



CITRUS COUNTY
BOARD OF COUNTY COMMISSIONERS
MINUTES • JUNE 27, 2022

Special Meeting Attorney/Client Session Citrus County Courthouse

8:30 AM

Room 100, 110 N. Apopka Avenue, Inverness, FL 34450

A. CALL TO ORDER

June 27, 2022 Citrus County Courthouse
The meeting was called to order at 8:30 AM

- 1. Invocation**
- 2. Pledge of Allegiance**
- 3. Roll Call**

Attendee Name	Title	Status	Arrived
Ronald E. Kitchen Jr.	Chair, District 2	Present	
Ruthie Davis Schlabach	1st Vice Chair, District 3	Absent	
Holly L. Davis	2nd Vice Chair, District 5	Present	
Jeff Kinnard D.C.	Commissioner District 1	Present	
Scott Carnahan	Commissioner, District 4	Present	
Denise A. Dymond Lyn	County Attorney	Present	
Amy Novinger	Deputy Clerk	Present	

B. OPEN TO THE PUBLIC

There were no public comments.

C. ANNOUNCE PURPOSE OF MEETING. THOSE PERSONS TO BE IN ATTENDANCE AT THE ATTORNEY/CLIENT SESSION ARE AS FOLLOWS:

County Attorney Denise A. Dymond Lyn announced the purpose of the meeting and listed the people in attendance for this meeting:

Commissioner Ronald E. Kitchen, Jr.

Commissioner Holly L. Davis

Commissioner Jeff Kinnard D.C.

Commissioner Scott Carnahan

Dale A. Scott, Attorney, Roper, P.A.

Denise A. Dymond Lyn, County Attorney

Shannon Massingill from Joy Hayes Court Reporting

D. COMMENCE ATTORNEY/CLIENT SESSION IN CASE STYLED KENNETH M. ROESCH AND ANITA M. ROESCH V. DT TERRA VISTA, LLC AND CITRUS COUNTY (CASE NO.: 2019 CA 773).**E. CLOSE ATTORNEY/CLIENT SESSION/REOPEN MEETING****F. ADJOURN**

The meeting was adjourned at 8:45 AM

1 PROCEEDINGS: CITRUS COUNTY BOARD OF COUNTY
2 COMMISSIONERS' ATTORNEY/CLIENT SESSION

3 RE: KENNETH M. ROESCH and ANITA M. ROESCH v.
4 DT TERRA VISTA, LLC and CITRUS COUNTY
CASE NO: 2019-CA-773

5 DATE: JUNE 27, 2022

ORIGINAL

6
7 TIME: 8:21 A.M. - 8:43 A.M.

8
9 LOCATION: COMMISSION MEETING ROOM
10 CITRUS COUNTY COURTHOUSE
11 110 NORTH APOPKA AVENUE
12 INVERNESS, FLORIDA 34450

13 REPORTED BY: SHANNON MASSINGILL, RPR, FPR
14 REGISTERED PROFESSIONAL REPORTER
15 FLORIDA PROFESSIONAL REPORTER

16 APPEARANCES: CHAIRMAN RONALD KITCHEN
17 SECOND VICE CHAIRMAN HOLLY DAVIS
18 COMMISSIONER JEFF KINNARD
19 COMMISSIONER SCOTT CARNAHAN

DENISE A. DYMOND LYN, COUNTY ATTORNEY

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24 INVERNESS, FLORIDA 34450
25 (352) 726-9411

P R O C E E D I N G S

* * * * *

THE CLERK: This is an attorney/client session of the Citrus County Board of County Commissioners this 27th day of June, 2022. In attendance are Chairman Ronald E. Kitchen, Jr., Second Vice Chair Holly Davis, Commissioners Scott Carnahan and Jeff Kinnard, County Attorney Denise A. Dymond Lyn.

CHAIRMAN KITCHEN: Thank you very much.

MS. DYMOND LYN: Are you going to do open to the public?

CHAIRMAN KITCHEN: I don't believe we have any public. I only see staff. For the record we only have staff present.

MS. DYMOND LYN: All right. Thank you. Thank you, Mr. Chair. I'm going to announce the purpose of the meeting and let those persons know that are in attendance we are about to convene an attorney/client session and those who will be in the session are:

Commissioner Kitchen, Commissioner Schlabach. Or excuse me, Commissioner Schlabach is not here yet. Commissioner Davis, Commissioner Kinnard, Commissioner Carnahan, County Administrator Oliver is not here, myself, and Dale Scott is appearing

1 virtually and Shannon is here from Joy Hayes Court
2 Reporting.

3 And at this time we're going to commence the
4 attorney/client session in the case styled Kenneth
5 M. Roesch and Anita M. Roesch versus DT Terra Vista,
6 LLC and Citrus County.

7 CHAIRMAN KITCHEN: So we're going to close the
8 room, have our discussion, and then we'll open the
9 room back up and then we'll adjourn the meeting,
10 correct?

11 MS. DYMOND LYN: Yes, sir.

12 CHAIRMAN KITCHEN: Dale, can you hear us?
13 We're just testing audio. Where are you today,
14 Dale?

15 MR. SCOTT: I'm sitting in my office in
16 Orlando. I refuse to do these from home. I know
17 people do them, but I have to be sitting at my desk
18 to be mentally where I need to be.

19 MS. DYMOND LYN: Mr. Chair, it looks like the
20 room is clear.

21 CHAIRMAN KITCHEN: Are we ready? Dale, you
22 want to start this or Denise? Who wants to start
23 this?

24 MS. DYMOND LYN: I think Dale has been in
25 charge of this, so we'll let him go ahead.

1 CHAIRMAN KITCHEN: Okay. Fire away, Dale.

2 MR. SCOTT: And I apologize if you hear an
3 obnoxious buzzing because just outside my window one
4 floor down are very hardworking lawn people that are
5 doing their job very well. They had to do it on
6 Monday morning right when I need it a little bit
7 quiet.

8 We're back on the Roesch v. Citrus County case.
9 This is the case that involves a property in the
10 southern part of the county south of Floral City
11 where we have disputes over the -- some roadway
12 sections that run through various properties,
13 roadway sections that are owned by the county. We
14 continue to maintain that.

15 This is the case that involved Mr. Van Usen,
16 the Roesch family, and some of the other neighbors
17 around there. I'll try to give a quick background
18 for this. Please feel free, I'm sure you would, to
19 cut me off if this has all been heard before. It
20 doesn't need to be heard again. This is actually
21 the third chamber meeting that we've had on this
22 whole situation.

23 MS. DYMOND LYN: Dale, let me interrupt you
24 just one second.

25 MR. SCOTT: Sure.

1 MS. DYMOND LYN: Can you just put up a picture
2 of the area you were talking about to give them an
3 orientation, please.

4 MR. SCOTT: Sure. I'm ready, if I could do the
5 screen share. Can you see it?

6 MS. DYMOND LYN: It's small, but we can see it.
7 If you can maybe just do a brief orientation.

8 MR. SCOTT: Sure. This -- the areas you see
9 outlined in red, those are the areas that were
10 deeded to the county by a deed in 1956 by Phyllis
11 and Garland Potterfield. These areas of the land
12 that we maintain, the county owns in fee simple and
13 it's not a roadway. Excuse me, it's not an
14 easement. It's not some kind of right to use the
15 land. It's ownership in fee simple.

16 This portion that I'm running along right now
17 is paved. It's Rosehill Drive and that's been used
18 for a number of years. I don't know how many years.
19 The area that I'm running my cursor along now are
20 not paved and those are generally unimproved areas.

21 The Roesch Trust and the Roesch family
22 previously, but now the trust, own these two parcels
23 right here that I'm running along with my cursor.
24 These three parcels were previously owned by
25 Antonious Van Usen and my understanding is he's

1 recently sold these parcels to a gentleman named
2 Jimmy Velazquez.

3 The dispute has generally been between Van Usen
4 and the Roesch family. Van Usen has apparently
5 extracted himself from the area and from the picture
6 of this whole dispute and according to plaintiffs'
7 counsel, counsel to the Roesch Trust, he's now
8 assigned his rights in the lawsuit, whatever they
9 might be, to the Roesch family.

10 So they apparently have one way or the other
11 made nice and now we're only dealing conceptually
12 with the Roesch family. What they're asking for
13 through, and this is the third iteration of this
14 request, is for the county to give them this section
15 which is Section 4.

16 The first time this came before a shade meeting
17 they simply wanted the county to give it to them and
18 then other -- and there was another portion, I
19 believe it was Section 1 would go to Van Usen, 1 and
20 2 would go to Van Usen, 3 would go to the county,
21 and 4 would go to the Roesch Trust. You all decided
22 against that for a number of reasons.

23 They came back a little while after that, I
24 think it was just a few weeks actually, changed
25 their offer and said, Well, we'll buy No. 4 from you

1 for \$2,000. I think they took the board's previous
2 position as being concerned of whether the board
3 could simply give away property in light of various
4 considerations, including the bid statute under
5 Florida law for many of the same reasons, if not the
6 exact same reason the board previously rejected that
7 offer. Administrative concerns, political concerns
8 as far as giving away land, legal concerns that
9 could lead to liability. And there's actually a
10 section where process and a county code process that
11 would apply to any kind of disposition of land like
12 that.

13 So fast forward, since that time we filed
14 motions to dismiss. The Court did not grant those
15 motions. We believe they should have been granted,
16 but the Court said, Let the case go on and we'll
17 move on and see what happens.

18 Some time has passed and now with Van Usen
19 being out of the picture apparently they come back
20 with this new offer. The new offer is give us, this
21 is the Roesches, give us Roadway 4 and we will
22 disclaim any interest in Roadway 3, 2 or 1 and that
23 will be the end of this litigation.

24 It represents in my view not a considerable
25 change from previous demands that have been made or

1 offers, but of course I'm obligated to bring any
2 offer to you all for consideration. I maintain all
3 my previous recommendations in terms of the lack of
4 legal liability.

5 The primary argument from the Roesches is based
6 on the Marketable Record Title Act which basically
7 says that if you have a recorded deed which isn't
8 challenged for 30 years all other claims against it
9 fail. Their deed started in 1972. It included all
10 these roadway sections and therefore they argue,
11 Well, we had extinguished the county's claim which
12 emanated from the 1956 deed.

13 But unfortunately what they're overlooking is
14 there's a specific section that applies under the
15 Marketable Record Title Action that applies with
16 regard to the roadways and right-of-ways such as
17 this, such as we have here, and so as long as any
18 portion of what we see in red here has been used,
19 then we're entitled to the exception to that
20 argument they're making. Of course Rosehill Drive
21 has been used. So knock on wood, we should win that
22 argument. You can never predict of course how the
23 courts will rule.

24 But my recommendation based on the lack of any
25 significant change in the case status would be that

1 the board simply maintain its position. I -- my
2 plan would be within the next 90 days to file a
3 motion for summary judgment to get this case to a
4 merciful end. I think it's time for us to get to
5 that point.

6 Again, all the same considerations we had
7 previously apply in terms of potential liability if
8 the Court or the county would simply give away
9 property. And also there needs to be a reasonable
10 degree of respect with county ownership of property
11 and the danger -- consideration of the dangerousness
12 of the precedent it could have if the county were to
13 simply give away land based on a threat of
14 litigation or commencement of litigation.

15 And also there is here the failure of the
16 request to go through the proper channels for
17 vacating a property. There is a county procedure
18 for that and that hasn't been followed here.

19 So obviously the choice is yours as whether to
20 do this, that always remains within your discretion,
21 but it is my legal advice that this isn't a
22 justifiable offer or justifiable course of action.
23 I would recommend that it be -- it be rejected and
24 move forward with summary judgment.

25 But needless to say I'm here to answer any

1 questions, to take your direction to implement
2 whatever you would have me do.

3 CHAIRMAN KITCHEN: Thank you, Dale. So your
4 recommendation is to reject it and move forward with
5 the summary judgment and you want to know if the
6 commissioners agree with that or not?

7 MR. SCOTT: Yes, sir, that's correct.

8 CHAIRMAN KITCHEN: Okay. Madam Attorney, any
9 comments before we hear from commissioners?

10 MS. DYMOND LYN: I don't have anything to add.

11 CHAIRMAN KITCHEN: Okay. Commissioners, what's
12 your opinion on this? Commissioner Carnahan?

13 COMMISSIONER CARNAHAN: Move forward with
14 Mr. Dale Scott's recommendation.

15 CHAIRMAN KITCHEN: Okay. Ms. Davis?

16 SECOND VICE CHAIRMAN DAVIS: Agree.

17 CHAIRMAN KITCHEN: Commissioner Kinnard?

18 COMMISSIONER KINNARD: Agree.

19 CHAIRMAN KITCHEN: And I agree as well. We
20 have four commissioners that say we agree with your
21 recommendation.

22 MR. SCOTT: Okay.

23 MS. DYMOND LYN: I wish they agreed with me
24 like that all the time.

25 CHAIRMAN KITCHEN: I mean, we've been down this

1 road before. I don't see that anything has changed.
2 I mean, you know, we went from we'll give you a
3 couple thousand back to now just give it to us. So
4 it seems to me we kind of went in the opposite
5 direction from where we were before even so.

6 MR. SCOTT: The pot hasn't really been
7 sweetened, but still I had to bring it to you all.

8 CHAIRMAN KITCHEN: Yes, sir. We appreciate it.
9 Anything else you think? I mean, the commissioners
10 seem to be -- I don't see anything's changed and we
11 haven't changed our mind and I don't see any -- I
12 know you're required to bring these offers, but I
13 don't see much different from what we heard before.

14 MR. SCOTT: The only change in circumstances is
15 Van Usen being out of the picture which changes the
16 dynamic a bit, but legally it really doesn't change
17 a lot.

18 CHAIRMAN KITCHEN: Okay. Well, I think you
19 heard from us. We have nothing else to add if you
20 don't or the attorney doesn't.

21 MS. DYMOND LYN: Thank you, Dale.

22 MR. SCOTT: I'll go ahead and sign off unless
23 you need us --

24 MS. DYMOND LYN: No, no, let us reconvene our
25 meeting and then you can leave.

1 MR. SCOTT: That's right.

2 MS. DYMOND LYN: So at this time, Mr. Chair, it
3 would be time to close the attorney/client session
4 and reconvene your meeting.

5 CHAIRMAN KITCHEN: Okay. We will do that. So
6 we will close that, reconvene the meeting, open up
7 the chambers to the public again. And now I
8 believe, Dale, you can leave us if you so desire.

9 MR. SCOTT: All right. Thank you, sir. Have a
10 great day.

11 CHAIRMAN KITCHEN: You too.

12

13 (The proceedings were concluded at 8:43 a.m.)

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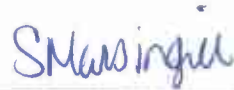
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2 CERTIFICATE OF REPORTER3 STATE OF FLORIDA)
4)
5 COUNTY OF CITRUS)6 I, Shannon Massingill, RPR, FPR, Notary Public,
7 State of Florida, I was authorized to and did
8 stenographically report the foregoing proceedings; and
9 that the transcript, Pages 2 through 12, is a true and
10 accurate record of my stenographic notes.11 I FURTHER CERTIFY that I am not a relative, or
12 employee, or attorney, or counsel of any of the parties,
13 nor am I a relative or employee of any of the parties'
14 attorney or counsel connected with the action, nor am I
15 financially interested in the action.

16 Dated this 29th day of June, 2022.

17
18 19 Shannon Massingill, RPR, FPR
20 Registered Professional Reporter
21 Florida Professional Reporter
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23
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