

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: October 3, 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 \$382,800, including attorney's fees, but excluding costs, in the eminent domain action styled Palm Beach County v. Michael Martin, et al., Case No. 502005CA006339XXXXMB, for the taking of 5 acres in Indian Lake Estates.

Summary: The County has negotiated a settlement for parcel 20 in the Indian Lake Estates subdivision, in the amount of \$382,800, including attorney fees, but excluding costs, subject to the approval of the Board of County Commissioners. The attorney fees in the amount of \$52,800 were calculated mathematically pursuant to Florida law. The County's initial good faith offer in the amount of \$170,000 was previously deposited into the Registry of the Court. If the Board approves this settlement, the County would be required to pay an additional \$212,800 inclusive of attorney fees, but excluding costs to finalize this settlement. District 6 (PM)

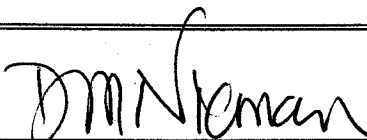
Background and Justification: The County's initial appraisal in the amount of \$170,000 for parcel 20 was done over 1 year ago. The County's appraisers updated that appraisal through the date of taking, November 9, 2005. The updated appraisal amount was \$260,000. After the County's updated appraisal was done, the County's appraisers were informed of additional written contracts done through relators that also would have been used to appraise the value of the subject parcel. The County's appraisers have opined that if these written offers were factored into their updated appraisal analysis, along with accepted real estate appreciation during 2005, their valuation would have been closer to \$390,000 for the subject parcel. Given consideration of these written contracts, the County's appraised value would have exceeded the owners appraised value of \$375,000 by approximately \$15,000. Therefore, staff recommends the approval of this settlement because there is nothing to be gained by trial of this matter.

Attachments:

1. Report of Court Ordered Mediation dated September 7, 2006.
2. Proposed Stipulated Final Judgment.

Recommended by: _____

County Attorney



Date

9/19/06

Approved by: _____

N/A

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	<u>\$212,800</u>	—	—	—	—
Operating Costs	—	—	—	—	—
External Revenues	—	—	—	—	—
Program Income (County)	—	—	—	—	—
In-Kind Match (County)	—	—	—	—	—
NET FISCAL IMPACT	<u>\$212,800</u>	—	—	—	—
# ADDITIONAL FTE POSITIONS (Cumulative)	—	—	—	—	—

Is Item Included in Current Budget? Yes X No ___

Budget Account No.: Fund 1226 Department 380 Unit E205 Object 6101

Reporting Category ___

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: Elizabeth Purvis

III. REVIEW COMMENTS

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

[Handwritten signatures and dates for OFMB and Contract Dev. and Control reviews]
 OFMB: 9/20/06
 Contract Dev. and Control: 9/20/06

B. Legal Sufficiency:
Assistant County Attorney

C. Other Department Review:
Department Director

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

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

P.B.Co.

Plaintiff(s),

CASE NO.: 2005 CA - 6339 AD

vs.

Extreme Investments, LLC

Defendant(s).

REPORT OF COURT ORDERED MEDIATION

A mediation conference was held on 9-7-06 for the
above-styled case. Mediator, R. WILLIAM RUTTER, JR., conducted the proceedings.
All parties were present.

A partial agreement was reached.

A complete agreement was reached.

The following is a synopsis of the partial or complete agreement reached:

See attached

[Signature]
Plaintiff

[Signature]
Plaintiff's Attorney

9-7-06
Date

[Signature]
Defendant

[Signature]
Defendant's Attorney

9/7/06

PBC
V.

CIRCUIT COURT OF
PBC, FIFTEENTH
JUDICIAL CIRCUIT

CASE NO.: 2005 CA 00-6339

MARTIN et al.

AD

MEDIATION SETTLEMENT

1. This case has been settled amicably as to parcel # 20 and all issues, subject to the approval of the Palm Beach County Board of County Commissioners.
2. This case and the settlement will be placed on the next available agenda of the Board of County Commissioners.
3. Attorneys fees and costs shall be calculated, pursuant to Florida law.
↳ and paid
4. This case is settled for \$330,000 and includes all damages of any type whatsoever, but excludes attorneys fees and costs to be calculated as set forth above.
5. Palm Beach County is responsible for payment of mediation costs.

**IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR PALM
BEACH COUNTY, FLORIDA**

**PALM BEACH COUNTY, a political
subdivision of the State of Florida,**

CASE NO.: 2005 CA 00-6339 AD

Petitioner,

v.

PARCEL: 20

MICHAEL MARTIN, et al.,

Respondents.

STIPULATED FINAL JUDGMENT

THIS CAUSE came before this Court upon the Joint Motion attached below, made by Petitioner, PALM BEACH COUNTY ("Petitioner"), and the Respondent, Extreme Investments, L.L.C. (hereinafter "Respondent"), for the entry of this Stipulated Final Judgment. The Court, being advised in the premises, it is hereby,

ORDERED AND ADJUDGED:

1. That Respondent, Extreme Investments, L.L.C., shall recover from Petitioner, Palm Beach County, the sum of Three Hundred Thirty Thousand Dollars and 00/100 (\$330,000.00) as full, fair and final compensation for the property taken, all damages to the remainder, and all other damages of any type resulting from the taking of Parcel 20, but excluding attorney's fees and costs.

2. Petitioner, Palm Beach County, previously deposited the sum of One Hundred Seventy Thousand Dollars and 00/100 Cents (\$170,000.0) into the Registry of the Court pursuant to the Order of Taking entered on November 9, 2005 and Respondent, Extreme Investments, L.L.C., having previously withdrawn and received this amount as partial payment toward the full compensation set forth above. As such, the Petitioner, Palm Beach County, is entitled to a credit of One Hundred Seventy Thousand Dollars and 00/100 Cents

(\$170,000.0) toward the full compensation of Three Hundred Thirty Thousand Dollars and 00/100 (\$330,000.00).

3. That Respondent, Extreme Investments, L.L.C., shall recover from Petitioner, Palm Beach County, the additional sum of One Hundred Sixty Thousand Dollars and 00/100 Cents (\$160,000.0) as the balance owed for full and final compensation for the property taken, all damages to the remainder, and all other damages of any type resulting from the taking of Parcel 20, but excluding attorney's fees and costs.

4. Additionally, Petitioner, Palm Beach County, shall within twenty-one (21) days of receipt of a certified copy of this Order, pay the Respondents' full attorney's fees in the amount of Fifty-Two Thousand Eight Hundred Dollars and 00/100 Cents (\$52,800.00) to Carlton Fields P.A. Trust Account, c/o Henry S. Wulf, Esquire, Carlton Fields, P.A., 222 Lakeview Avenue, Suite 1400, West Palm Beach, Florida 33401-1649.

5. As such, within twenty-one (21) days of receipt of a certified copy of this Stipulated Final Judgment, Petitioner shall pay to the Respondent the additional total compensation of One Hundred Sixty Thousand Dollars and 00/100 Cents (\$160,000.0), plus Fifty-Two Thousand Eight Hundred Dollars and 00/100 Cents (\$52,800.00) as and for attorney's fees, for a total sum of Two Hundred Twelve Thousand Eight Hundred Dollars and 00/100 (\$212,800.00), by check made payable to Carlton Fields P.A. Trust Account, c/o Henry S. Wulf, Esquire, Carlton Fields, P.A., 222 Lakeview Avenue, Suite 1400, West Palm Beach, Florida 33401-1649, who shall be responsible to make the appropriate disbursements.

6. Title to the property described on Exhibit "A" attached hereto, which vested in the Petitioner pursuant to the Order of Taking and deposit previously made is approved, ratified and confirmed in its entirety.

7. The Court shall reserve jurisdiction to determine and award Respondent's costs in this proceeding pursuant to Section 73.091, Florida Statutes (2004), to enforce the terms of this final judgment and to hear supplemental proceeding(s), if any, and enter any necessary orders related thereto.

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida, this ____ day October, 2006.

Amy Smith
Circuit Court Judge

Copies forwarded to the parties set forth below.

JOINT MOTION

Petitioner, PALM BEACH COUNTY and Respondent, Extreme Investments, L.L.C., by and through their undersigned counsel, hereby stipulate that they have resolved this case as described above and move this Court for entry of the foregoing Stipulated Final Judgment.

PHILIP MUGAVERO, ESQ.
Assistant County Attorney
301 N Olive Avenue, #601
West Palm Beach, FL 33401-4791
Phone: (561) 355-6717

HENRY S. WULF, ESQUIRE
for Respondent
Carlton Fields, P.A.
222 Lakeview Avenue, Suite 1400
West Palm Beach, FL 33401-6149
Phone: (561) 659-7070

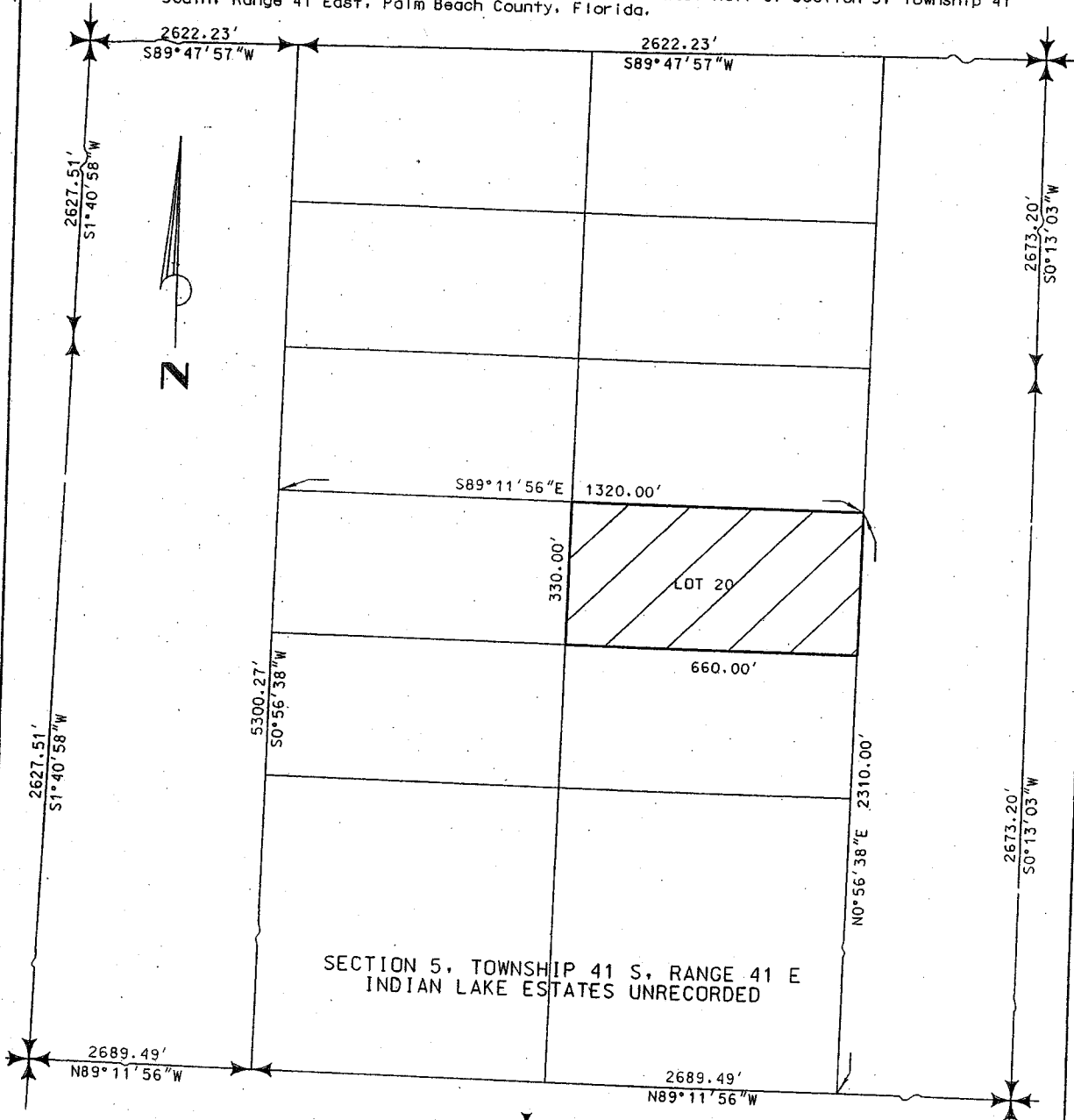
By: Philip Mugavero
Fla. Bar 931179

By: Henry S. Wulf, Esquire
Fla. Bar 0056049




LEGAL DESCRIPTION

Parcel # 20, INDIAN LAKE ESTATES, an unrecorded plat of the West 1/2 of Section 4 and the East 1/2 of Section 5, Township 41 South, Range 41 east, Palm Beach County, Florida.

More particularly described as: North 330.00 feet of the South 2,310.00 feet of the East 660.00 feet of the West 1,320.00 feet of the East half of Section 5, Township 41 South, Range 41 East, Palm Beach County, Florida.



SECTION 5, TOWNSHIP 41 S, RANGE 41 E
INDIAN LAKE ESTATES UNRECORDED

-  = SECTION CORNER
-  = N-S QUARTER CORNER
-  = E-W QUARTER CORNER

THIS IS NOT A SURVEY.

THIS INSTRUMENT PREPARED BY WILLIAM ETHERIDGE, P.L.S. FLORIDA CERTIFICATE NO. 3173
OFFICE OF THE COUNTY ENGINEER.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED
SURVEYOR AND MAPPER.

NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY THE SIGNING SURVEYOR.

THE NORTH LINE OF SECTION 5 BEARS N89°47'57"E AND ALL BEARINGS ARE RELATIVE THERETO.

THE EASEMENTS SHOWN ON THE UNRECORDED PLAT ARE NOT SHOWN ON THIS SKETCH. *W.C. Etheridge*


PROJECT NO. 2005012-03
SHEET 1

PROJECT:	
DESCRIPTION SKETCH	
PAL-MAR NATURAL AREA	
SECTION 5, TWP 41 S, RGE 41 E	
DESIGN FILE NAME	DRAWING NO.
S-1-05-2275.DGN	S-1-05-2281

NO.	REVISION	BY	DATE

SCALE: 1" = 300'
 APPROVED: WCE
 DRAWN: CAD
 CHECKED: NJH
 DATE: 11/15/04
 FIELD BOOK NO. NONE

PALM BEACH COUNTY
ENGINEERING AND PUBLIC WORKS



ENGINEERING SERVICES
160 AUSTRALIAN AVENUE
WEST PALM BEACH, FL 33406

EXHIBIT
A