Agenda Item #: 6C-2

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

N MHH		The second secon	
Meeting Date:	May 6, 2008	[] Consent [] Public Hea	[X] Regular aring
Department			
Submitted By:	COUNTY ATTORNE	Y	
Submitted For:			
	I. EXEC	CUTIVE BRIEF	
allocation of funds land planners, and condemnation laws Plaintiff v. Palm Be 2006CA004094XX compensation for li and the reimburser and consultant fee \$70,000 increase)	for expert litigation sed other experts necesuit styled Mizner Traceach County, Florida, XXMBAO. The paymentigation services, the rement of reasonable litigs and costs will not expense.	rvices, including certifes sary for the defense ail Golf Club, Ltd., a Formula Defendant, Fifteenthent of expert witness eimbursement of reasonation costs. The total exceed \$420,000 (\$350) ansfer of \$70,000 in	e: a) \$70,000 increase in ied appraisers, architects, e of the pending inverse ilorida limited partnership. Judicial Circuit, Case No. and consultants includes onably incurred expenses, I amount of expert witness 0,000 initial allocation and the General Fund from litness Fee line.
reasonable and nee Mizner litigation. T pendency of the liti	cessary for the County o the extent any porti	to properly and comp on of the allocated fur funds will be carried o	gation support services are betently defend itself in the nds are unused during the over to fiscal year 2008 or rict 4 (ATP)
denied, without pre amendment to add Mizner Trail Golf Cl violated its Florida a a development ord however, all but the	judice, Mizner Trail Go units and re-designate lub, Ltd. filed a lawsuit and federally protected ler amendment. The s e five state and federa Trail Golf Club, Ltd. c	olf Club, Ltd.'s application the property from gole against the County, constitutional rights in second amended contain inverse condemnational	ard of County Commission on for a development order f course to residential use. ontending that the County n denying its application for applaint alleges 20 counts; on counts were voluntarily ges exceed \$38.5 million.
Attachments: 1) Budget Transfe	r M		1
Recommended by		Menn	4 23 08
	County Attor	ney	Date
Approved by:	N/A		
			Date

II. FISCAL IMPACT ANALYSIS

A.	Five Year Summa	ry of Fiscal I	mpact:				
	Fiscal Years	2007	2008	2009	2010	2011	
Сар	tal Expenditures	<u>\$</u>	and the second s			·	
Ope	rating Costs	\$3 <u>50,0</u> 00	<u>\$70,0</u> 00				
Prog	rnal Revenues gram Income (Coun ind Match (County)	ty)					
NE	T FISCAL IMPACT	\$ 350 ,000	\$ <u>70,000</u>				
	ADDITIONAL FTE OSITIONS (Cumulati	ve)					
Is Ite	em Included in Curr	ent Budget?	Yes	X No			
Bud	get Account No.:	Fund_0001_	Department	:_ ₇₆₀ Uni	t _{_7601} Obje	ct_4923	
		Reporting (Category				
B.	Recommended S	ources of Fu	nds/Summar	y of Fiscal	Impact:		
C.	Departmental Fis	cal Review:					
		III. <u>REV</u>	IEW COMME	NTS			
A.	OFMB Fiscal and	or Contract I	Development	and Contr	ol Comment	s:	
В.	A Alwell As 2/2008 OFM Legal Sufficiency	hite 4.25 B Chilippoo	8.08 Cont	ract Develo	J. Jueoli opment and	412910 Control	F
	Assistant Cou		<u>v</u>				
C.	Other Departmen	t Review:					
	Departmen	t Director					
THIS	SUMMARY IS NOT		D AS A BASIS	S FOR PAY	MENT.		

Background and Justification (continued from Page 1):

Mizner Trail Golf Club, Ltd. has retained the following four (4) experts to prosecute its claims against the County: John Hall, Planner; Woodward S. Hanson, Appraiser; Scott R. Miegel, CPA; and Richard Singer, Golf Consultant. The Board of County Commissioners initially allocated \$350,000.00 for expert litigation services. To date, the experts have performed services in the amount of \$339,807.21. Based upon the complexity of the litigation, the amount of damages being sought and the expert witnesses retained by the other side, staff believes the five (5) expert witnesses retained to assist the County Attorney's Office in defending this litigation on behalf of Palm Beach County will need to perform additional work and incur additional compensable expenses and costs in an amount not to exceed \$70,000. The five (5) expert witnesses are Diane Jenkins, Ricardo Gonzales, Ramon Trias, Larry Hirsch, and Maurice Gruber.

The breakdown of the e	stimated \$70,000 is as follows:	
Expert	Additional Work to be Performed	Estimated Cost
Diane Jenkins -	Will update appraisal to include trial date and provide expert testimony at trial.	\$15,000
Ricardo Gonzales	Will update alternate design proposal and provide expert testimony at trial.	\$15,000
Ramon Trias	Will update alternate design proposal and provide expert testimony at trial.	\$15,000
Maurice Gruber	Will update opinions about market factors for contract date and provide expert testimony at trial.	\$10,000
Larry Hirsch	Will update appraisal to include trial date and provide expert testimony at trial.	\$15,000

BOARD OF COUNTY COMMISSIONERS PALM BEACH COUNTY, FLORIDA BUDGET TRANSFER

Page 1 of 1 pages

FUND 0001

Use this form to provide budget for items not anticipated in the budget.

	ODICINAL	CUPPENT			AD ILICTED	EXPENDED/	REMAINING
ACCOUNT NAME	BUDGET	BUDGET	INCREASE	DECREASE	BUDGET	ENCUMBERED	BALANCE
			· · · · · · · · · · · · · · · · · · ·				
Contingency Reserves	20,000,000	19,103,328		70,000	19,033,328		19,033,328
Expert Witness Fees	0	350,000	70,000		420,000	266,071	153,929
TOTAL APPROPRIATIONS & EXPENDITURES	\$1,018,278,583	\$1,020,403,472	\$70,000	\$70,000	\$1,020,403,472		
							-
	Signaturas		Data			By Board of County (`ammiccionors
	Contingency Reserves Expert Witness Fees	Contingency Reserves 20,000,000 Expert Witness Fees 0	ACCOUNT NAME BUDGET BUDGET Contingency Reserves 20,000,000 19,103,328 Expert Witness Fees 0 350,000 TOTAL APPROPRIATIONS & EXPENDITURES \$1,018,278,583 \$1,020,403,472	ACCOUNT NAME BUDGET BUDGET INCREASE Contingency Reserves 20,000,000 19,103,328 70,000 Expert Witness Fees 0 350,000 70,000 TOTAL APPROPRIATIONS & EXPENDITURES \$1,018,278,583 \$1,020,403,472 \$70,000	Contingency Reserves 20,000,000 19,103,328 70,000 Expert Witness Fees 0 350,000 70,000 TOTAL APPROPRIATIONS & EXPENDITURES \$1,018,278,583 \$1,020,403,472 \$70,000 \$70,000	ACCOUNT NAME BUDGET BUDGET INCREASE DECREASE BUDGET Contingency Reserves 20,000,000 19,103,328 70,000 19,033,328 Expert Witness Fees 0 350,000 70,000 \$70,000 \$420,000 TOTAL APPROPRIATIONS & EXPENDITURES \$1,018,278,583 \$1,020,403,472 \$70,000 \$70,000 \$1,020,403,472	ACCOUNT NAME ORIGINAL BUDGET INCREASE DECREASE BUDGET ENCUMBERED BUDGET Contingency Reserves 20,000,000 19,103,328 70,000 19,033,328 420,000 266,071 TOTAL APPROPRIATIONS & EXPENDITURES \$1,018,278,583 \$1,020,403,472 \$70,000 \$70,000 \$1,020,403,472

INITIATING DEPARTMENT/DIVISION Administration/Budget Department Approval OFMB Department - Posted - DMN Weren aprillhite

4.28.08

At Meeting of

May 6, 2008

Deputy Clerk to the
Board of County Commissioners