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March 24, 2021

M E M O R A N D U M

TO: Eden Bentley, County Attorney

RE: Item L.2., Ellis vs. Board of County Commissioners Settlement Offer

The Board of County Commissioners, in regular session on March 23, 2021, approved option one, taking no action as to the settlement offer; and authorized for the County to continue defending the appeal.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board

/sm

cc: County Manager
Each Commissioner

Bentley, Eden

From: Bentley, Eden
Sent: Monday, March 22, 2021 8:22 AM
To: Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5; Abbate, Frank B
Cc: Smith, Nathan; Van, Fritz; Prasad, Billy; Woodard, Patrick; Schmadeke, Adrienne; Luebker, Vic; Stern, Danielle
Subject: Ellis v. BOCC, Charter Cap/Millage Limit Appeal -- To be brought up under County Attorney report on 4/23/21
Importance: High

Commissioners- As you know, the clerk's attorney has offered to settle the lawsuit by the clerk against the county. The county won at the trial court and the clerk appealed that decision to the Fifth District Court of Appeal. The attorney for the clerk offered to dismiss the case if the county agrees to vacate or eliminate the trial court order in the county's favor.

The Board has several options.

1. Take no action. The county will continue to defend the appeal.
2. Reject the offer. The county will continue to defend the appeal.
3. Request an executive session to discuss the offer.
4. Accept the settlement proposal and settle the case.

I will bring this item up under the County Attorney's report tomorrow. I will have copies of this email at your seats for easy reference.

From: Bentley, Eden
Sent: Tuesday, March 16, 2021 1:42 PM
To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>; Abbate, Frank B <Frank.Abbate@brevardfl.gov>
Cc: Smith, Nathan <Nathan.Smith@brevardfl.gov>; Van, Fritz <Robert.VanVolkenburgh@brevardfl.gov>; Prasad, Billy <Billy.Prasad@brevardfl.gov>; Schmadeke, Adrienne <Adrienne.Schmadeke@brevardfl.gov>; Stern, Danielle <danielle.stern@brevardfl.gov>; Luebker, Vic <Vic.Luebker@brevardfl.gov>; Jorandby, Abigail F. <Abigail.Jorandby@brevardfl.gov>; Bayne, Jessica <Jessica.Bayne@brevardfl.gov>
Subject: FW: Ellis v. BOCC, Charter Cap/Millage Limit Appeal

Commissioners- As anticipated, the clerk's outside counsel has provided a settlement offer to the Board and the essential terms of the offer are highlighted for you in the email below. We will be calling to arrange a time to discuss the offer in the near future.

As always, please do not use "reply all" to respond to this email.

From: Carter Andersen <candersen@bushross.com>
Sent: Tuesday, March 16, 2021 1:17 PM
To: Jorandby, Abigail F. <Abigail.Jorandby@brevardfl.gov>
Cc: keith@n-klaw.com; Bentley, Eden <Eden.Bentley@brevardfl.gov>; Tyler Winik <Tyler.Winik@brevardclerk.us>; Bryan D. Hull <bhull@bushross.com>; Karen P. Salter <ksalter@bushross.com>; Moody, Laura <laura.moody@bcso.us>; Bayne, Jessica <Jessica.Bayne@brevardfl.gov>; leah@n-klaw.com; Jason Arthur <Jason.Arthur@brevardclerk.us>

<Jason.Arthur@brevardclerk.us>

Subject: RE: Ellis v. BOCC, Charter Cap/Millage Limit Appeal

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Abigail,

I apologize for the delay. I thought that I sent this to you last week. Our proposal is to settle the appeal in order to avoid the cost of litigating both the appeal and any potential future remanded lawsuit, with an agreement that the parties will jointly seek to have the 5th DCA vacate the trial court's order granting the motion to dismiss, or if necessary the parties would cooperate to accomplish the same via some other stipulated mechanism(s) to ensure that the trial court's order is vacated, with all parties to pay their own costs and expenses to-date. Once the trial court order is vacated, the case would be dismissed – without the courts ever addressing the merits of the lawsuit.

If necessary, we could use a mediator to assist with the settlement agreement.

Carter

From: Jorandby, Abigail F. <Abigail.Jorandby@brevardfl.gov>

Sent: Wednesday, March 10, 2021 5:08 PM

To: Carter Andersen <candersen@bushross.com>

Cc: keith@n-klaw.com; Bentley, Eden <Eden.Bentley@brevardfl.gov>; Tyler Winik <Tyler.Winik@brevardclerk.us>; Bryan D. Hull <bhull@bushross.com>; Karen P. Salter <ksalter@bushross.com>; Moody, Laura <laura.moody@bcso.us>; Bayne, Jessica <Jessica.Bayne@brevardfl.gov>; leah@n-klaw.com

Subject: Ellis v. BOCC, Charter Cap/Millage Limit Appeal

"External Email"

Good Afternoon,

We appreciate everyone's time at the earlier call.

At this time, we would like to request that you put in writing your proposal in order to ensure that we present the proposed concepts clearly to the Board.

Thank you.

Abby

Abigail Forrester Jorandby, Esq.
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Brevard County Attorney's Office
2725 Judge Fran Jamieson Way, Suite 308
Viera, FL 32940
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Fax: 321. 633. 2096
abigail.jorandby@brevardfl.gov



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"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

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