

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: September 11, 2007[] Consent [] Regular

Department: [] Workshop [X] Public Hearing

Submitted By: Engineering and Public Works
Submitted For: Land Development Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- (A) Adopt a Resolution abandoning a portion of the unimproved 30 foot wide right-of-way, lying between Blocks 80 and 81, as recorded in Palm Beach Farms Plat No. 3, recorded in Plat Book 2, Pages 45-54, Public Records of Palm Beach County, Florida; and
- (B) Approve authorization for the Chairperson to execute the Utility Easement as requested by Palm Beach County Water Utilities Department.

Summary: This petition site is located north of Belvedere Road and east of Benoist Farms Road. The County Engineer is requesting the abandonment per the Board of County Commissioners (BCC) direction given at the public hearing of March 12, 2002, at which time the BCC denied the original petition to abandon this right-of-way.

District: 2 (PK)

Background and Policy Issues: The original petitioner/owner is the Jewish Federation of Palm Beach County, Inc. On August 24, 2000, the BCC approved the Colony Park PUD (Petition Number 99-076). As part of their approval, the BCC required the abandonment of the subject petition, an unimproved 30 foot wide right-of-way which goes through and is adjacent to the PUD.

(Continued on page 3)

Attachments:

1. Location Sketch
2. Resolution with Legal Description and Sketch
3. Utility Easement to be signed
4. Copy of Agenda Item Summary of March 12, 2002
5. Copy of Inter-Office Memo dated March 14, 2002

Recommended by: K. S. Rogers
Division Director

6 August 07
Date

Approved by: D. J. Webb
County Engineer

9/21/07
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes _____ No _____
 Budget Account No.: Fund _____ Agency _____ Org. _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

No additional fiscal impact as a result of this item.

C. Departmental Fiscal Review: R. D. Ward 7/31/07

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

John D. Smith 8.22.07
 OFMB UD 8/22/07

John J. Fowler 8/22/07
 Contract Dev. and Control
8/22/07

B. Legal Sufficiency:

Paul F. J. 8/23/07
 Assistant County Attorney

C. Other Department Review:

 Division Director

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

Background and Policy Issues:

(Continued from page 1)

The original request for the abandonment was initiated to allow an expanded buffer for the Colony Park PUD. The abandonment ordinance requires consent from all the abutting property owners for public road abandonments. The petitioner was unable to obtain approval from the abutting property owner (Palm Beach Apartments, Ltd.). The petitioner appeared before the BCC at the August 23, 2001, Zoning Public Hearing and requested that the condition requiring the abandonment be revised. The BCC did not act on the request, but directed staff to bring the abandonment petition before them and they would decide if the right-of-way should be abandoned.

On February 26, 2002, the BCC held a public hearing on the abandonment. At the meeting, Palm Beach Apartments, Ltd, who owns land immediately adjacent to the right-of-way proposed to be abandoned, objected to the abandonment. Palm Beach Apartments, Ltd, stated that they would like to hold open the possibility of adding a direct access onto Benoist Farms Road over the subject right-of-way. Their rental community is located on both sides of Benoist Farms Road and, since their previous access to Benoist Farms Road was closed for security reasons, they were looking for a more direct means for their residents to access the recreational facilities located on the west side of Benoist Farms Road.

The BCC denied the abandonment on March 12, 2002, with a condition that if Palm Beach Apartments did not obtain a permit to construct the road within five years, the County Engineer would initiate another abandonment petition. Furthermore, the BCC requested that Palm Beach Apartments file a restrictive covenant on their land, stating that Lake Susan Drive would not be extended to the east into Golden Lakes Blvd. The BCC set an expiration date of March 12, 2007, to allow Palm Beach Apartments to fulfill these conditions. To date, these conditions have not been fulfilled. Palm Beach Apartments has constructed a clubhouse building in what would be the alignment of any possible road connection to the road system in Golden Lakes Village. Thus, they have physically blocked any connection to Golden Lakes Blvd. This petition has been prepared by staff in response to previous BCC direction.

Palm Beach County Water Utilities Department has requested that a thirty (30) foot wide easement, over the right-of-way to be abandoned, be granted for existing water and gravity sewer lines. A Palm Beach County Water Utility Easement (attached) will be executed by the Chairperson and recorded simultaneously with the abandonment. Utility service providers have no objection to the vacation.

Privilege Fee Statement:

In accordance with the exemption in the Right-of-Way Abandonment and Plat Vacation Ordinance 86-18, as amended by Ordinance No. 2002-034, governmental agencies are exempt from the privilege fee.

RESOLUTION NO. R-2007-_____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ABANDONING A PORTION OF THE UNIMPROVED 30 FOOT WIDE RIGHT-OF-WAY, LYING BETWEEN BLOCKS 80 AND 81, AS RECORDED IN PALM BEACH FARMS PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGES 45-54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida, pursuant to authority in Section 336.09, Florida Statutes, and Ordinance No. 86-18 known as the Palm Beach County Right-of-Way Abandonment and Plat Vacation Ordinance, as amended, and the petition of the County Engineer, called a public hearing to be held in the County Commissioners' Chambers, at the Governmental Office Complex, West Palm Beach, Florida, on September 11, 2007, to consider and determine whether or not Palm Beach County would vacate, abandon, discontinue and close, renounce and disclaim any right or interest of the County to that portion of a 30 foot wide unimproved right of way, lying between Blocks 80 and 81, Palm Beach Farms Company Plat No. 3; and

WHEREAS, in accordance with Ordinance No. 86-18, as amended, notice of the holding of such meeting was duly published in the Palm Beach Post on August 19, 2007; and

WHEREAS, a Utility Easement is required to be executed by Palm Beach County Board of County Commissioners to protect existing water and sewer lines; and

Prepared by and Return to:
Palm Beach County Water Utilities Department
P.O. Box 16097 Attn: Engineering Div.
West Palm Beach, Florida 33416-6097

UTILITY EASEMENT

THIS EASEMENT is made, granted and entered into this _____ day of September, 2007, by Palm Beach County Board of County Commissioners (hereinafter referred to as "Grantor"), whose address is 301 South Olive Avenue, West Palm Beach, Florida, to Palm Beach County (hereinafter referred to as "Grantee"), c/o Water Utilities Department, P.O. Box 16097, West Palm Beach, Florida 33416-6097.

WITNESSETH

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Grantee and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual utility easement which shall permit Grantee authority to enter upon the property of the Grantor at any time to install, operate, maintain, service, construct, reconstruct, remove, relocate, repair, replace, improve, expand, tie into, and inspect potable water, reclaimed water and/or wastewater lines and appurtenant facilities and equipment in, on, over, under and across the easement premises. This utility easement or portion thereof can also be utilized for a wastewater pump station and may be fenced in for access control purposes. The easement hereby granted covers a strip of land lying, situate and being in Palm Beach County, Florida, and being more particularly described as follows:

SEE EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF

Grantor hereby covenants with Grantee that it is lawfully seized and in possession of the real property herein described and that it has good and lawful right to grant the aforesaid easement free and clear of mortgages and other encumbrances unless specifically stated to the contrary. The County desires that such easement not be extinguished by the doctrines of merger or unity of title and remain valid and in effect upon a subsequent conveyance of the Property by County.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and affixed its seal as of the date first above written.

ATTEST:
SHARON R. BOCK, CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY COMMISSIONERS

BY: _____
Clerk & Comptroller (or Deputy Clerk)

BY: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: Paul F. S.
County Attorney

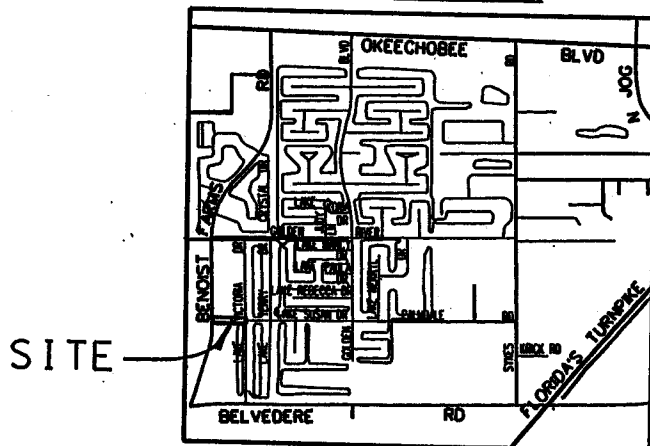
This instrument prepared by:
Paul King, Assistant County Attorney
Palm Beach County
P.O. Box 21229
West Palm Beach, FL 33416

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of September, 2007 by _____ Chairperson, Board of County Commissioners, who is personally known to me or who has produced _____ as identification and who did not take an oath.

Typed name of Acknowledger
Deputy Clerk

EXHIBIT "A"



LOCATION MAP
N.T.S.

A PARCEL OF LAND BEING A PORTION OF PALM BEACH FARMS COMPANY PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGES 45-54 IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 29 TOWNSHIP 43 SOUTH, RANGE 42 EAST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF THE PLAT OF COLONY PARK AS RECORDED IN PLAT BOOK 91, PAGES 159-161 IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, RUN THENCE NORTH $00^{\circ}52'10''$ WEST ALONG THE EASTERLY LINE OF SAID PLAT, A DISTANCE OF 1223.32 FEET TO THE POINT OF BEGINNING. THENCE SOUTH $89^{\circ}01'00''$ WEST ALONG THE NORTHERLY LINE OF TRACT "C" OF SAID PLAT OF COLONY PARK, A DISTANCE OF 340.47 FEET TO A POINT ON THE EASTERLY LINE OF TRACT "D" OF THE PLAT OF SUMMER CREEK AS RECORDED IN PLAT BOOK 64, PAGES 160-164 IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, THENCE NORTH $00^{\circ}51'50''$ WEST ALONG SAID EASTERLY LINE, A DISTANCE OF 30.00 FEET TO THE SOUTHWEST CORNER OF TRACT "D" OF SAID PLAT OF COLONY PARK, THENCE NORTH $89^{\circ}01'00''$ EAST ALONG THE SOUTHERLY LINE OF SAID TRACT "D" AND ITS EASTERLY EXTENSION, A DISTANCE OF 340.47 FEET; THENCE SOUTH $00^{\circ}52'10''$ EAST LEAVING SAID SOUTHERLY LINE, A DISTANCE 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 10.214 SQUARE FEET.

NO SEARCH OF THE PUBLIC RECORDS WAS MADE BY THE SIGNING SURVEYOR.

THIS INSTRUMENT WAS PREPARED BY NORMAN J. HOWARD, P.S.M., IN THE OFFICE OF THE COUNTY ENGINEER, 2300 NORTH JOG ROAD, WEST PALM BEACH, FLORIDA, 33411.

Norman J. Howard
NORMAN J. HOWARD, P.S.M.
FLORIDA CERTIFICATE NO. 5776

7-24-07
DATE

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PROJECT:

LAKE SUSAN ROAD
UTILITY EASEMENT

DESIGN FILE NAME

S-1-07-2746.DGN

DRAWING NO.

S-1-07-2746

SCALE: VARIES
APPROVED: N.J.H.
DRAWN: D.J.C.
CHECKED: N.J.H.
DATE: 07/23/07
FIELD BOOK NO.: N/A

REVISION

BY DATE



PALM BEACH COUNTY
ENGINEERING AND PUBLIC WORKS

ENGINEERING SERVICES

2300 NORTH JOG ROAD
WEST PALM BEACH, FL 33411

SHEET: 1
OF: 2
PROJECT NO.: 2001005-18

BENOIST FARMS ROAD

AS SHOWN ON OFFICIAL
RECORDS BOOK 2988,
PAGES 1869-1873

N00°51'50"W
30.00'

PLAT OF COLONY PARK
PLAT BOOK 91, PAGES 159-161

30' WIDE
RIGHT-OF-WAY
PLAT BOOK 2,
PAGES 45-54

TRACT "D"
PLAT OF COLONY PARK
PLAT BOOK 91,
PAGES 159-161

PARCEL "W" PLAT
OF SUMMER CREEK
PLAT BOOK 64,
PAGES 160-164

S00°52'10"E
30.00'

42' WIDE RIGHT-OF-WAY
GOLDEN LAKES VILLAGE
SECTION 15, PLAT BOOK 53,
PAGES 153-154

N89°01'00"E 340.47'

PROPOSED UTILITY EASEMENT

S89°01'00"W 340.47'

TRACT "C"
PLAT OF COLONY PARK
PLAT BOOK 91,
PAGES 159-161

POINT OF
BEGINNING

PLAT OF COLONY PARK
PLAT BOOK 91, PAGES 159-161

EASTERLY LINE
OF TRACT "O"
PLAT OF SUMMER CREEK
PLAT BOOK 64,
PAGES 160-164

N00°52'10"W 1223.32'

GOLDEN LAKES VILLAGE
PLAT BOOK 53,
PAGES 153-154

POINT OF COMMENCEMENT
SOUTHEAST CORNER OF PLAT OF
COLONY PARK PLAT BOOK 91
PAGE 159-161

BELVEDERE ROAD
120' WIDE RIGHT-OF-WAY

N

SCALE: 1" = 60'

THIS IS NOT A SURVEY

PROJECT NO. 2001005-18

DRAWING NO. S-1-07-2746

PROJECT: LAKE SUSAN ROAD UTILITY EASEMENT

SHEET: 2 OF 2

Agenda Item #: 5-D

PALM BEACH COUNTY

BOARD OF COUNTY COMMISSIONERS

ms/G Dany
5-0
G/R who

AGENDA ITEM SUMMARY

===== **DENIED ABANDONMENT** =====

Meeting Date: March 12, 2002 [] Consent [] Regular

Department: [] Workshop [X] Public Hearing

Submitted By: Engineering and Public Works
Submitted For: Land Development Division

=====

I. EXECUTIVE BRIEF

Motion and Title: Staff requests Board direction: Whether to proceed with the abandonment of a portion of the unimproved 30 foot wide right-of-way, as recorded in Palm Beach Farms Plat No. 3, recorded in Plat Book 2, Pages 45-54, Public Records of Palm Beach County, Florida.

Summary: This petition site is located north of Belvedere Road and east of Benoist Farms Road. The petitioner is requesting the abandonment as part of a condition of approval of the Planned Unit Development (PUD) of Colony Park. On Tuesday, February 26, 2002, the Board held a public hearing on the subject abandonment. At that meeting, the adjacent property owner (Palm Beach Apartments, Ltd.) opposed the abandonment because they were considering this right-of-way as possible additional access to their property. That meeting was continued until March 12, 2002.

District: 2 (PK)

Background and Policy Issues:

The petitioner is the Jewish Federation of Palm Beach County, Inc. On August 24, 2000, the Board of County Commissioners (BCC) approved the Colony Park PUD (Petition Number 99-076). As part of their approval, the BCC required the abandonment of the subject right of way, an unimproved 30 foot wide right-of-way which goes through and is adjacent to the PUD.

(Continued on page 3)

Attachments:

- 1. Location Sketch
- 2. Resolution with Legal Description and Sketch
- 3. Letter opposing abandonment dated 6/20/01

=====

Recommended by: _____
Division Director Date
Approved by: Sgt J. W. H. 3/7/02
County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2002	2003	2004	2005	2006
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	-0-	-0-	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Agency _____ Org. _____ Object _____
Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

No additional fiscal impact as a result of this item.

C. Departmental Fiscal Review: Out of

III. REVIEW COMMENTS

A. OEMB Fiscal and/or Contract Dev. and Control Comments:

H. Bergman 3.8.02
OEMB RWS
3/11/02

N/A
Contract Dev. and Control

B. Legal Sufficiency:

Paul F. L. 3/11/02
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:

(Continued from page 1)

The abandonment would allow an expanded buffer for the Colony Park PUD. The abandonment ordinance requires consent from all the abutting property owners for public road abandonments when the abandonment is initiated by a private party (as this one is). However this petitioner was unable to obtain approval from the abutting property owner (Palm Beach Apartments, Ltd.) even though they attempted to gain their support. The petitioner appeared before the BCC at the August 23, 2001, Zoning Public Hearing and requested that the condition requiring the abandonment be revised. The Board did not act on the request, but instead directed staff to bring the abandonment petition before them and they would decide if the right-of-way should be abandoned. At the time, several Board members spoke strongly in support of the abandonment. On February 26, 2002, the Board held a public hearing on the abandonment. At the meeting, Palm Beach Apartments, Ltd, who owns land immediately adjacent to the right-of-way proposed to be abandoned, objected to the abandonment. They stated that it was improper for the Board to act on this petition because all of the abutting land owners did not consent to the petition. Palm Beach Apartments, Ltd also stated that they would like to hold open the possibility of adding a direct access onto Benoist Farms Road over the subject right-of-way. Their rental community is located on both sides of Benoist Farms Road and, since their previous access to Benoist Farms Road was closed for security reasons, they are looking for a more direct means for their residents to access the recreational facilities located on the west side of Benoist Farms Road.

The Board postponed action until March 12, 2002.

The County Attorney's office agrees that the abutting land owners (Palm Beach Apartments, Ltd.) have to consent to the privately petitioned abandonment before it can be approved.

The Board has the following options:

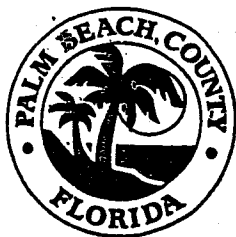
1. Give staff direction to abandon this private petition and instead prepare a petition, sponsored by the County Engineer, to abandon the subject right-of-way. This public petition would not require the approval of adjacent property owners.
2. Abandon the west 230 feet of the right-of-way petitioned to be abandoned, which does not abut the Palm Beach Apartments, Ltd.
3. Deny this request to abandon the right-of-way.

Utility Service Providers have no objection to the vacation, as Palm Beach County Water Utilities Department has received a replacement utility easement, which will be recorded after the abandonment.

Privilege Fee Statement:

In accordance with the exemptions in the Right-of-Way Abandonment and Plat Vacation Ordinance 86-18, Section V, (7), the petitioner has provided a utility easement to Palm Beach County Water Utilities Department, as well as an easement to Lake Worth Drainage District. Therefore, it negates the privilege fee. The calculations are as follows:

4. Total square footage of Right-of-Way . . . 10,214 square ft.
5. Total square feet of Lake Worth Drainage District Easement . . . 2,990 square ft.
6. Total square feet of Palm Beach County Water Utilities Easement . . . 10,214 square ft.
7. Total . . . -0-



**Department of Engineering
and Public Works**

P.O. Box 21229

West Palm Beach, FL 33416-1229

(561) 684-4000

www.pbcgov.com

**Palm Beach County
Board of County
Commissioners**

Warren H. Newell, Chairman

Carol A. Roberts, Vice Chair

Karen T. Marcus

Mary McCarty

Burt Aaronson

Tony Masilotti

Addie L. Greene

County Administrator

Robert Weisman

INTER-OFFICE MEMORANDUM

DATE: March 14, 2002
TO: File
FROM: K. S. Rogers, P. E., Director
Land Development Division
RE: Lake Susan Road Abandonment

The Board held a Public Hearing on Tuesday, March 12, 2002 on the requested abandonment. The adjoining property owner, Palm Beach Apartments, Inc., objected to the abandonment. They wanted to leave the option open to construct a secondary access to Benoist Farms Road over this right-of-way. They stated their existing access to Benoist Farms Road was closed upon recommendation of the Sheriff's Office. Although they are not prepared to immediately construct this second access, they want to keep this option open.

The Board decided to deny the petition to abandon the right-of-way, conditioned that if Palm Beach Apartments does not get a permit to construct the road within five years that the County Engineer would initiate a petition to abandon the right-of-way. The Board further conditioned this action that the petitioner would submit a revised site plan to Zoning showing this area of right-of-way as open space (This will allow the Building Division to issue CO's). This action was further conditioned that Palm Beach Apartments would file a restrictive covenant on their land that Lake Susan Drive would not be extended to the east into Golden Lakes Village.

The Board also requested that the Monitoring Section monitor this action. By copy of this memo to Linda Monroe, I am requesting she set a date of March 12, 2007 to remind Land Development of this requirement.

KSR:mb

cc: George T. Webb, P.E.
Barbara Alterman
Linda Monroe
Larry Roberts, P. E.
Signe Miller

Ref: LakeSusanRoadAbandonment.IOM

"An Equal Opportunity
Affirmative Action Employer"