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| Meeting Date |
| October 18, 2016 |



| AGENDA | |
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| Section | New Business |
| Item No. | VI D 3 |

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

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| SUBJECT: | Approve Stipulated Final Judgment in the amount of \$96,253.00 Re: Brevard County v. B West Townhouses LTD, et al, Case No: 05-2013-CA-025677-XXXX-XX (Meadowbrook, LLC Parcels No. 115 and 731) |
| DEPT/OFFICE: | County Attorney's Office and Public Works Department Scott Knox, County Attorney and Eden Bentley, Deputy County Attorney <u>Scott.knox@brevardcounty.us</u> ; <u>eden.bentley@brevardcounty.us</u> John Denninghoff, Director Public Works, <u>john.denninghoff@brevardcounty.us</u> |

Requested Action:

Approve Stipulated Final Judgment in the amount of \$96, 253.00, less the amount previously deposited, plus statutory interest.

Summary Explanation & Background:

A petition in eminent domain was filed in 2013 to take necessary parcels for a portion of Barnes Boulevard. On October 4, 2016 the Board of County Commissioners met in an attorney-client private meeting and authorized settlement in the amount provided in the attached Joint Motion and Stipulated Final Judgment for the land taken, damages to the remainder and attorney's fees.

The offer of \$85,000.00 was accepted. When an offer of judgment is accepted, statutory interest must be paid from the date of the taking to the date of payment. In addition, the fee owed to the attorney for property owner is \$11,253.00 per the statute. Accordingly, staff recommends approval of the joint motion and the stipulated final judgment in the amount of \$96,253.00 less the \$40,000 previously deposited plus the required interest. Expert witness fees remain outstanding and will be presented at a later date.

Fiscal Impact: \$56,253.00 (Settlement of \$85,000.00 less \$40,000.00 previously paid plus \$11,253.00 in attorney's fees plus interest accrued at the statutory rate being \$6,518.28 as of October 12, 2016)

Commission District: 4

Fund Account/Cost Code: 1163/265160/5610000

Clerk to the Board Instructions:

Exhibits Attached: Joint Motion and Stipulated Final Judgment (Parcels No. 115 and 731)

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

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| County Manager | Assistant County Manager | Department Director / Extension <i>John Denninghoff</i> John Denninghoff Public Works Director |
| Stockton Whitten | Assistant County Manager | Scott Knox, County Attorney <i>[Signature]</i> |



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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October 19, 2016

M E M O R A N D U M

TO: Scott Knox, County Attorney Attn: Eden Bentley

RE: Item VI.D.3., Stipulated Final Judgment, in the Amount of \$96,253, for Brevard County v. B. West Townhouses LTD, et al, Case No.: 05-2013-CA-025677-XXXX-XX (Meadowbrook, LLC – Parcel Nos. 115 and 731)

The Board of County Commissioners, in regular session on October 18, 2016, approved Stipulated Final Judgment, in the amount of \$96,253, for Brevard County v. B. West Townhouses LTD, et al, Case No.: 05-2013-CA-025677-XXXX-XX (Meadowbrook, LLC – Parcel Nos. 115 and 731).

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

✓ Tammy Rowe, Deputy Clerk

cc: Public Works Director

00/100 Dollars (\$11,253.00) for attorney's fees.

2. Based upon the amount of compensation paid for the land taken pursuant to paragraph 1, above, Meadowbrook is entitled to statutorily mandated interest on the sum of \$45,000.00 from the date of taking (September 26, 2013) through the date the funds herein are paid to Meadowbrook.

3. That title to the following described property, to wit: **Exhibit "A"** which vested in Petitioner pursuant to the Stipulated Order of Taking and deposit on September 26, 2013, heretofore made, is hereby approved, confirmed and ratified.

4. That within thirty (30) days after receipt by Petitioner of a conformed copy of this Partial Final Judgment, Petitioner shall issue a check in the amount of **Fifty Six Thousand Two Hundred Fifty Three and No/100 Dollars (\$56,253.00), plus the statutory interest on \$45,000 from September 26, 2013 to the date the funds are paid to Meadowbrook**, payable to the Gray Robinson P.A. Trust Account, this sum being the difference between Petitioner's initial deposit of \$40,000.00 and the final award in Paragraph 1, plus attorney's fees pursuant to Paragraph 1 herein with an additional amount to pay the interest owed pursuant to statute. Petitioner shall mail said check to: Jack Kirschenbaum, Esquire, Gray Robinson PA, P.O. Box 1870, Melbourne, FL, 32902-1870.

5. That this Court retains and reserves jurisdiction to award expert witness fees and costs.

ORDERED and ADJUDGED that upon receipt of the monies referenced above, Jack Kirschenbaum on behalf of Respondent Meadowbrook, LLC, shall file a Satisfaction of Judgment in this cause.

DONE and ORDERED in Chambers in Viera, Brevard County, Florida, this ____ day of _____, 2016.

John M. Harris
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court this ____ date of _____, 2016, by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorneys/interested parties identified on the ePortal Electronic Service List, via transmission of Notices of Electronic Filing generated by the ePortal System.

Judicial Assistant

MOTION

The parties by and through the undersigned, respectfully move for the entry of the foregoing Stipulated Final Judgment as to parcels 115 and 731_ this _____ day of _____, 2016.

OFFICE OF THE COUNTY ATTORNEY
2725 Judge Fran Jamieson Way
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Viera, Florida 32940
Telephone: 321.633.2090
Facsimile: 321.633.2096
Eden.bentley@brevardcounty.us

Eden Bentley, Deputy County Attorney
Florida Bar No. 370908
Attorney for Petitioner BREVARD COUNTY,
FLORIDA

GRAY|ROBINSON, P.A.
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Jack.kirschenbaum@gray-robinson.com

Jack A. Kirschenbaum, Esq.
Florida Bar No. 250759
Attorney for Meadowbrook, LLC

EXHIBIT "A"

Description: Parcel No. 115 - Fee Simple

A parcel of land lying in the Northeast 1/4 of Section 21, Township 25 South, Range 36 East, being more fully described as follows:

The south 14.00 feet, by right angle measure, of those lands as described in O.R. Book 5277, Page 2710, of the Public Records of Brevard County, Florida.

Containing 0.07 acres (2,933 square feet) more or less, and being subject to any restrictions, covenants, easements and/or rights-of-way of record.

Description: Parcel No. 731 - Temporary Construction Easement

A parcel of land lying in the Northeast 1/4 of Section 21, Township 25 South, Range 36 East and being the following described portion of those lands described in O.R. Book 5277, Page 2710 of the Public Records of Brevard County, Florida:

The north 6.00 feet of the south 20.00 feet, both by right angle measure of said lands noted above.

Containing 0.03 acres (1,258 square feet) more or less, and being subject to any restrictions, covenants, easements and/or rights-of-way of record.