

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: September 12, 2006

☒ Consent      ☐ Regular  
☐ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For:

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: A settlement in the amount of \$81,015, including attorney's fees, but excluding costs, in the eminent domain action styled Palm Beach County v. John R. Bassler, et al., Case No. 502005CA004001XXXXMB, parcel 7580, for the taking of 2.64 acres in Unit 11.

**Summary:** The County has negotiated a settlement, including attorney fees, but excluding costs, in the amount of \$81,015, subject to the approval of the Board of County Commissioners. This settlement is based upon the amount of \$25,000 per acre for the oversized, canal fronting parcel 7580 in Unit 11, and has been approved by Richard Walesky, the Director of the Environmental Resources Management Department and by the County's expert appraisers. If approved by the Board, the settlement would require the County to pay an additional \$60,515 including attorney fees, but excluding costs. The costs are expected to be negligible. District 6 (PM)

**Background and Justification:** Given the valuation date of this parcel of land and the significant escalation of real estate prices up to and including the valuation date of December 20, 2005 for this parcel, the settlement makes practical sense in light of the cost and risk associated with trial, and is consistent with present litigation strategy. Therefore, staff recommends the approval of this settlement as set forth herein.

**Attachments:**

1. Approval Memorandum dated July 20, 2006, signed by Richard Walesky, Denise Nieman and Robert Weisman.

Recommended by: \_\_\_\_\_

County Attorney

Date

Approved by: \_\_\_\_\_

N/A

## II. FISCAL IMPACT ANALYSIS

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2006	2007	2008	2009	2010
<b>Capital Expenditures</b>	<u><b>\$81,015</b></u>	—	—	—	—
<b>Operating Costs</b>	—	—	—	—	—
<b>External Revenues</b>	—	—	—	—	—
<b>Program Income (County)</b>	—	—	—	—	—
<b>In-Kind Match (County)</b>	—	—	—	—	—
<b>NET FISCAL IMPACT</b>	<u><b>\$81,015</b></u>	—	—	—	—
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	—	—	—	—	—

**Is Item Included in Current Budget?** Yes X No     

**Budget Account No.: Fund 3650 Department 381 Unit M209 Object 6101**

**Reporting Category**\_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:** \_\_\_\_\_

**C. Departmental Fiscal Review:**\_\_\_\_\_

### III. REVIEW COMMENTS

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

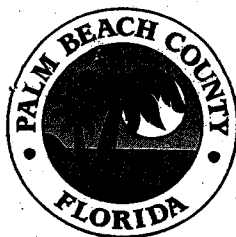
8-24-06  
OFMB  
8/23/2006  
Legal Sufficiency: *OK* 8/23/06  
8/23/06  
Assistant County Attorney

8/24/06  
Contract Dev. and Control  
8/25/06

**C. Other Department Review:**

  
Department Director

**THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.**



Denise M. Nieman  
County Attorney

P.O. Box 1989  
West Palm Beach, FL 33402-1989  
(561) 355-2225  
Suncom: (561) 273-2225  
FAX: (561) 355-4398  
www.pbcgov.com

**Palm Beach County  
Board of County  
Commissioners**

Tony Masilotti, Chairman

Addie L. Greene, Vice Chairperson

Karen T. Marcus

Jeff Koons

Warren H. Newell

Mary McCarty

Burt Aaronson

**County Administrator**

Robert Weisman

"An Equal Opportunity  
Affirmative Action Employer"

**MEMORANDUM**

**DATE:** July 20, 2006  
**TO:** Robert Weisman, County Administrator  
**THROUGH:** Denise M. Nieman, County Attorney  
**FROM:** Philip Mugavero, Assistant County Attorney  
**RE:** PBC v. Bassler, et al.  
Parcel # 7580 (Jupiter Properties)  
Unit 11, Zone 8



Please indicate your approval of a Stipulated Final Judgment in the above-referenced matter in the amount of \$66,000.00 for parcel 7580 in Unit 11. The payment reflects a per acre value of \$25,000 for the 2.64 acres for this parcel. This Settlement has been approved by the Department of Environmental Resource Management Director, Richard Walesky, as indicated by his signature below.

This Settlement would require the County to pay the additional sum of \$60,515.00, which includes attorneys fees to complete the settlement, excluding costs. A copy of the Stipulated Final Judgment is attached.

If approved, please return the executed copy to Philip Mugavero, Assistant County Attorney. If you have any questions, please do not hesitate to call me at 355-6717.

APPROVED BY:

CONCURRENCE BY:

Robert Weisman,  
County Administrator

Denise M. Nieman,  
County Attorney

APPROVED BY:

Richard E. Walesky, Director  
Environmental Resource Management

IN THE CIRCUIT COURT OF THE  
FIFTEENTH JUDICIAL CIRCUIT OF  
FLORIDA, IN AND FOR PALM BEACH  
COUNTY.

CASE NO: 502005CA004001XXXXMB(AE)

PALM BEACH COUNTY, a political  
Subdivision of the State of Florida,

Petitioner,

v.

PARCEL 7580

JOHN R. BASSLER, et al.,

Respondents.

---

### STIPULATED FINAL JUDGMENT

This cause having come before the Court upon the Joint Motion set forth below and the Court being fully advised in the premises, it is therefore

ORDERED AND ADJUDGED as follows:

1. Respondent, JUPITER PROPERTIES, INC., shall have and recover from Petitioner, PALM BEACH COUNTY, the sum of \$66,000.00 in full payment for the taking of Parcel 7580, including damages arising therefrom, if any. Respondents shall recover the sum of \$15,015.00 for attorney's fees.

2. The Petitioner, having previously deposited the sum of \$20,500.00 into the Registry of this Court, shall, within thirty (30) days of receipt of a certified copy of this Stipulated Final Judgment, and without further order of this Court, issue a check in the amount of \$60,515.00 payable to Jones, Foster, Johnston & Stubbs, P.A., Trust Account, and mail said check to H. Adams Weaver, Esquire, Post Office Box, 3475.

07/20/06 THU 09:19 [TX/RX NO 7594]

West Palm Beach, Florida 33402, for appropriate disbursement of the settlement amount and attorney's fees.

3. The vesting of title to Petitioner as to Parcel 7580 is hereby approved, ratified and confirmed.

DONE AND ORDERED at Palm Beach County, Florida, this \_\_\_\_ day of September, 2006.

---

**CIRCUIT COURT**

Copies furnished to below listed counsel.

**JOINT MOTION**

Petitioner, PALM BEACH COUNTY, and Respondent, JUPITER PROPERTIES, INC., move together for entry of the Stipulated Final Judgment set forth above and state that they are authorized to enter into this Joint Motion.

AGREED to this \_\_\_\_ day of September, 2006.

**ASSISTANT COUNTY ATTORNEY**

Attorney for Petitioner  
301 North Olive Avenue  
7<sup>th</sup> Floor  
West Palm Beach, FL 33401  
(561) 355-6717  
(561) 355-4234 (fax)

JONES FOSTER JOHNSTON  
& STUBBS, P.A.  
Attorney for Respondent  
505 South Flagler Drive  
Suite 1100  
West Palm Beach, FL 33402  
(561) 659-3000  
(561) 650-0422

By

PHILIP MUGAVERO  
FLORIDA BAR NO: 931179

HAW/09873-2/PLDG-STIPULATED-FINAL-JUDGMENT

By

H. ADAMS WEAVER  
FLORIDA BAR NO: 125210

07/20/06 THU 09:19 [TX/RX NO 7594]