

October 8, 2013 - Regular Meeting
Agenda Item #12

Subject

Eminent Domain Settlement: Ware's Creek Storm Water Improvement Project, Parcels E-104.1 and E-104.2 (Watkins) – Fees & Costs

Briefings

None

Contact and/or Presenter Information

Andrea A. Adibe, Assistant County Attorney / Sandi Murphy, Ext. 3750

Action Requested

FORM OF MOTION – Approval of settlement with Agnes C. Watkins, as Trustee of The Agnes C. Watkins Revocable Living Trust, dated January 12, 2000, Mary Ann Watkins, James Frederick Watkins, and William Michael Watkins, the landowners of Parcels E-104.1 and E-104.2, in the amount of \$30,750 for the full settlement of reasonable and necessary expert fees and costs incurred and non-monetary attorney's fees, in accordance with Sections 73.091 and 73.092, Florida Statutes, in the eminent domain case of *Manatee County v. Agnes C. Watkins, etc., et al.*, Case No. 2012-CA-2656, Parcels E-104.1 and E-104.2.

Enabling/Regulating Authority

Sections 73.091 and 73.092, Florida Statutes, require the condemning authority to pay the landowner's reasonable and necessary expert witness fees and costs and statutory attorney's fees to the landowner's counsel. *State Department of Transportation v. Nassau Partners, Ltd.*, 878 So.2d 1286 (Fla. 1st DCA 2004), holding that a cost hearing concerning the amount a condemning authority is required to pay property owner's expert witnesses is a supplemental proceeding allowing the court to award additional attorney's fees to the owner's attorney.

Background Discussion

Manatee County previously acquired Parcel E 104.1, in Fee Simple, and Parcel E-104.2, Permanent Access and Maintenance Easement, from the landowners, Agnes C. Watkins, as Trustee of The Agnes C. Watkins Revocable Living Trust, dated January 12, 2000, Mary Ann Watkins, James Frederick Watkins, and William Michael Watkins, as part of the Ware's Creek Storm Water Improvement Project by Stipulated Order of Taking dated June 28, 2012. As a result of negotiations, the landowners agreed to settle as full compensation for the acquisition of the property in the amount of \$220,000, and statutory attorney's fees pursuant to Section 73.092, Florida Statutes, in the amount of \$29,700 by Stipulated Final Judgment entered October 31, 2012.

In an eminent domain action, the County is required to pay the landowners' reasonable and necessary fees and costs pursuant to Section 73.091, Florida Statutes. The County received and reviewed detailed invoices from the landowners' experts and negotiated the following settlement of all remaining fees and costs:

EQUABLE REAL ESTATE SOLUTIONS, LLC, for real estate appraisal services: Requested Fee: \$15,996.25

D.M.A. ENGINEERING, INC., for engineering services: Requested Fee: \$12,066.10

APPROVED in Open Session
October 8, 2013
Manatee County Board of County
Commissioners

Manatee County Government Administrative Center
Commission Chambers, First Floor
9:00 a.m. - October 8, 2013

PEARSON PLANNING SERVICES, INC., for land planning services: Request Fee: \$4,480.00

BLUCHER LAW GROUP, LLC, for apportionment and supplemental attorney's fees and costs: Requested Fee:
\$2,856.26

Total Fees and Costs Requested: \$35,398.61

After extensive negotiations, the County Attorney's Office reached a settlement with the landowners' attorney in the amount of \$30,750.

Based on the foregoing, it is recommended that the Board approve the proposed settlement. The amount in controversy could be eclipsed by the additional attorney's fees and expert fees the County might have to pay the landowners' attorney for a cost hearing as well as the costs incurred by the County in defending the claim.

If approved, it is requested that a check in the amount of \$30,750 be issued to The Trust Account of Blucher Law Group, LLC, and mailed to Paul A. Blucher, Esq., Blucher Law Group, LLC, 7300 Delainey Court, Sarasota, Florida 34240, for proper disbursement.

Copies to:

Ron Schulhofer, Director, Public Works Department

Sia Mollanazar, P.E., Deputy Director, Engineering Services

Jeff Streitmatter, Interim Manager, Project Management Division

Walter Sowa, III, Senior Engineering Specialist, Project Management Division

Charles Bishop, PMP, Director, Property Management Department

Joaquin Servia, Manager, Property Acquisition Division

County Attorney Review

Other (Requires explanation in field below)

Explanation of Other

This is a County Attorney item.

Reviewing Attorney

N/A

Instructions to Board Records

Forward one (1) approved copy of this Agenda Memo to Sandi Murphy (sandra.murphy@mymanatee.org).

10/9/13 QA emailed to Sandi @ CoAtty

Cost and Funds Source Account Number and Name

\$30,750 / Manatee County Storm Water Capital Improvement: 465-6028801-531000/6028801-0003

Amount and Frequency of Recurring Costs

N/A

Attachment: [StipFinalOrd Fees&Costs P104 Watkins.pdf](#)

Attachment: [AerialMap ParcelE104.pdf](#)

Manatee County Government Administrative Center
Commission Chambers, First Floor
9:00 a.m. - October 8, 2013

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
MANATEE COUNTY, FLORIDA** **CIVIL DIVISION**

MANATEE COUNTY, a political
subdivision of the State of Florida,

Petitioner,

v.

AGNES C. WATKINS, etc., et al.,

Defendants.

CASE NO.: 2012-CA-2656
DIVISION: "D"
EMINENT DOMAIN PROCEEDING
PARCELS E-104.1 AND E-104.2

**STIPULATED FINAL ORDER TAXING FEES AND COSTS
AS TO PARCELS E-104.1 AND E-104.2, DEFENDANTS WATKINS**

THIS CAUSE having come on for consideration upon the joint motion for entry of a Stipulated Final Order Taxing Fees and Costs in accordance with Sections 73.091 and 73.092, Florida Statutes (2013), made by counsel for the Petitioner, MANATEE COUNTY, a political subdivision of the State of Florida, and Defendants AGNES C. WATKINS, as Trustee of THE AGNES C. WATKINS REVOCABLE LIVING TRUST, dated January 12, 2000, MARY ANN WATKINS, JAMES FREDERICK WATKINS, and WILLIAM MICHAEL WATKINS (hereinafter "Defendants WATKINS"), as to Parcels E-104.1 and E-104.2 set forth hereinbelow, and it appearing to the Court that the parties were authorized to enter into such motion, and the Court being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that:

1. The sum of THIRTY THOUSAND SEVEN HUNDRED FIFTY AND 00/100 DOLLARS (\$30,750.00) be taxed against the Petitioner for all reasonable and necessary expert's fees and costs incurred by the Defendants WATKINS in connection with the real estate appraisal services provided by Equable Real Estate Solutions LLC, the engineering services provided by D.M.A. Engineering, Inc., and the land planning services provided by

Pearson Planning Services, Inc., and for any claim for attorney's fees and costs incurred in connection with apportionment and supplemental proceedings in accordance with Section 73.092(2), Florida Statutes. This amount represents full and fair compensation to the landowner for all fees and costs in connection with this eminent domain proceeding.

2. Within thirty (30) days after receipt of a conformed copy of this Order, the Petitioner shall issue a check in the amount of THIRTY THOUSAND SEVEN HUNDRED FIFTY AND 00/100 DOLLARS (\$30,750.00) payable to THE TRUST ACCOUNT OF BLUCHER LAW GROUP, LLC, as full payment to the landowner for all fees and costs in connection with this eminent domain proceeding, and forward the check to Paul A. Blucher, Esq., Blucher Law Group, LLC, 7300 Delainey Court, Sarasota, Florida 34240, for proper disbursement.

DONE AND ORDERED in Chambers at Bradenton, Manatee County, Florida, on this _____ day of September, 2013.

JANETTE DUNNIGAN
Circuit Court Judge

Conformed copies to:
Andrea A. Adibe, Esq.
Paul A. Blucher, Esq.

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JOINT MOTION

The parties, Petitioner, MANATEE COUNTY, a political subdivision of the State of Florida, and Defendants AGNES C. WATKINS, as Trustee of THE AGNES C. WATKINS REVOCABLE LIVING TRUST, dated January 12, 2000, MARY ANN WATKINS, JAMES FREDERICK WATKINS, and WILLIAM MICHAEL WATKINS, by and through their respective attorneys, respectfully move for entry of the foregoing Stipulated Final Order Taxing Fees and Costs as to Parcels E-104.1 and E-104.2, Defendants WATKINS.

ANDREA A. ADIBE, ESQ.
Florida Bar No.: 074125
Assistant County Attorney
MANATEE COUNTY ATTORNEY'S OFFICE
Post Office Box 1000
Bradenton, Florida 34206-1000
Telephone: (941) 745-3750
Facsimile: (941) 749-3089
andrea.adibe@mymanatee.org
sandra.murphy@mymanatee.org
Attorneys for Petitioner
MANATEE COUNTY
Dated: _____

Tracy B. Stavett / for

PAUL A. BLUCHER, ESQ.
Florida Bar No.: 0860409
BLUCHER LAW GROUP, LLC
7300 Delainey Court
Sarasota, Florida 34240
Telephone: (941) 361-1145
Facsimile: (941) 361-1146
pab@fifthamendment.com
courtfilings@fifthamendment.com
Attorneys for Defendants
AGNES C. WATKINS, as Trustee of
THE AGNES C. WATKINS
REVOCABLE LIVING TRUST,
MARY ANN WATKINS,
JAMES FREDERICK WATKINS,
and WILLIAM MICHAEL WATKINS
Dated: 9/12/13



Ware's Creek Project
Parcels E-104.1 & E-104.2
(Watkins)