

ADD ON

Agenda Item #:

6A-7

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

=====

Meeting Date:	March 13, 2007	<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Regular
		<input type="checkbox"/>	Workshop	<input type="checkbox"/>	Public Hearing

Department:

Submitted By: ADMINISTRATION

Submitted For: ADMINISTRATION

=====

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to authorize:

A) Staff to take all actions necessary to repeal or amend, as appropriate, the Comprehensive Plan Ordinances related to the Scripps approval on the Mecca property.

B) Staff to negotiate the use of the Mecca property for agricultural purposes pending clarification of regional development issues and development concepts for the Mecca property.

Summary: This is intended to strip development approvals that were obtained to allow the development of the Mecca property for the Scripps project. This would return the property to the prior development level of RR10 (1 unit in 10 acres). This recommendation is made to alleviate timing pressures caused by continuing legal action due to the Scripps approval, and because we do not think it is possible to preserve traffic capacity associated with the Scripps approval for even reduced development use. Also, the continuing uncertainty of other area development matters including the Sector Plan and Callery-Judge has made it impossible for Staff to take definitive positions in settlement negotiations with Department of Community Affairs (DCA) and other parties. While this recommendation might seem to delay the sale of Mecca, it will relieve Staff of wasteful effort, should end outstanding legal actions and will provide the time required for a more rational approach as to how to eventually maximize the County's benefit from owning the Mecca property. In the meantime, agricultural use is recommended. District 1 (ATP)

Background and Policy Issues: Regarding outstanding legal actions, the County continues to be challenged by DCA and 1000 Friends of Florida because the Scripps development approval remains effective even though Scripps will not locate on Mecca.

Attachments:

Legal Status

=====

Recommended by:

Department Director

Date

Approved By:

County Administrator

Date



3/14/07

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes _____ No _____
Budget Account No.: Fund _____ Dept _____ Unit _____ Object _____
Program _____

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

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Budget and/or Contract Development and Control Comments:

Renard Roberts 3/12/07 Dr. S. Jacob 3/12/07
OFMB/Budget CN Contract Development and Control
3/12/07 03/12/07

B. Legal Sufficiency:

Murphy Peter
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 9/03

ADM FORM 01

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



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Robert Weisman


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MEMORANDUM

DATE: March 9, 2007

TO: Robert Weisman
County Administrator

FROM: Amy Taylor Petrick 
Assistant County Attorney

RE: Four Squares/PBC BioTech Research Park Litigation Update

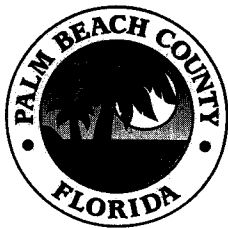
Pursuant to your request for an update on the litigation, please find following a brief summary of each case involving the Four Squares/Biotechnology Research Park project:

Current Litigation

Department of Community Affairs, 1000 Friends of Florida, Florida Wildlife Federation, Jupiter Farms Environmental Council (Loxahatchee River Coalition), Audubon Society of the Everglades, and Maria Wise-Miller v. Palm Beach County, DOAH Case No. 04-4492GM

The DCA's final order was issued on May 12 in this Comprehensive Plan administrative challenge, adopting the Administrative Law Judge's recommendations that the County's Comprehensive Plan Amendments be found "in compliance." Petitioners appealed the decision to the Fourth District Court of Appeal. The Court ordered an expedited review of the case. Oral argument was presented to the District Court on October 5, 2005.

The Court requested and received briefs from the parties on the issue of whether the case was rendered moot by subsequent events. A joint status report to the Fourth District Court of Appeal was filed by the parties on November 22, 2006, indicating that the County initiated, as part of the first round of Comprehensive Plan Amendments for 2007, amendments that would amend or repeal all of the challenged ordinances. The parties indicated that the County's first round of Comprehensive Plan amendments for 2007 was not expected to be completed until August, 2007, and requested that the Court relinquish jurisdiction to the Department of Community Affairs until October 15, 2007. The Court agreed and issued an order relinquishing jurisdiction of the case back to the Department through October 31, 2007.



Four Squares/PBC BioTech Research Park Litigation Update

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1000 Friends of Florida, Florida Wildlife Federation, the Jupiter Farms Environmental Council, Inc., (Loxahatchee River Coalition), Susan A. Kennedy, and Maria Wise-Miller v. Palm Beach County, Scripps Research Institute, Case No. 50 2004 CA 010993 XXXX MB:

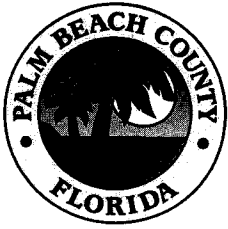
The above-styled case is the circuit court case filed by 1000 Friends, involving claims of contract zoning and inconsistency between the development orders and the Comprehensive Plan. As you may recall, the Court granted the County's Motion for Summary Judgment as to the consistency claim, but denied the Motion for Summary Judgment as to the contract zoning claim based on disputed issues of fact.

The case was scheduled for trial on December 12, 2005. Shortly before the first day of trial, the case was continued based on an agreement between the parties. Recently, the parties submitted a joint status report to Judge Crow, indicating that the case should be held in abeyance until November, 2007, at which point the case may be rendered moot by subsequent Board action on the challenged Comprehensive Plan amendments and developments.

Alexandria Larson & Patricia D. Curry v. Palm Beach County, Scripps Research Institute, and State of Florida, Case No. 502004 CA011575 XXXX MB:

The *Larson* case was brought on behalf of Plaintiffs by attorney Barry Silver. Initially, the complaint contained the same claims as those raised in the *1000 Friends* case cited above and the case was consolidated for discovery purposes only with the *1000 Friends* case. However, pleading deficiencies have led to multiple orders dismissing the complaint without prejudice.

Several different parties and theories were added and removed from the Complaint; the current version of the Complaint now states only a cause of action based on claims that the Business Development Board and the County violated the Sunshine Law during consideration of the Grant Agreement and the purchase of the Mecca Farms parcel. The last Order granting the County's partial Motion to Dismiss was issued by Judge Crow on January 11, 2007, giving Plaintiffs 15 days to amend certain counts in their complaint. Plaintiffs have failed to file an amended complaint to date, but have set depositions in the case.



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Florida Wildlife Federation v. United States Army Corps of Engineers et. al., Case No. 05-80339 CIV-MIDDLEBROOKS

This case involved a challenge to the Army Corps of Engineer permit for excavation and fill for Phase One of the Palm Beach County Biotechnology Research Park. The challengers alleged that the Army Corps erred by failing to require an Environmental Impact Statement, and by impermissibly segmenting the project in a way that fails to consider the complete environmental impact of the project. The Court found in favor of the plaintiffs in a ruling issued on September 30, 2005.

Thereafter, the Court held a separate hearing on the appropriate remedies in the case. Plaintiffs requested the Court to enjoin any further construction on the Biotech Research Park pending the appropriate environmental impact study. After oral argument, the Court issued a partial injunction enjoining certain construction at the Mecca site, but allowing limited construction related to the Scripps permanent facility as well as certain portions of the water utility work planned on the site.

If you have further questions about pending Four Squares/PBC BioTechnology Research Park litigation, or if I can be of further assistance, please feel free to contact me at (561) 355-2529.

cc: Verdenia Baker, Assistant County Administrator
Denise M. Nieman, County Attorney
Andrew McMahon, Chief Assistant County Attorney
Jim Mize, Chief Assistant County Attorney
Barbara Alterman, Executive Director, Planning, Zoning & Building Department
Lorenzo Aghemo, Director, Planning Division
Audrey Wolf, Director, Facilities Department
Ross Hering, Director of Property & Real Estate Management Division
George Webb, County Engineer