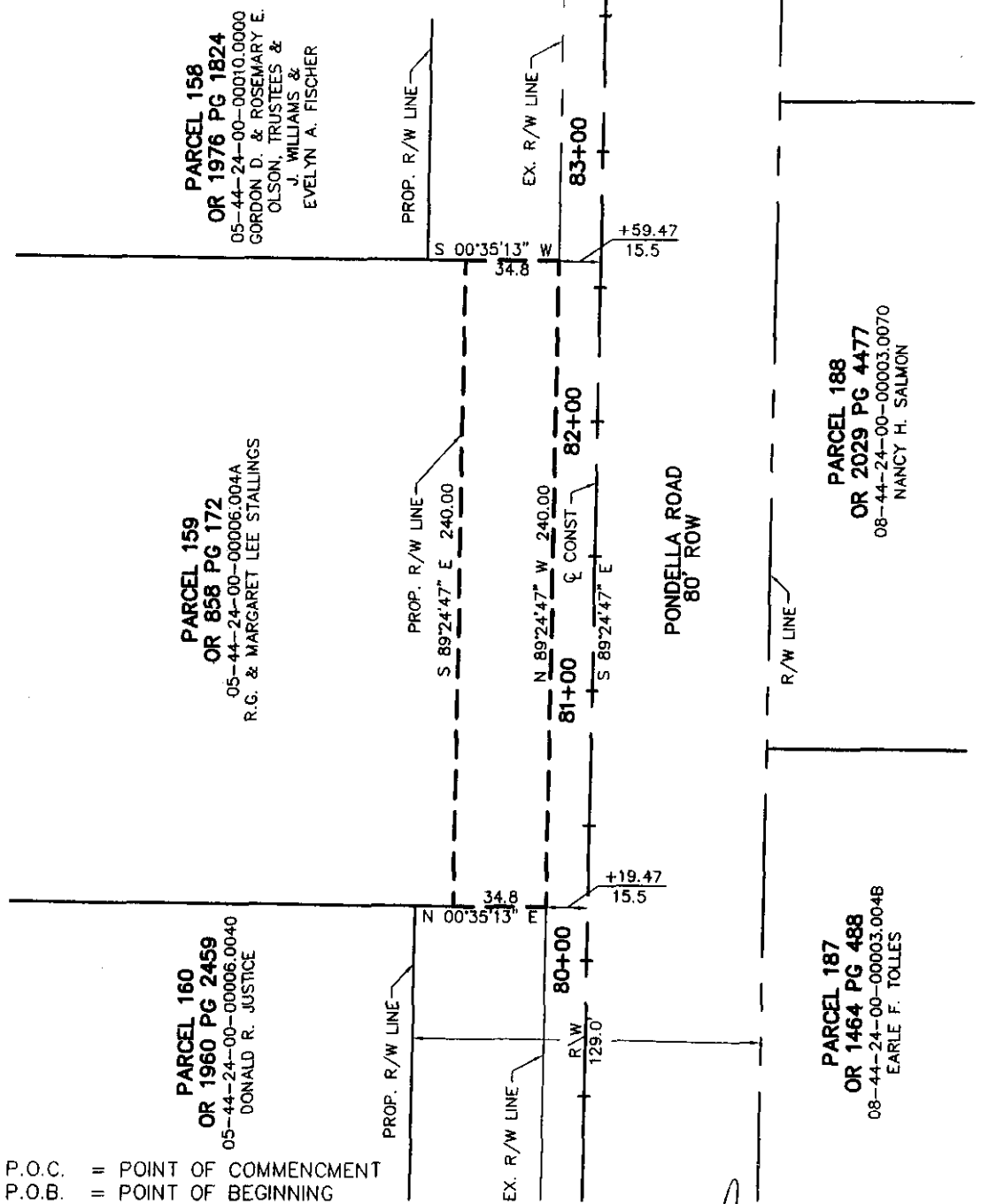
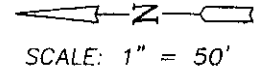
Office of County Attorney

Exhibit "A"

Page 1 of 2

SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST LEE COUNTY, FLORIDA

PARCEL NO. 159
 PROPERTY OWNER: R.G. & MARGARET LEE STALLINGS
 REFERENCE: O.R. 858, PG 172
 STRAP NO.: 05-44-24-00-00006.004A
 AREA OF TAKE: 8,352 SQ. FT.
 AREA OF REMAINDER: 7.03 AC



P.O.C. = POINT OF COMMENCEMENT
 P.O.B. = POINT OF BEGINNING
 R/W = RIGHT-OF-WAY

LEGAL DESCRIPTION AND SKETCH SHEET 1 OF 2

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:

DESCRIPTION: PARCEL 159 RIGHT-OF-WAY TAKE

CLIENT: LEE COUNTY D.O.T. & ENGINEERING



Professional engineers, planners, & land surveyors
 Lee County: Suite 200, 7400 Tamiami Trail, North Naples, FL 34108 (813) 997-2111
 Lee County: Suite 101, 1580 Sanday Road, Fort Myers, FL 33901 (813) 337-2111
 Certificate of Authorization Nos. LB 3884 and LB 3994 Fax: (813) 998-2200

REVISION:
 10/10/02
 42.0 TO 34.8

BY: GUY P. ADAMS, P.S.M. NO. 4390

SCALE: 1" = 50' DATE: AUGUST 5, 2001
 DRAWN BY: JAN PROJECT NO.: 7951
 ACAD NO: 8069-2 FILE NO: 8069

159

(COUNTY PROJECT NUMBER 4656)

DESCRIPTION OF RIGHT-OF-WAY PARCEL

ALL THAT PART OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORD BOOK 858, PAGE 172, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LYING IN SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTHERLY 34.8 FEET OF THE FOLLOWING DESCRIBED PARCEL;

THE WESTERLY 240 FEET OF THE EASTERLY 1680 FEET OF THE NORTHERLY 1310 FEET OF THE SOUTHERLY 1350 FEET OF THE SOUTHEAST QUARTER OF SAID SECTION 5;

CONTAINING 8,352 SQUARE FEET OF LAND MORE OR LESS;

LEGAL DESCRIPTION AND SKETCH SHEET 2 OF 2

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:

DESCRIPTION: PARCEL 159 RIGHT-OF-WAY TAKE

CLIENT: LEE COUNTY D.O.T. & ENGINEERING



Professional engineers, planners, & land surveyors
Collier County: Suite 200, 7600 Tamiami Trail, North Naples, FL 34108 (813)997-8111
Lee County: Suite 101, 1456 Hendry Street, Fort Myers, FL 33901 (813)937-8111
Certificate of Authorization Nos. LP 5486 and EB 5054 Fax: (813)996-2303

REVISION:
10/10/02
42.0 TO 34.8

BY: GUY P. ADAMS, P.S.M. NO. 4390

SCALE: N.T.S. DATE: AUGUST 5, 2001

DRAWN BY: JAN PROJECT NO.: 7951

ACAD NO: 8069-2 FILE NO: 8069

159-TCE

(COUNTY PROJECT NUMBER 4656)

DESCRIPTION OF CONSTRUCTION EASEMENT

ALL THAT PART OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORD BOOK 858, PAGE 172, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, LYING IN SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTHERLY 10.0 FEET OF THE SOUTHERLY 44.8 FEET OF THE FOLLOWING DESCRIBED PARCEL;

THE WESTERLY 240 FEET OF THE EASTERLY 1680 FEET OF THE NORTHERLY 1310 FEET OF THE SOUTHERLY 1350 FEET OF THE SOUTHEAST QUARTER OF SAID SECTION 5;

CONTAINING 2,400 SQUARE FEET OF LAND MORE OR LESS; SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION AND SKETCH SHEET 2 OF 2

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:

DESCRIPTION: PARCEL 159 CONSTRUCTION EASEMENT

CLIENT: LEE COUNTY D.O.T. & ENGINEERING

REVISION:

BY: GUY P. ADAMS, P.S.M. NO. 4390

SCALE: N.T.S. DATE: OCTOBER 10, 2002

DRAWN BY: JAN PROJECT NO.: 7951

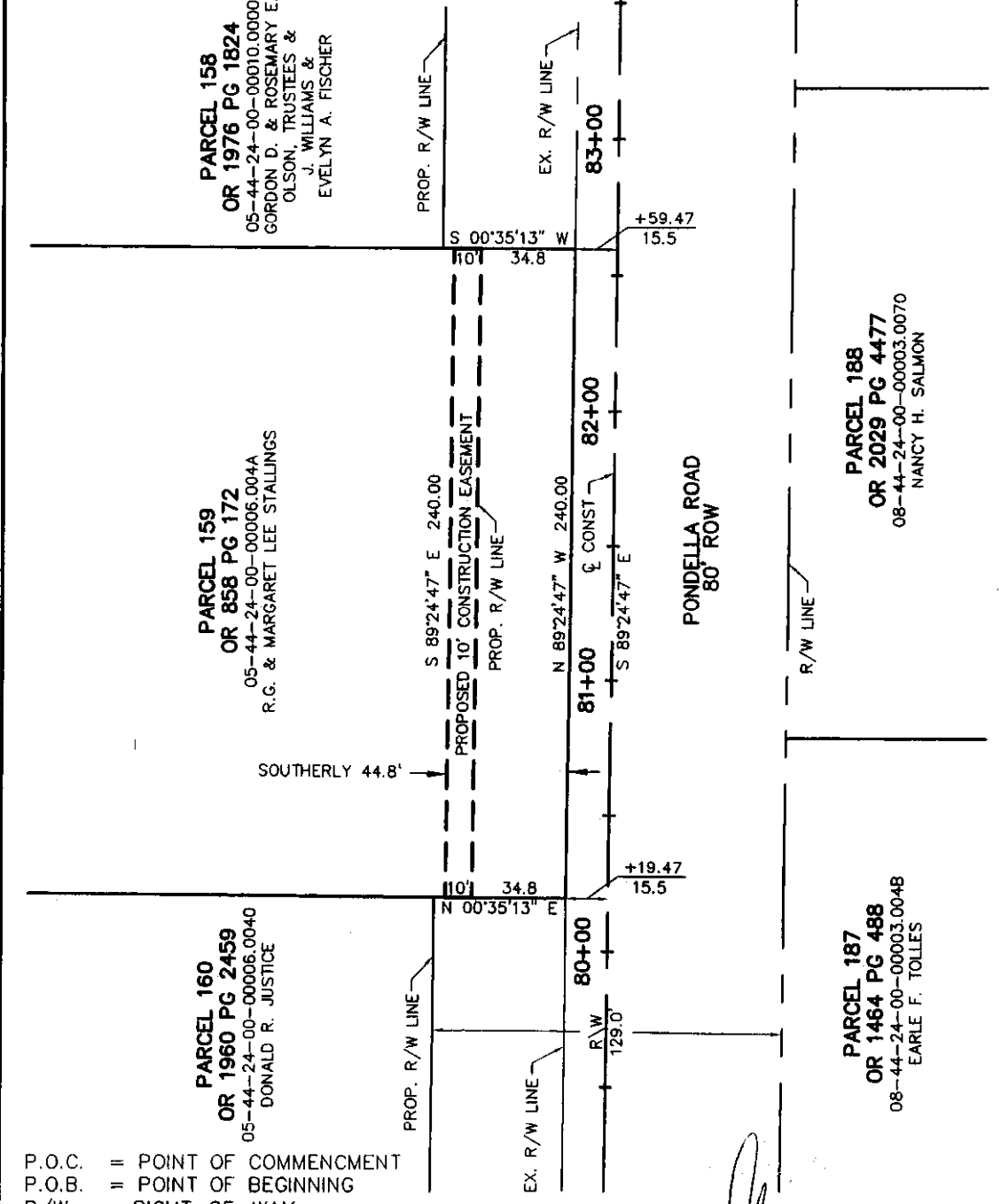
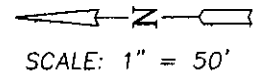
ACAD NO.: 8069-12 FILE NO.: 8069



Professional engineers, planners, & land surveyors
Collier County: Suite 200, 7400 Tamiami Trail, North Naples, FL 34108 (941) 937-8111
Lee County: Suite 101, 1425 Broadway Street, Fort Myers, FL 33901 (941) 937-8111
Certificate of Authorization Nos. LP 3686 and EP 3684 Fax: (941) 940-2269

SECTION 5, TOWNSHIP 44 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

PARCEL NO. 159 TCE
 PROPERTY OWNER: R.G. & MARGARET LEE STALLINGS
 REFERENCE: Q.R. 858, PG 172
 STRAP NO.: 05-44-24-00-00006.004A
 AREA OF TAKE: 2,400 SQ. FT.
 AREA OF REMAINDER: 7.16 AC



PARCEL 158
 OR 1976 PG 1824
 05-44-24-00-00010.0000
 GORDON D. & ROSEMARY E.
 OLSON, TRUSTEES &
 J. WILLIAMS &
 EVELYN A. FISCHER

PARCEL 159
 OR 858 PG 172
 05-44-24-00-00006.004A
 R.G. & MARGARET LEE STALLINGS

PARCEL 160
 OR 1960 PG 2459
 05-44-24-00-00006.0040
 DONALD R. JUSTICE

PARCEL 188
 OR 2029 PG 4477
 08-44-24-00-00003.0070
 NANCY H. SALMON

PARCEL 187
 OR 1464 PG 488
 08-44-24-00-00003.0048
 EARLE F. TOLLES

P.O.C. = POINT OF COMMENCEMENT
 P.O.B. = POINT OF BEGINNING
 R/W = RIGHT-OF-WAY

LEGAL DESCRIPTION AND SKETCH SHEET 1 OF 2

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		DESCRIPTION: PARCEL 159 CONSTRUCTION EASEMENT	
		CLIENT: LEE COUNTY D.O.T. & ENGINEERING	
REVISION:		BY:	GUY P. ADAMS, P.S.M. NO. 4390
		SCALE:	N.T.S. DATE: OCTOBER 10, 2002
		DRAWN BY:	JAN PROJECT NO.: 7951
		ACAD NO:	8069-12 FILE NO: 8069

AGNOLI BARBER & BRUNDAGE, INC.
 Professional engineers, planners, & land surveyors
 Collier County: Suite 306, 7400 Tamiami Trail, North Naples, FL 34108 (941) 997-9111
 Lee County: Suite 161, 1825 Hendry Street, Fort Myers, FL 33901 (941) 887-8111
 Certificate of Authorization Nos. LC 3664 and CB 3664 Fax: (941) 666-2265