



Pinellas County

315 Court Street, 5th Floor
Assembly Room
Clearwater, Florida 33756

Staff Report

Item #21

File #: 17-879A, **Version:** 1

Agenda Date: 6/6/2017

Subject:

Proposed settlement in the case of John Reyner and Monika Reyner v. Pinellas County - Circuit Court Case No. 14-001865-CI-19 - litigation in the stormwater pond known as Lake Sylvia.

Recommended Action:

Rejection of the proposed settlement in the case of John Reyner and Monika Reyner v. Pinellas County - Circuit Court Case No. 14-001865-CI-19.

Strategic Plan:

N/A

Summary:

The above-referenced case is being brought to the Board of County Commissioners for consideration in accordance with the confidential memorandum of June 6, 2017.

Background Information:

N/A

Fiscal Impact:

Unknown.

Staff Member Responsible:

James L. Bennett, County Attorney
Nancy S. Meyer, Senior Assistant County Attorney

Partners:

N/A

Attachments:

N/A



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Subject:

Proposed settlement in the case of John Reyner and Monika Reyner v. Pinellas County – Circuit Civil Case No. 14-001865-CI-19 – litigation in the stormwater pond known as Lake Sylvia.

Recommended Action:

Rejection of proposed settlement in the amount of \$250,000.00 in the case of John Reyner and Monika Reyner v. Pinellas County - Circuit Civil Case No. 14-001865-CI-19.

Strategic Plan:

N/A

Summary:

Plaintiffs live on a privately-owned stormwater pond in Seminole, Florida. John Reyner owns one of 32 parcels containing the stormwater pond known as Lake Sylvia. Pinellas County has a platted drainage easement over the entirety of Lake Sylvia. The homeowners association disbanded prior to Mr. Reyner's purchase of his property in December 2009. For a period after the disbanding of the homeowners association, the property owners worked together to maintain the stormwater pond. However, over the years, most property owners stopped contributing monetarily and physically to the maintenance of the stormwater pond.

Mr. Reyner spoke to the Board of County Commissioner on a handful of occasions asking for the County's assistance in the maintenance of Lake Sylvia. Pinellas County repeatedly explained to the Reyners that since Lake Sylvia is a privately-owned stormwater pond, the County does not provide any maintenance to the stormwater pond but does maintain the inflow and outflow structures.

In 2014, the Reyners brought suit against Pinellas County, alleging multiple counts related to maintenance of the pond and seeking monetary damages and injunctive relief. Plaintiffs are asking the Court to determine that Pinellas County is responsible for maintaining Lake Sylvia and to order the County to stop polluting the stormwater pond and remediate the pollution currently in the pond by dredging and any other means necessary. Additionally, Plaintiffs seek damages for their time and expenses in maintaining the pond, attorney's fees and costs of litigation, which currently amount to \$330,198.00. Jury trial is scheduled for the week of September 11, 2017.

During the course of litigation, the Court ruled that not only does Pinellas County have a duty to maintain the drainage easement for effective drainage, but also to maintain the water in and soil under Lake Sylvia. The County's Motion for Rehearing is pending on this issue. The standard to which Pinellas County is required to maintain Lake Sylvia has not yet been determined. The Court also granted Summary Judgement for the County as to Plaintiffs' Unjust Enrichment claim. The Plaintiffs have voluntarily dismissed the Trespass and Breach of Easement by Overburdening claims.

The Court has not yet ruled on the claim for Violation of the Environmental Protection Act, but has indicated that it will before trial. The Court's ruling will, in essence, indicate whether Lake Sylvia is part of Pinellas County's MS4. Based upon prior rulings, it is anticipated that the Court will rule Lake Sylvia should be included within the MS4, which would entitle the Reyners to attorney's fees and costs, currently estimated to exceed \$200,000.00.