

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20061667

1. ACTION REQUESTED/PURPOSE: Approve mediated settlement in the eminent domain case of Lee County v. Atlantic Land and Improvement Co., et al., and F. Waldo Roth Testamentary Trust, parcels 213 and 214, case no. 05CA-4125-G, Ten Mile Linear Park project, for a total of \$302,950.

2. WHAT ACTION ACCOMPLISHES: Settles the case.

3. MANAGEMENT RECOMMENDATION: County Attorney's office recommends approval.

4. Departmental Category: 12- County Attorney **A12C** **5. Meeting Date:** JAN 09 2007

6. Agenda: <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify) <input type="checkbox"/> Statute		8. Request Initiated: Commissioner _____ Department County Attorney Division Litigation By: John S. Turner, Assistant County Attorney
	<input type="checkbox"/> Ordinance		
	<input type="checkbox"/> Admin. Code		
	<input checked="" type="checkbox"/> Other		

9. Background: On December 6, 2006, the parties mediated the case of Lee County v. Atlantic Land and Improvement Co., et al., case no. 05CA-4125-G, parcels 213 and 214, an eminent domain action for acquisition of the fee simple to the underlying prescriptive easement acquired by Lee County from the property owner, Testamentary Trust for F. Waldo Roth and Shirley Ann Roth, Trustee and individually, for 7.42 acres for construction of the Ten Mile Linear Park. Lee County's initial offer at mediation was \$165,000, the amount of the deposit. The property owners demanded \$650,000 for the interest acquired, and, subsequently, accepted a mediated amount of \$265,000 for fee simple interest. Under Florida law, plaintiffs' attorney is entitled to a fee equaling \$37,950 for a total settlement of \$302,950. If the Board rejects the mediated settlement, the case will proceed to trial.

Funds available in string account no.: 20200118700.506110

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	AMgr.	
				<i>Turner</i>	<i>12-13-06</i>	<i>12/13/06</i>	<i>12/13/06</i>	<i>12/13/06</i>	<i>[Signature]</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

CO. ATTY.
FORWARDED
TO CO. ADMIN.
12/12/06

RECEIVED BY
COUNTY ADMIN. *RC*
12/12 4:15
COUNTY ADMIN
FORWARDED TO:
12/14 4:30
PR