

Agenda Item #: 4A-3

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: November 21, 2017 ☐ **Consent** ☐ **Regular**
☐ **Workshop** ☒ **Public Hearing**

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

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) **approve** a deed conveying the 60' wide right-of-way of Vista Del Lago, as shown on the Replat of Boca Lago, recorded in Plat Book 31, Page 62, Public Records of Palm Beach County, Florida, to the Vista Del Lago at Boca Flores Homeowners Association Inc.;
- B) **approve** an access, drainage and utilities easement to Palm Beach County from the HOA; and
- C) **adopt** a resolution to abandon any public interest in the 60' wide right-of-way of Vista Del Lago, as shown on the Replat of Boca Lago, recorded in Plat Book 31, Page 62, Public Records of Palm Beach County, Florida, reserving one drainage easement and an access, drainage and utilities easement for Palm Beach County.

SUMMARY: All reviewing agencies and utility companies are in support of this abandonment. The County supports the abandonment because the easements provided for herein will be recorded simultaneously with the abandonment, allowing the County's facilities to remain.

Approval of the deed will convey the roads as shown in Exhibit 'A' to the HOA. The petition site is located on the west side of Lyons Road, south of Glades Road and north of Palmetto Park Road. As provided in Palm Beach County Code Chapter 22, Article III, Road Abandonment and Plat Vacation Ordinance 2002-034 (Ordinance), a petition to abandon a right-of-way is not subject to a privilege fee when easements are granted over the entire abandonment site. District 5 (LBH)

Attachments:

1. Location Sketch
2. Resolution with Exhibits "A", "B" and "C"
3. County Deed with Exhibit 'A'
4. Access, Drainage and Utilities easement with Exhibits 'A' and 'B'

Recommended by: *[Signature]* 10/27/2017
 Department Director Date
 Approved by: *[Signature]* 11/16/17
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
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>\$ **</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE					
POSITIONS (Cumulative)					

Is Item Included in Current Budget?	Yes	No
Does this item include the use of federal funds?	Yes	No <input checked="" type="checkbox"/>

Budget Acct No.: Fund__ Dept.__ Unit__ Object
Program

Recommended Sources of Funds/Summary of Fiscal Impact:

****This item has no fiscal impact. Easements are exempt from the privilege fee requirement.**

C. Departmental Fiscal Review: Alii Kovalainen

III. REVIEW COMMENTS

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

10/30/17
OFMB ASD
10/30

J. J. Jacoby
Contract Dev. and Control 11/6/17
11/6/17

B. Approved as to Form and Legal Sufficiency:

11/16/2017 YBF
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:

Vista Del Lago at Boca Flores Homeowners Association, Inc., applied under Florida Statutes 336.125, "Closing and Abandoning of Roads; Optional Conveyance to Homeowners Association, Traffic Control Jurisdiction." Under the authority of the provision, the following conditions have been met:

1. The homeowners association has requested the abandonment and conveyance in writing for the purpose of converting the subdivision to a gated neighborhood with restricted public access.
2. No less than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the homeowners' association.
3. The homeowners' association is both a corporation not for profit organized and in good standing under Chapter 617, and a "homeowners association" as defined in Florida Statutes Section 720.301(9) with the power to levy and collect assessments for routing and periodic major maintenance and operation of street lighting, drainage, sidewalks and pavement in the subdivision.
4. The homeowners association has entered into and executed such agreements, covenants, warranties and other instruments; has provided, or has provided assurance of such funds, reserve funds and funding sources; and has satisfied such other requirements and conditions as may be established or imposed by the County with respect to the ongoing operation, maintenance and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting and sidewalks in the subdivision after the abandonment by the County.
5. An agreement has been executed with the Vista Del Lago at Boca Flores Homeowners Association, Inc., which addresses the above items.

As provided in the Ordinance, the Engineering Department advertised this petition for a public hearing on Sunday, November 5, 2017.

ABANDONMENT OF THE RIGHT-OF-WAY OF VISTA DEL LAGO,
REPLAT OF BOCA LAGO, PLAT BOOK 31, PAGE 62, PUBLIC
RECORDS OF PALM BEACH COUNTY

RESOLUTION NO. R-2017_____

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
PALM BEACH COUNTY, FLORIDA, RESERVING ONE DRAINAGE
EASEMENT AND AN ACCESS, DRAINAGE AND UTILITIES EASEMENT
AND ABANDONING ANY PUBLIC INTEREST IN ALL OF THE 60 FOOT
WIDE RIGHT-OF-WAY FOR VISTA DEL LAGO AS SHOWN ON THE
REPLAT OF BOCA LAGO, RECORDED IN PLAT BOOK 31, PAGE 62,
PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.**

WHEREAS, the Board of County Commissioners (BCC) of Palm Beach County, Florida, pursuant to authority in Section 336.09, Florida Statutes, and as provided in Palm Beach County (County) Code Chapter 22. Article III, Road Abandonment and Plat Vacation, Ordinance No. 2002-034, known as the Palm Beach County Right-of-Way Abandonment and Plat Vacation Ordinance (Ordinance), and the petition of the Vista Del Lago at Boca Flores Homeowners Association, Inc., called a public hearing to be held in the BCC's Chambers, at the Governmental Office Complex, West Palm Beach, Florida, on November 21, 2017, to consider and determine whether the County would vacate, abandon, discontinue and close, renounce and disclaim any right or interest of the public in and for all of the 60 foot wide right-of-way for Vista Del Lago as shown on the Replat of Boca Lago, recorded in Plat Book 31, Page 62, as set forth on the sketch and legal description set forth in Exhibit 'B' attached hereto and incorporated herein by reference; and

WHEREAS, as provided in the Ordinance, notice of the holding of such meeting was duly published in the Palm Beach Post on November 5, 2017; and

WHEREAS, the BCC has the authority to reserve and declare a drainage easement as shown on Exhibit 'A', for access and to permanently install and maintain, when necessary, facilities for the purpose of transporting storm water runoff, both above ground (swales) and buried (pipes and structures) to and/or from water retention areas. Successors or assigns to the area set forth in Exhibit 'B' shall be permanently prohibited from removing or interfering with the operation, maintenance or repair of facilities installed by County, its successors or assigns to the easement shown in Exhibit 'A'. To the extent that successors and assigns to the area set forth in Exhibit 'B' hinder or obstruct the operation, maintenance or repair of any facilities installed in the easement shown in Exhibit 'A', said successors and assigns to the area set forth in Exhibit 'B' shall be liable for the cost of repair and/or removal of the obstruction; and

RESOLUTION NO. R-2017_____

WHEREAS, the BCC has approved a deed conveying the 60' wide right-of-way to be abandoned to the Vista Del Lago at Boca Flores Homeowners Association, Inc. (HOA); and

WHEREAS, the BCC has approved an easement from the HOA for access, drainage, and utilities to County property as shown in Exhibit 'C'; and

WHEREAS, the BCC did hold said hearing as advertised, and determined that such action will not materially interfere with the County Road System and will not deprive any person of a reasonable means of ingress and egress from at least one County, State or Federal highway.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are hereby reaffirmed and ratified.
2. The BCC hereby reserves and declares a non-exclusive perpetual drainage easement in, over, across, on, under and through the entire area to be abandoned, as described in Exhibit 'A'. The easement as shown in Exhibit 'A' shall be retained by the County for access and to permanently install and maintain, when necessary, facilities for the purpose of transporting storm water runoff, both above ground (swales) and buried (pipes and structures), to and/or from water retention areas. Successors or assigns to the area as set forth in Exhibit 'B' shall be permanently prohibited from removing or interfering with the operation, maintenance or repair of facilities installed by the County, its successors or assigns in the easement as shown in Exhibit 'A'. To the extent that successors and assigns to the area as set forth in Exhibit 'B' hinder or obstruct the operation, maintenance or repair of any facilities installed in the easement as shown in Exhibit 'A', said successors and assigns to the area as set forth in Exhibit 'B' shall be liable for the cost of repair and/or removal of the obstruction.
3. The BCC has approved a deed conveying the 60' wide right-of-way to be abandoned to the HOA.

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4. The BCC has approved an easement from the HOA for access, drainage, and utilities to the County property.
5. The right-of-way is hereby abandoned and closed as right-of-way and the BCC does hereby renounce and disclaim any right or interest of the County and the Public in and to the right-of-way, more fully described in the legal description and sketch as shown in Exhibit 'B' attached hereto and made a part hereof.
6. Notice of the adoption of this Resolution shall be published once in the Palm Beach Post within thirty (30) days of the date of adoption of this Resolution as provided in the Ordinance.

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RESOLUTION NO. R-2017_____

The foregoing Resolution was offered by Commissioner _____,
who moved its adoption. The motion was seconded by Commissioner
_____ and, upon being put to a vote, the vote was as follows:

Commissioner Hal R. Valeche
Commissioner Paulette Burdick
Commissioner Dave M. Kerner
Commissioner Steven L. Abrams
Commissioner Mary Lou Berger
Commissioner Melissa McKinlay
Commissioner Mack Bernard

The Mayor thereupon declared the Resolution duly passed and adopted this
_____ day of _____, 2017.

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

Sharon R. Bock, Clerk & Comptroller

BY: _____
Deputy Clerk

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

BY: _____
County Attorney