

**Lee County Board of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20041319

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve mediated settlement in Lee County v. Prevatt, Case No. 2001-CA-656.

**WHY ACTION IS NECESSARY:** Board must accept and approve mediated settlement.

**WHAT ACTION ACCOMPLISHES:** Settles all claims for condemnation of 12.57 acres of land.

**2. DEPARTMENTAL CATEGORY:**

COMMISSION DISTRICT #

*A12A*

**3. MEETING DATE:**

*10-26-2004*

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**

(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER \_\_\_\_\_
- B. DEPARTMENT County Attorney
- C. DIVISION Litigation
- BY: John J. Renner  
Chief Assistant County Attorney

**7. BACKGROUND:** Lee County condemned 12.57 acres of land owned by Mr. and Mrs. Prevatt in Hendry County to build Church Road. Lee County's appraisal valued the land at \$20,000.00 and the fencing, gates and drainage pipes would either be relocated or paid for by Lee County. The Prevatts claimed \$35,200.00 for the land, \$21,600.00 for the improvements and \$66,650.00 for improvements to continue to conduct cattle operations after their land was bisected by the road. The Prevatts also claimed \$12,650.00 to cure a drainage problem allegedly caused by the road construction. A mediated settlement has been reached whereby Lee County will:

1. Grant the Prevatts a drainage easement over Lee County property and construct a drainage ditch to facilitate drainage of Prevatts' property;
2. Pay the Prevatts \$21,600.00 to replace the improvements within the take area;
3. Pay an additional \$4,983.00 for the land taken;
4. Pay \$36,000.00 for construction of a cure for the cattle operation due to road bisecting the property;
5. Pay Prevatts' appraiser fee of \$13,500.00; engineer fee of \$10,000.00 and attorney fee of \$30,000.00.

All claims, including interest are resolved by this settlement.  
The County attorney's office recommends the Board APPROVE this settlement.  
Funds available in string account: 20091940130.506110

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>[Signature]</i>	OA <i>[Signature]</i>	OM <i>[Signature]</i>	RISK <i>[Signature]</i>	GC <i>[Signature]</i>	<i>[Signature]</i> 10-14-04

**10. COMMISSION ACTION:**

- \_\_\_\_\_ APPROVED
- \_\_\_\_\_ DENIED
- \_\_\_\_\_ DEFERRED
- \_\_\_\_\_ OTHER

*[Stamp: RECEIVED BY COUNTY ADMIN. 10/11/04]*

RECEIVED BY  
COUNTY ADMIN: *[Signature]*  
10-11-04  
2:30  
COUNTY ADMIN  
FORWARDED TO: *[Signature]*  
10/15/04  
*[Signature]*

**TWENTIETH JUDICIAL CIRCUIT OF FLORIDA**

**RECORD OF AGREEMENT**

\_\_\_\_\_  
Lee County & Hendry County v. Prevatt (Parcels 101/102 and 105)

Case No. 2001-CA-656

THE PARTIES AND COUNSEL, HAVING MET THIS 6th DAY OF OCTOBER, 2004,  
AGREE AS FOLLOWS:

1) Petitioners (hereinafter collectively referred to as the County) shall pay the total sum of \$82,583 (consisting of the good faith deposit of \$20,000 together with new money in the amount of \$62,583) in full and complete satisfaction of all claims which Prevatt may have relating the take of the subject property, other than Attorney's fees and Expert fees as described below, and subject to the additional terms and conditions set forth herein.


2) County will grant to Prevatt a drainage easement, & construct and maintain a drainage ditch, running from the SW corner of Prevatt's land in Section 15 to Station 33+70 (more or less), that being the culvert(s) which will run from section 16, under Church Road to Fussell Slough.

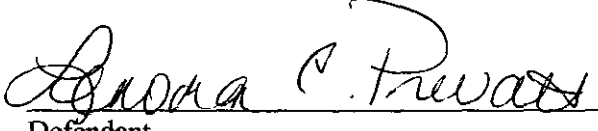
3) The compensation to be paid to Prevatt includes monies for certain fencing which lies within the take in lieu of the County relocating the fencing, and Prevatt shall install a new fence at his own expense. Notwithstanding that the take in this action is anywhere from 50 to 55 feet of the section line, it is agreed that prior to Prevatt's installation of the fence, the County will clear and grade to the edge of an existing easement running 60 feet north of the south section line of Section 15, and 60 feet south of the north section line of Section 23, and Prevatt will install his fence no closer to the section line than the edge of said existing easement. The parties recognize that the actual fence line may need to meander slightly from the 60 foot easement line due to topographical features of the property, and the parties agree that the County and Prevatt will work together in establishing a reasonable location for the fences, provided that said location shall be outside of the 60 foot easement. It is further understood that during the clearing process, the County will avoid to the extent possible any damage to Prevatt's existing fence, but to the extent that damage is unavoidable, it shall be Prevatt's responsibility to make such repairs to the existing fence as may be needed to insure that his cattle remained contained within his property.

Prevatt agrees to construct his new fence within 30 days of the clearing described above, and the County agrees that it will not remove the existing fence until that 30 days has elapsed. It is further understood that inasmuch as the County is paying Prevatt for the existing fence, the County will remove the existing fencing and shall be entitled to any salvage value obtainable from same.

4) The parties agree that as to fees and costs, the County shall pay Defendant's Engineer the sum of \$10,000, and the Defendant's Appraiser the sum of \$13,500. In addition, the County shall pay the Defendant's attorney the sum of \$30,000 as full and complete satisfaction of its obligation to pay said fees, inclusive of any fee claim based upon a non-monetary benefit obtained on behalf of the Defendant.


5) This agreement is contingent upon approval of the Lee County Board of County Commissioners within 30 days. If not approved within that time, this agreement shall be null and void and not admissible in any subsequent legal proceeding.

  
Plaintiff

  
Defendant

  
Attorney for Plaintiff

  
Attorney for Defendant

  
Mediator

The above agreement is approved by me on this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Judge

This Instrument Prepared by:  
John J. Renner, Esq.  
P.O. Box 398  
Fort Myers, FL 33902-0398

THIS SPACE FOR RECORDING

PERPETUAL STORMWATER  
DRAINAGE EASEMENT

This easement grant is made between, owner LEE COUNTY, a political subdivision of the State of Florida, whose address is P.O. Box 398, Fort Myers, Florida 33902-0398 (Grantor) and VICTOR and LENORA PREVATT, husband and wife, (Grantee) as follows:

1. In consideration of the sum of one dollar and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor grants to Grantee, its successors and assigns, a drainage easement in, over and across that portion of Grantor's property legally described in Exhibit "A".
2. Grantee has the right and authority to construct and maintain stormwater drainage facilities, including the installation of pipe, within the easement area in accordance with appropriate permits issued for construction and maintenance.
3. Grantee also has the right and authority to remove or trim any roots, trees or other vegetation or structures, including fencing, within the easement area in order to properly install the stormwater drainage facilities.
4. Grantor may use the easement area for landscaping (except trees), walkway, drainage or similar uses, provided no structures, such as sheds, carports, garages or other buildings, are constructed within the easement area.
5. Title to any drainage facilities constructed in the easement area will vest in the Grantor, its successors or assigns.
6. Grantor warrants that subject to any existing public roadway or utility easements, Grantor is in lawful possession of the subject property free and clear of all liens and encumbrances, except those recorded in the public records, and has the right and power to convey this easement.
7. This easement runs with the land and is binding on Grantor and Grantor's

successors and assigns.

Dated: \_\_\_\_\_, 2004\_\_

ATTEST:

CHARLIE GREEN ,CLERK

By\_\_\_\_\_

LEE COUNTY,FLORIDA  
By its County Commission

By\_\_\_\_\_

Chairman

Approved as to form:

By\_\_\_\_\_

Lee County Attorney's Office