

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: May 1, 2007                       Consent                       Regular  
    Ordinance                       Public Hearing

Department: Facilities Development & Operations

**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to:**

- A) accept a Special Warranty Deed from the Town of Haverhill conveying approximately 24 acres of land on Belvedere Road.
- B) request Board direction regarding proposed uses for the property.

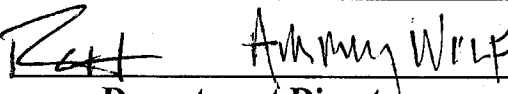
**Summary:** In 2003, the Town of Haverhill acquired a 210' strip of land extending from Belvedere Road to Southern Boulevard as a condition of approval of the Johnson P.U.D. at the S.W. corner of Belvedere and Jog Roads. This property was planned for a neighborhood linear park in the Haverhill Area Neighborhood Plan. The property lies outside the municipal boundaries of the Town of Haverhill, but within the Town's annexation area. The Town wishes to avoid the obligation to develop the Park and has requested that the County accept title to the property. The property has had all density removed and transferred to the Johnson P.U.D., which is being developed by D.R. Horton as the Terracina Subdivision. In addition, the property is subject to a Conservation Easement in favor of the County which prohibits development and requires the property to remain in its natural state. While the property could be used for a natural area and/or a lineal passive park, neither ERM nor Parks and Recreation desire to assume responsibility for development and maintenance of the Property. Commissioner Santamaria has suggested that this property could be used for development of workforce housing. Development of this property will present challenges due to its configuration and the policy issues associated with releasing the Conservation Easement and utilizing Transfer of Development Rights to replace the residential density. The property could also be used for alternative active recreation uses, such as paint ball fields and archery courses through Concession Agreements which would provide maintenance and security of the property while meeting a public need. Staff requires direction from the Board as to which uses the Board desires Staff to investigate. (PREM) District 6 (HJF)

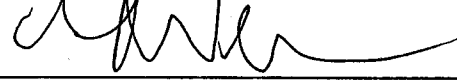
**Background and Policy Issues:** The Johnson Property P.U.D. was issued a development order in 2002. As part of the approvals, this 24 acre parcel was approved as a TDR sending area, with 97 units. These 97 units were transferred to the Johnson/Terracina P.U.D. being developed at the Southwest corner of Jog and Belvedere Roads.

CONTINUED ON PAGE 3

**Attachments:**

- 1. Location Map
- 2. Conservation Easement
- 3. Resolution adopted by the Town of Haverhill
- 4. Special Warranty Deed

Recommended By:  4/19/07  
Department Director                      Date

Approved By:  4/20/07  
County Administrator                      Date

**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)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>0</u>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

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:**

No Fiscal Impact directly associated with the acceptance of this land. However, future development and/or maintenance of the property will become an obligation of the County. Funding for development and maintenance will have to be identified.

**C. Departmental Fiscal Review: \_\_\_\_\_**

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development Comments:**

 4/17/07  
 OFMB  
 4/18/07  
 Contract Development and Control  
 4/18/07

**B. Legal Sufficiency:**

 4/23/07  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**This summary is not to be used as a basis for payment.**

## **Background and Policy Issues:**

In order to meet concurrency for development of the Johnson P.U.D., the Developer had to either widen Belvedere Road or seek approval of a CRALLS on Belvedere. The Town of Haverhill has consistently been opposed to any plans for widening of Belvedere Road. In light of this, the Town entered into an Agreement with the Developer pursuant to which the Town agreed to request approval of a CRALLS on Belvedere Road. In exchange, the Developer agreed to convey the 24 acres to the Town, give the Town \$75,000 for beautification of rights of way within the Town and annex the Johnson P.U.D. into the Town at such point that the municipal boundaries of the Town become adjacent to the Johnson P.U.D.

Initially, it was proposed that the 24 acre property be conveyed to the County, rather than the Town. Due to the fact that neither Parks and Recreation nor ERM desired to accept management responsibilities for the property, the Town agreed to accept the property. At the time, it was contemplated that the Town would annex westward to include this property, but that has not occurred. Subsequently, the Town has questioned whether it can legally expend Town funds outside its municipal boundaries.

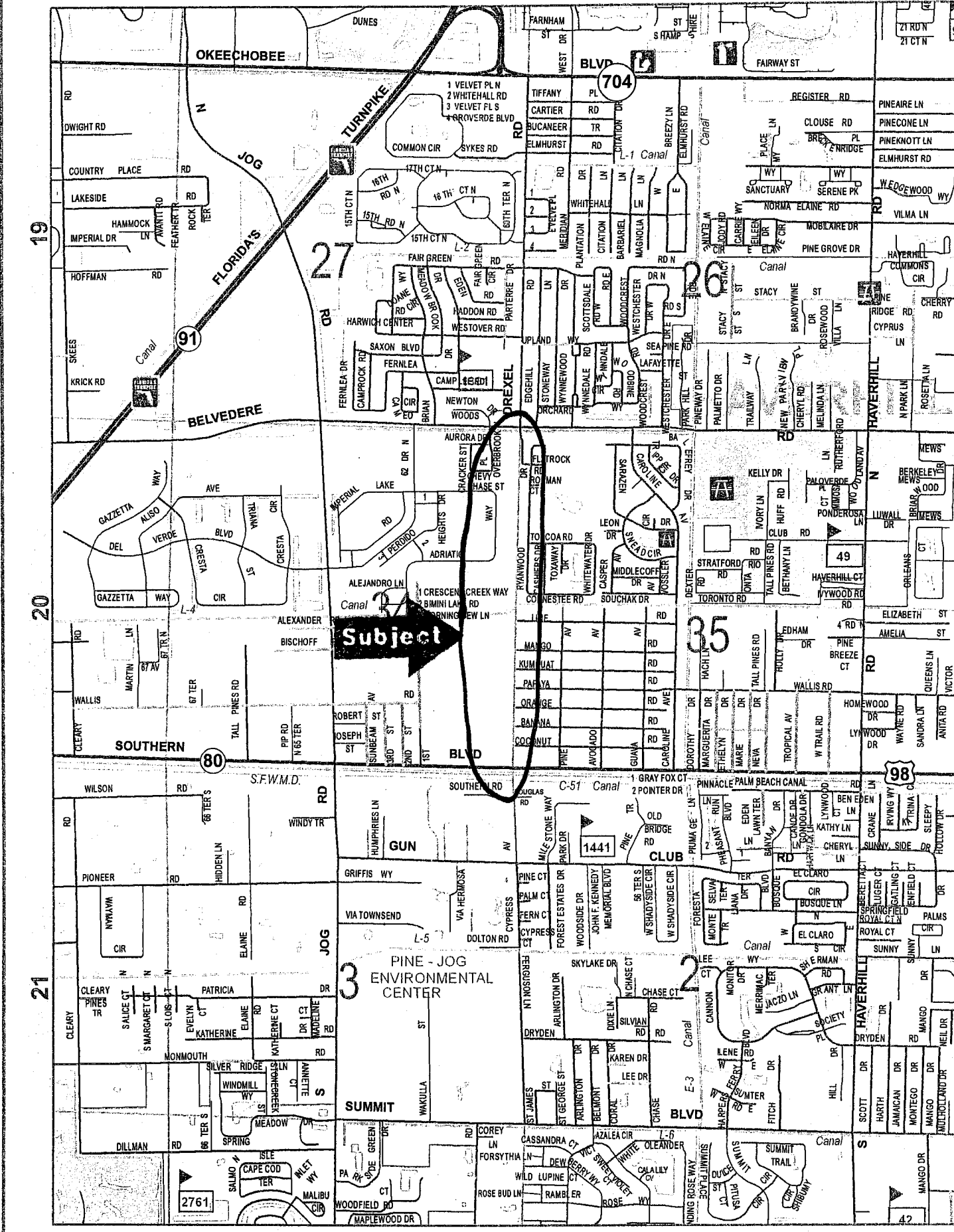
Recently, the Town has approached Commissioner Santamaria and requested that the County agree to take title to and responsibility for the property. While the Town's request is understandable, there remain significant issues with respect to what the County would do with this property. Workforce housing is one potential use. However, the property is only 210' wide, which would only allow for one long row of townhouses or zero lot line units. There could be objection from the surrounding residents.

The Haverhill Neighborhood Plan calls for this property to be used as a linear park. Parks and Recreation has historically not wanted to utilize its limited resources on development and maintenance of this type of park. Staff is concerned that this strip will be costly to maintain and police if not actively used.

Although approximately 6 acres of the property contain native vegetation which would have to be protected if developed, and ERM has relocated a substantial number of native trees and plants to this property, ERM does not believe that property is sufficiently environmentally sensitive to justify further expenditure of environmental program funds for restoration/maintenance.

As a condition of approval, the Developer recorded a Conservation Easement over the property. The Easement prohibits construction of buildings or other structures, removal of trees or vegetation, and excavation. However, use as a passive, neighborhood linear park is permitted. While the Easement is in favor of the County and could be released and/or modified to allow other uses, doing so would likely encounter opposition from environmental groups who have historically been concerned about such changes to land use and policies as they may affect environmentally sensitive and agricultural land.

There are alternative recreation needs such as paint ball and archery that are currently not being met due to lack of land area for these activities. Although this would be an ideal property for such activities, such uses may encounter opposition from surrounding residents.



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LOCATION MAP  
ATTACHMENT # 1

Handwritten signature or initials.

This instrument prepared  
by and return to:

MANLEY P. CALDWELL, JR.  
CALDWELL & PACETTI  
P.O. BOX 2775  
PALM BEACH, FLORIDA 33480

Parcel Identification No.: 00-42-43-34-00-000-1000

**CONSERVATION EASEMENT**

KNOW ALL PERSONS BY THESE PRESENT THAT as set forth in the Conditions of Approval for Resolution No. R-2002-1968 adopted by the Board of County Commissioners for Palm Beach County, Florida on October 24, 2002 and, further, pursuant to Section 6.10, et. seq., of the Unified Land Development Code of Palm Beach County, WACHOVIA BANK, N.A. (formerly FIRST UNION NATIONAL BANK), CHARLOTTE E. LONG and NOLTON G. JOHNSON, the duly qualified and acting Personal Representatives of the Estate of Lawrence G. Johnson, Deceased, of the County of Palm Beach, State of Florida, whose address is 255 South County Road, Palm Beach, Florida, 33480 ("Grantor"), has, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, granted to Palm Beach County, a political subdivision of the State of Florida, whose address is c/o Department of Environmental Resources Management, 3323 Belvedere Road, Building 502, West Palm Beach, Florida 33406-1548 ("Grantee"), a Conservation Easement in accordance with Section 704.06, Florida Statutes, in and over the real property in Palm Beach County, Florida, as set forth in the legal description attached hereto as Exhibit A (as described, the "Property").

As used herein, the term "Grantor" shall include any successor, legal representative, agency or assignee of Grantor, and the term "Grantee" shall include any successor, legal representative, agency or assignee of Grantee.

It is the purpose and intent of this Conservation Easement to assure that the Property will be used as a park. The Property shall be maintained forever predominantly in the natural vegetative and hydrologic condition existing at the time of execution of this Conservation Easement, which shall mean that the following activities are prohibited on the Property:

- A. Construction or placement of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- B. Dumping or placing of soil or other substances or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;
- C. Removal, destruction or biocide spraying of trees, shrubs, or other vegetation; with exception to the removal of nuisance and exotic plant species as may be required or permitted by law, ordinance, or other government approval;
- D. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in any manner which affects the surface or sub-surface;
- E. Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
- F. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation and acts or uses detrimental to such aforementioned retention and maintenance of land or water areas; and
- G. Acts or uses detrimental to the preservation of any features or aspects of the Property

**ATTACHMENT #2**

having historical, archaeological or cultural significance.

**NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IT IS NOT THE INTENTION OF GRANTOR OR GRANTEE BY THIS CONSERVATION EASEMENT TO PREVENT THE PROPERTY FROM BEING DEVELOPED, USED, UTILIZED, OPERATED, MAINTAINED OR MANAGED AS A PASSIVE, NEIGHBORHOOD LINEAR PARK, CONSISTENT WITH THE USE SUGGESTED FOR THE PROPERTY WITHIN THE HAVERHILL AREA NEIGHBORHOOD PLAN, AS ADOPTED BY PALM BEACH COUNTY, FLORIDA AND THE TOWN OF HAVERHILL, FLORIDA AS OF THE DATE HEREOF, AND UNDER NO CIRCUMSTANCES SHALL THIS CONSERVATION EASEMENT PREVENT OR PRECLUDE THE PROPERTY FROM BEING DEVELOPED, USED, UTILIZED, OPERATED, MAINTAINED OR MANAGED AS A PASSIVE, NEIGHBORHOOD LINEAR PARK OR UNDER ANY AND ALL USES WHICH MAY BE ACCESSORY OR ANCILARY THERETO. SUCH USE SHALL BE CONSISTENT WITH THE DEFINITION OF "PARK, PASSIVE" CONTAINED IN SECTION 3.2 OF THE PALM BEACH COUNTY UNIFIED LAND DEVELOPMENT CODE.**

It is understood that the granting of this Conservation Easement entitles Grantee or its authorized representatives to enter the Property in a reasonable manner and at reasonable times to assure compliance.

Grantor agrees for itself, so long as it shall own the Property, and for and on behalf of its successors, legal representatives, agencies or assigns, during the period for each of their respective ownership of the Property, to bear all costs and liability relating to the maintenance of the Property in the natural vegetative and hydrologic conditions as existing at the time of execution of this Conservation Easement. The Conservation Easement hereby granted and the obligation to retain and maintain the Property forever predominantly in the vegetative and hydrologic condition as herein specified shall run with the land and shall be binding upon the Grantor and its successors, legal representatives, agencies and assigns, and shall inure to the benefit of the Grantee and its successors, legal representatives, agencies and assigns.

Venue for actions in connection with this Conservation Easement shall be in Palm Beach County, Florida. In the event Grantor or any of its successors, legal representatives, agencies and assigns violates the terms hereof or otherwise fails or refuses to perform any term, covenant or condition of this Conservation Easement for which a specific remedy is not set forth herein, Grantee shall, in addition to any other remedies provided at law or in equity, have the rights of specific performance and injunctive relief. Grantor agrees for itself, so long as it shall own the Property, and for and on behalf of its successors, legal representatives, agencies or assigns, during the period for each of their respective ownership of the Property, to pay, and Grantee shall be entitled to recover from Grantor, all removal and restoration costs incurred to restore the Property to the natural vegetative and hydrologic conditions as required and stated in this approved Conservation Easement. The foregoing remedies are in addition to any other remedy, fine or penalty which may be applicable under Chapters 373 and 403, Florida Statutes, or Palm Beach County ordinance.

Any forbearance on behalf of Grantee to exercise its rights in the event of the failure of Grantor to comply with the provisions of this Conservation Easement shall not be deemed or construed to be a waiver of Grantee's rights hereunder in the event of any subsequent failure by Grantor to comply.

Grantor hereby represents that the Grantor is seized of the Property in fee simple and has good right and title to grant and convey this Conservation Easement to Grantee and that the Property is free and clear of any encumbrances.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Executed in the presence of:

*Cecil Cooper*  
Print Name: Cecil Cooper

*Tomasa K. Kern*  
Print Name: Tomasa K. Kern

*Mary P. Addona*  
Print Name: Mary P. Addona

*Adelma M. Weston*  
Print Name: Adelma M. Weston

*William Frechette*  
Print Name: William Frechette

*Harriet H. Dillner*  
Print Name: Harriet H. Dillner

GRANTOR:

WACHOVIA BANK, N.A., Personal Representative Estate of Lawrence G. Johnson

By: *Cheryl A. Gustavson*  
Cheryl A. Gustavson, Vice President and Trust Officer  
duly authorized

*Charlotte E. Long*  
CHARLOTTE E. LONG, Personal Representative Estate of Lawrence G. Johnson

*Nolton G. Johnson*  
NOLTON G. JOHNSON, Personal Representative Estate of Lawrence G. Johnson

Certified Copy

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me on this 10<sup>th</sup> day of February 2003, by Cheryl A. Gustavson, as Vice President and Trust Officer, of WACHOVIA BANK, N.A., Personal Representative, Estate of Lawrence G. Johnson, on behalf of the Bank. She is personally known to me  or has produced the following as Identification: \_\_\_\_\_

*Angela M. Eaton*

Notary Public, State of Florida  
Commission Expires:  
Commission Number:



ANGELA M. EATON  
Notary Public, State of Florida  
My Comm. Exp. February 19, 2006  
No. DD 093778

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me on this 10<sup>th</sup> day of February 2003, by CHARLOTTE E. LONG, as Personal Representative of the Estate of Lawrence G. Johnson, who is personally known to me  or has produced the following as Identification: \_\_\_\_\_

*Angela M. Eaton*

Notary Public, State of Florida  
Commission Expires:  
Commission Number:



ANGELA M. EATON  
Notary Public, State of Florida  
My Comm. Exp. February 19, 2006  
No. DD 093778

STATE OF GEORGIA

COUNTY OF CHEROKEE

The foregoing instrument was acknowledged before me on this 7 day of February 2003, by NOLTON G. JOHNSON, as Personal Representative of the Estate of Lawrence G. Johnson, who is personally known to me  or has produced the following as Identification: \_\_\_\_\_

*Beth K. Braker*

Notary Public, State of Georgia  
Commission Expires:  
Commission Number:

Notary Public, Fulton County, Georgia  
My Commission Expires May 22, 2006



**SCHEDULE A - LEGAL DESCRIPTION**

A 210 foot strip of land east of Block 5, The Palm Beach Farms Co., Plat No. 3, Plat Book 2, Pages 45.54, Public Records of Palm Beach County, Florida, being the east 210 feet of Section 34, Township 43 South, Range 42 East, Palm Beach County, Florida, less the L-4 Canal right-of-way and the right of way for State Road 80.

Less and except that one (1) acre parcel of land described as follows:

Commence at the northwest corner of section 34; thence, north  $88^{\circ}18'15''$  west, along the north line of said section, a distance of 25.00 feet to the intersection thereof with a line 25.00 feet west of, as measured at right angles to, and parallel with the east line of said section, said intersection being the point of beginning;

Thence, south  $01^{\circ}28'33''$  west, along said parallel line, a distance of 272.75 feet; thence, north  $88^{\circ}18'15''$  west, parallel with said north line of section 34, distance of 160.00 feet to the intersection thereof with a line 25.00 feet east of, as measured at right angles to, and parallel with the west line of the east 210.00 feet of said section; thence, north  $01^{\circ}28'33''$  east, along said parallel line, a distance of 272.25 feet to the intersection thereof with said north line of section 34; thence, north  $88^{\circ}18'15''$  west, along said north line, a distance of 160.00 feet to the point of beginning.

Containing 23.25 acres, more or less.

Not Certified Copy



**Town Hall**

4585 Charlotte Street  
Haverhill, FL 33417-5911  
(561) 689-0370  
FAX: (561) 689-4317  
[www.townofhaverhill-fl.gov](http://www.townofhaverhill-fl.gov)



**Mayor**

Joseph S. Krill

**Town Council**

James E. Woods, President  
Jay G. Foy, Vice President  
Jerry E. Beavers  
Henry "Butch" Lynch  
Mark C. Uptegraph

**Assistant Town Administrator  
Town Clerk**

Janice C. Rutan

**Permitting and Licensing  
Coordinator**

Dorothy C. Gravelin

**Code Enforcement Officer**

Joseph M. Roche

RECEIVED

APR 13 2007

April 13, 2007

Ross C. Hering, Director  
Palm Beach County  
Property & Real Estate Management Division  
3200 Belvedere Road, Bldg 1169  
West Palm Beach, FL 33406

Dear Mr. Hering,

The Town Council at its meeting held on April 12, 2007 voted to pass resolution R2007-04 and to authorize the Mayor to execute the special Warranty Deed granting property from the Town of Haverhill to Palm Beach County.

I attach two sets of fully executed original documents conveying the 24 acre strip of land known as Linear Park to the County. Once signed by the County, kindly return one fully executed set to my attention.

Thank you for your assistance in this regard.

Sincerely,

  
Janice C. Rutan  
Assistant Administrator/Town Clerk

Encl.

ATTACHMENT #3

**RESOLUTION NO. 2007-04**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, AUTHORIZING THE CONVEYANCE OF APPROXIMATELY 24 ACRES OF REAL PROPERTY TO PALM BEACH COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town owns a parcel of real property containing approximately 24 acres which was donated to the Town in 2003; and

WHEREAS, said real property is outside of the municipal boundaries of the Town and is not needed for any valid governmental purpose of the Town; and

WHEREAS, the Town Council hereby requests that Palm Beach County accept a conveyance of said real property and agree to assume responsibility for the development, operation and maintenance of said property for such purposes as Palm Beach County deems to be in the best interest of the County.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, that:

Section 1. Recitals

The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Authorization to Convey Real Property

The Town shall convey to the County without charge and by the Special Warranty Deed attached hereto and incorporated herein by reference, the real property legally described in such Deed.

Section 3. Request forwarded to County

A copy of this Resolution shall be forwarded to the Board of County Commissioners of Palm Beach County, along with the original executed Deed.

Section 4. Effective Date

The provisions of this Resolution shall be effective immediately upon adoption hereof.

The foregoing resolution was offered by **Council Member Jerry Beavers** who moved its adoption. The Motion was seconded by **Council Member Mark C. Uptegraph**, and upon being put to a vote, the vote was as follows:

PRESIDENT, JAMES E. WOODS	<u>AYE</u>
VICE PRESIDENT, JAY G. FOY	<u>AYE</u>
COUNCIL MEMBER, JERRY E. BEAVERS	<u>AYE</u>
COUNCIL MEMBER, HENRY LYNCH	<u>AYE</u>
COUNCIL MEMBER, MARK C. UPTEGRAPH	<u>AYE</u>

The Chair thereupon declared the resolution duly passed and adopted this 12th day of April, 2007.

TOWN OF HAVERHILL, a Florida  
Municipal Corporation

TOWN CLERK,

By:   
Janice C. Rutan

PREPARED BY AND RETURN TO:  
ROSS C. HERING, DIRECTOR  
PALM BEACH COUNTY  
PROPERTY & REAL ESTATE MANAGEMENT DIVISION  
3200 BELVEDERE ROAD, BUILDING 1169  
WEST PALM BEACH, FLORIDA 33406-1544

PROPERTY CONTROL NUMBER: 00-42-43-34-00-000-1010

## SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED executed as of the 12<sup>m</sup> day of APRIL, 2007 by the TOWN OF HAVERHILL, a Florida Municipal Corporation, (Grantor) whose mailing address is 4585 Charlotte Street, Haverhill, Florida 33417, to PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida, (Grantee) whose mailing address is 3200 Belvedere Road, West Palm Beach, Florida 33406-1544.

### WITNESSETH:

That Grantor, for and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained and sold to Grantee those certain lands situate, lying and being in Palm Beach County, State of Florida, described as follows (the Property):

**See Exhibit "A" attached hereto and made a part hereof**

And the Grantor hereby covenants with said Grantee that it is lawfully seized of the Property in fee simple; that it has good right and lawful authority to sell and convey the Property; that it hereby fully warrants the title to the Property and will defend the same against the lawful claims of all person claiming by, through or under the said Grantor.

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed as of the day and year first above written.

Signed, sealed, and delivered in the presence of:

Grantor: Town of Haverhill

**TOWN OF HAVERHILL, a  
Florida Municipal Corporation**

By: [Signature]  
Joseph S. Kroll, Mayor

ATTEST: [Signature]  
Janice C. Rutan  
Town Clerk

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of April, 2007 by Joseph S. Kroll. He/she is  personally known to me OR  has produced \_\_\_\_\_ as identification and he/she  did  did not take an oath.

(Official Notarial Seal)

Notary Public, State of Florida  
[Signature]  
(Type, print or stamp name)  
My Commission Expires: \_\_\_\_\_  
Commission Number: \_\_\_\_\_



Kimberly Ann Alexander  
Commission #DD218837  
Expires: Jul 11, 2007  
Bonded Thru  
Atlantic Bonding Co., Inc.

APPROVED BY THE PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

ON: \_\_\_\_\_  
RESOLUTION NUMBER: \_\_\_\_\_

\_\_\_\_\_  
County Attorney or Designee

Exhibit "A"

LEGAL DESCRIPTION

A 210 foot strip of land east of Block 5, the Palm Beach Farms Co., Plat No. 3, Plat Book 2, Pages 45.54, Public Records of Palm Beach County, Florida, being the east 210 feet of Section 34, Township 43 South, Range 42 East, Palm Beach County, Florida, less the L-4 Canal right-of-way and the right of way for State Road 80.

Containing 24.25 acres more or less.