

ADD ON

Meeting Date
July 21, 2015



AGENDA	
Section	Unf. Business
Item No.	V B

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approve Stipulated Final Judgment as to Attorney's Fees re: Brevard County v. Walter E. Platt, et al, 05-2013-CA-72132, Parcel 102.2 (Hammer, Richard and Rhonda)
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 for Attorney's Fees in the amount of \$16,500.00
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Summary Explanation & Background:

A petition in eminent domain was filed in 2013 to take necessary parcels for the southern segment of the St. Johns Heritage Parkway Project.

On May 12, 2015, the Board of County Commissioners met in an attorney-client private meeting and authorized an offer of judgment to the owners of Parcel 102.2, Rhonda and Richard Hammer. The Hammers accepted the offer and the stipulated final judgment was entered.

Attorney's fees and costs were not included in the offer of judgment and those issues are addressed by this proposed stipulation. Attorney's fees are dictated by statute as 33% of the benefit obtained, which in this case is \$50,000.00, resulting in an attorney fee of \$16,500. In the event this issue were litigated, the court, pursuant to the statute would enter an award in the amount noted.

Fiscal Impact: \$16,500.00
 Commission District: 5
 Fund Account/Cost Code: Fund 1700/344928/5610000 FDOT Grant

Clerk to the Board Instructions:

Exhibits Attached: Joint Motion and Stipulated Final Judgment (Parcel 102.2)

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	Assistant County Manager	Department Director / Extension Scott Knox, County Attorney/52090 John Denninghoff Public Works Director
Stockton Whitten	Assistant County Manager	



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

Telephone: (321) 637-2001
Fax: (321) 264-6972

July 22, 2015

M E M O R A N D U M

TO: Scott Knox, County Attorney

RE: Item V.B., Stipulated Final Judgment as to Attorney's Fees, Brevard County v. Walter E. Platt, et al, 05-2013-CA-72132, Parcel 102.2 (Hammer, Richard and Rhonda)

The Board of County Commissioners, in regular session on July 21, 2015, approved Stipulated Final Judgment for Attorney's fees in the amount of \$16,500 for Brevard County v. Walter E. Platt, et al, 05-2013-CA-72132, parcel 102.2 (Hammer, Richard and Rhonda).

Your continued cooperation is greatly appreciated.

Sincerely yours,

**BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK**

Tammy Etheridge, Deputy Clerk

cc: Public Works Director
Finance
Budget

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO. 05-2013-CA-072132-XXXX-XX

BREVARD COUNTY, FLORIDA, a political
subdivision of the State of Florida,

Petitioner,

v.

WALTER E. PLATT AND CARLYN P. PLATT,
HUSBAND AND WIFE AS TO A LIFE ESTATE AND
WALTER E. PLATT AND CARLYN P. PLATT AS
TRUSTEES OF THE WALTER E. PLATT AND
CARLYN P. PLATT TRUST AGREEMENT DATED
NOVEMBER 9, 1999; RICHARD M. HAMMER;
RHONDA J. HAMMER; DOUGLAS W. HARRISON,
JR.; TOBIE JULIENNE HARRISON; LISA CULLEN,
Brevard County Tax Collector, and ALL PARTIES
CLAIMING INTEREST BY, THROUGH, UNDER OR
AGAINST THE NAMED DEFENDANTS; and if any of
the Defendants or all Defendants are deceased, THE
UNKNOWN SPOUSE, HEIRS, DEVISEES, GRANTEEES,
CREDITORS, LIENORS, OR OTHER PARTIES
CLAIMING BY, THROUGH, UNDER, OR AGAINST
ANY SUCH DECEASED DEFENDANT OR
DEFENDANTS IF ALIVE AND IF DEAD THEIR
UNKNOWN SPOUSE, HEIRS, DEVISEES, LEGATEES,
GRANTEEES, CREDITORS, LIENORS, OR OTHER
PARTIES CLAIMING BY, THROUGH, UNDER OR
AGAINST ANY SUCH DECEASED DEFENDANT OR
DEFENDANTS,

Respondents/Defendants.

JOINT MOTION FOR STIPULATED FINAL JUDGMENT
AS TO ATTORNEY'S FEES PARCEL 102.2

The Petitioner, BREVARD COUNTY, FLORIDA and the Respondents RICHARD M.
HAMMER and RHONDA J. HAMMER, by and through the undersigned counsel, respectfully
move for the entry of the attached Stipulated Final Judgment as to Attorney's Fees and Costs for
Parcel 102.2 on this _____ day of July, 2015.

GRAY|ROBINSON, P.A.
1795 West NASA Boulevard
P. O. Box 1870
Melbourne, Florida 32901
Telephone: 321.727-8100
Facsimile: 321-984-4122
Jack.kirschenbaum@gray-robinson.com

Jack A. Kirschenbaum, Esq.
Florida Bar No. 250759

Attorney for Respondents Richard C. Hammer
and Rhonda J. Hammer

OFFICE OF THE COUNTY ATTORNEY
2725 Judge Fran Jamieson Way
Building C - Suite 308
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

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO. 05-2013-CA-072132-XXXX-XX

BREVARD COUNTY, FLORIDA, a political
subdivision of the State of Florida,

Petitioner,

v.

WALTER E. PLATT AND CARLYN P. PLATT,
HUSBAND AND WIFE AS TO A LIFE ESTATE AND
WALTER E. PLATT AND CARLYN P. PLATT AS
TRUSTEES OF THE WALTER E. PLATT AND
CARLYN P. PLATT TRUST AGREEMENT DATED
NOVEMBER 9, 1999; RICHARD M. HAMMER;
RHONDA J. HAMMER; DOUGLAS W. HARRISON,
JR.; TOBIE JULIENNE HARRISON; LISA CULLEN,
Brevard County Tax Collector, and ALL PARTIES
CLAIMING INTEREST BY, THROUGH, UNDER OR
AGAINST THE NAMED DEFENDANTS; and if any of
the Defendants or all Defendants are deceased, THE
UNKNOWN SPOUSE, HEIRS, DEVISEES, GRANTEEES,
CREDITORS, LIENORS, OR OTHER PARTIES
CLAIMING BY, THROUGH, UNDER, OR AGAINST
ANY SUCH DECEASED DEFENDANT OR
DEFENDANTS IF ALIVE AND IF DEAD THEIR
UNKNOWN SPOUSE, HEIRS, DEVISEES, LEGATEES,
GRANTEEES, CREDITORS, LIENORS, OR OTHER
PARTIES CLAIMING BY, THROUGH, UNDER OR
AGAINST ANY SUCH DECEASED DEFENDANT OR
DEFENDANTS,

Respondents/Defendants.

STIPULATED FINAL JUDGMENT
AS TO ATTORNEY'S FEES AS TO PARCEL 102.2

THIS CAUSE having come on upon joint motion for the entry of a Stipulated Final Judgment as to Attorney Fees and Costs made by the Petitioner, BREVARD COUNTY, FLORIDA, and Respondents RICHARD M. HAMMER, RHONDA J. HAMMER, set forth hereinbelow; and it appearing to the Court that the parties were authorized to enter into such

motion; and the Court finding that the Stipulated Order of Taking for Parcels 102.1 and 102.2 entered February 13, 2014, and recorded in Official Records Book 7107 at Page 105 on April 16, 2014, in the Official Records of Brevard County, Florida, vested in the Petitioner and subsequently Respondents, Richard and Rhonda Hammer accepted the Offer of Judgment as to Parcel 102.2 on June 12, 2015.

ORDERED and ADJUDGED that the Respondents, RICHARD M. HAMMER, RHONDA J. HAMMER, shall have and recover from the Petitioner the sum of Sixteen Thousand Five-hundred Dollars (\$16,500.00) for attorney's fees.

ORDERED, that upon payment of the monies and satisfaction of the obligations described herein, the Respondents, RHONDA J. HAMMER shall have no further claims of any nature against the Petitioner, BREVARD COUNTY, FLORIDA, for attorney's fees as a result of this action.

ORDERED that upon entry of this Stipulated Final Judgment as to Attorney's Fees, the Petitioner shall pay to Gray|Robinson, P.A. c/o Jack A. Kirschenbaum, Esq., the sum of \$16,500.00 and mail such check to: Gray|Robinson, P.A., P.O. Box 1870, Melbourne, Florida 32901-1870 for proper disbursement on behalf of Respondents, RICHARD M. HAMMER and RHONDA J. HAMMER.

ORDERED AND ADJUDGED that the Court specifically reserves jurisdiction to address and award expert witness fees and costs in this matter.

ORDERED AND ADJUDGED FURTHER upon receipt of the monies referenced above, RICHARD M. HAMMER, RHONDA J. HAMMER shall file a Satisfaction of Judgment in this cause.

DONE AND ORDERED in Chambers at the Harry T. & Harriette V. Moore Justice Center, Viera, Brevard County, Florida, this _____ day of _____, 2015.

Lisa Davidson
Circuit Judge

I hereby certify that a conformed copy of the above has been furnished by U.S. Mail to Jack A. Kirschenbaum, Esq., P. O. Box 1870, Melbourne, Florida 32902 and Eden Bentley, Deputy County Attorney, Brevard County Attorney Office MS #89, 2725 Judge Fran Jamieson Way, C-308, Viera, FL 32940, this _____ day of _____, 2015.

Judicial Assistant