

Meeting Date
August 22, 2017



AGENDA	
Section	Consent
Item No.	II.A.4

**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

SUBJECT:	<i>Brevard County, Florida v. Sumerset Florida, LLC, et al.; Case No.: 05-2011-CA-031229-XXXX-XX</i> Chelsea Park Homeowner's Association Parcel(s) 126, 149, 733, 821, and 823 Eminent Domain action for Barnes Blvd.
DEPT/OFFICE:	County Attorney's Office / Public Works Department Matthew Soss, Assistant County Attorney / John Denninghoff, Assistant County Manager <a href="mailto:Matthew.Soss@brevardfl.gov">Matthew.Soss@brevardfl.gov</a> <a href="mailto:John.Denninghoff@brevardfl.gov">John.Denninghoff@brevardfl.gov</a>

Requested Action:  
It is requested that the Board approve settlement in the amount of \$93,500.00 for all issues relating to Chelsea Park Homeowners Association Inc.'s Parcels 126, 149, 733, 821, and 823 condemned as part of the Barnes Boulevard widening project.

Summary Explanation & Background:  
Background: In 2011, Brevard County condemned several tracts of land along Barnes Boulevard from Respondent, Chelsea Park At Rockledge Homeowners Association, Inc., (Chelsea Park). The County's appraised value for these parcels was \$12,700.00. The property owner presented a land value and severance damage claim of \$97,700.00; attorney's fees and reasonable costs must also be paid per the statutory requirements. On July 29, 2017, County staff mediated with Chelsea Park and the parties reached an agreement that Staff would recommend settling this matter to the Board of County Commissioners for \$80,790.00 plus monies already deposited with the Court in the amount of \$12,710.00. This settlement amount includes the payment of attorney's fees and all other fees and costs. While this number is significantly higher than the county's appraised value, numerous additional costs will be avoided if the case is settled prior to trial.  
Under Florida law, the County is required to pay all of the property owner's costs incurred in eminent domain matters. The costs were approximately \$26,060.00 through the week of July 24, 2017. It should be noted that these costs do not include costs for trial preparation for either party or the hiring of additional experts by the property owner in anticipation of trial. These costs also do not include attorney's fees. Staff estimates that winning on every count at trial in this matter would result in a cost to the County well in excess of \$93,500.00. If the property owner was to prevail at trial, costs could be in excess of \$230,000.00.  
Staff recommends acceptance of the settlement agreement with Chelsea Park and requests authorization for the staff to proceed with settlement via stipulated final judgment.  
Fiscal impact: \$80,790.00(\$93,500.00 less the \$12,710.00 previously deposited in the Court Registry)

Clerk to the Board Instructions:

Exhibits Attached:

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Interim Assistant County Manager Jim Liesenfelt	Department Director / Extension
Frank Abbate	Assistant County Manager John Denninghoff	Scott Knox, County Attorney <a href="mailto:Scott.Knox@brevardfl.gov">Scott.Knox@brevardfl.gov</a> , (321) 633-2090



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

August 23, 2017

Telephone: (321) 637-2001

Fax: (321) 264-6972

Tammy.Rowe@brevardclerk.us

MEMORANDUM

TO: Scott Knox, County Attorney Attn: Matthew Soss

RE: Item II.A.4., Settlement Agreement in the Amount of \$93,500 for Brevard County, Florida v. Sumerset Florida, LLC, et al, Case No.: 05-2011-CA-031229-XXXX-XX, Chelsea Park Homeowner's Association Parcels 126, 149, 733, 821, and 823 for Eminent Domain Action for Barnes Boulevard Widening Project

The Board of County Commissioners, in regular session on August 22, 2017, approved the Settlement Agreement between Brevard County, Florida v. Sumerset Florida, LLC, et al, Case No.: 05-2011-CA-031229-XXXX-XX, in the amount of \$93,500 relating to Chelsea Park Homeowner's Associations Inc. Parcels 126, 149, 733, 821, and 823 condemned as part of the Barnes Boulevard Widening Project.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

cc: Assistant County Manager Denninghoff  
Interim Public Works Director  
Contracts Administration  
Asset Management  
Finance  
Budget



**AGENDA REPORT**  
**August 22, 2017**

**SUBJECT:**

*Brevard County, Florida v. Somerset Florida, LLC, et al.; Case No.: 05-2011-CA-031229-XXXX-XX*  
Chelsea Park Homeowner's Association Parcel(s) 126, 149, 733, 821, and 823  
Eminent Domain action for Barnes Blvd.

**FISCAL IMPACT:**

\$80,790.00 (\$93,500.00 less the \$12,710.00 previously deposited in the Court Registry)

**DEPT/OFFICE:**

County Attorney Office / *Public Works*

**REQUESTED ACTION:**

It is requested that the Board approve settlement in the amount of \$93,500.00 for all issues relating to Chelsea Park Homeowners Association Inc.'s Parcels 126, 149, 733, 821, and 823 condemned as part of the Barnes Boulevard widening project.

**SUMMARY EXPLANATION and BACKGROUND:**

Background: In 2011, Brevard County condemned several tracts of land along Barnes Boulevard from Respondent, Chelsea Park At Rockledge Homeowners Association, Inc., (Chelsea Park). The County's appraised value for these parcels was \$12,700.00. The property owner presented a land value and severance damage claim of \$97,700.00; attorney's fees and reasonable costs must also be paid per the statutory requirements. On July 29, 2017, County staff mediated with Chelsea Park and the parties reached an agreement that Staff would recommend settling this matter to the Board of County Commissioners for \$80,790.00 plus monies already deposited with the Court in the amount of \$12,710.00. This settlement amount includes the payment of attorney's fees and all other fees and costs. While this number is significantly higher than the county's appraised value, numerous additional costs will be avoided if the case is settled prior to trial.

Under Florida law, the County is required to pay all of the property owner's costs incurred in eminent domain matters. The costs were approximately \$26,060.00 through the week of July 24, 2017. It should be noted that these costs do not include costs for trial preparation for either party or the hiring of additional experts by the property owner in anticipation of trial. These costs also do not include attorney's fees. Staff estimates that winning on every count at trial in this matter would result in a cost to the County well in excess of \$93,500.00. If the property owner was to prevail at trial, costs could be in excess of \$230,000.00.

Staff recommends acceptance of the settlement agreement with Chelsea Park and requests authorization for the staff to proceed with settlement via stipulated final judgment.

**ATTACHMENTS:**

**Description**

No Attachments Available

**REVIEWERS:**

**Department**

**Reviewer**

**Action**

No Reviewers Available