

TAB 4

POINT PAPER

VACATION OF CERTAIN RIGHTS RELATED TO THE PROPOSED RELOCATION OF PALMETTO ELEMENTARY SCHOOL

BACKGROUND: The School Board has been working with the City and others for an alternative site to rebuild Palmetto Elementary School. As part of that process, the School Board has identified several rights of way which it requests to have vacated as part of this process. These rights-of-way are as follows:

- **Ordinance 09-993:** 15th Avenue Drive West between 10th Street West and 12th Street West (surrounded by the new school site)
- **Ordinance 09-994:** A portion of 8th Street West (that portion 217.5 feet east of 10th Avenue) between 9th and 10th Avenue West and all of 9th Avenue West between 8th Street West and 9th Street West, mostly within proposed consolidated property to be owned by the School Board at the existing Palmetto Elementary School. (This Ordinance was Revised to only include the northern 153 feet of the 9th Avenue West right-of-way south of 9th Street West due to potential lot access issues for parties other than the School Board.)

DISCUSSION: The right-of-way vacations are important to complete in conjunction with the School Board closings on the acquisition of properties at both the new Palmetto Elementary School Site and the existing Palmetto Elementary Site. In all cases, the City will need a utility easement over the property to be vacated. In the case of the 9th Avenue easement, the City will also obtain a temporary emergency access easement over the road until the School Board redevelops this area.

MOTION:

1. I move to adopt Ordinance 09-994 vacating a portion of 9th Avenue West between 9th Street West and 8th Street West, as provided for in Ordinance 09-994.
2. I move to adopt Ordinance 09-993 vacating 15th Avenue Drive West, between 10th Street West and 12th Street West as provided in Ordinance 09-993.

BUDGET IMPACT: None as to items 1 and 2 above.

**CITY OF PALMETTO
ORDINANCE NO. 09-993**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, VACATING 15TH AVENUE DRIVE WEST RIGHT-OF-WAY BETWEEN THE NORTH RIGHT-OF-WAY LINE FOR 10TH STREET WEST AND THE SOUTH RIGHT-OF-WAY LINE FOR 12TH STREET WEST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the City Commission of the City of Palmetto, Florida as follows:

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions, and render municipal services; and

WHEREAS, Chapter 166, Florida Statutes, the “Municipal Home Rule Powers Act,” implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and

WHEREAS, the City Commission of the City of Palmetto, Florida was duly convened at its regular meeting place in the City Hall of the City of Palmetto, Florida on May 18, 2009 and continued to June 1, 2009; and

WHEREAS, pursuant to the Notice of Hearing for the vacation having been duly made by advertisement in the Bradenton Herald on May 8, 2009; and

WHEREAS, all things necessary and required by law for the vacation 15th Avenue Drive West between the North right-of-way line for 10th Street West and the South right-of-way line for 12th Street West more particularly described in Section 2 having been accomplished; and

WHEREAS, the City Commission has determined that it is necessary, desirable and in the best interest of the citizens of the City in order to protect the public health, safety, and welfare, to adopt this Ordinance.

NOW, THEREFORE, BE IT FURTHER ORDAINED BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AS FOLLOWS:

Section 1. Findings of Fact. The forgoing “whereas” clauses are adopted herein as findings of fact, and are accepted as a basis for adoption of this Ordinance.

Section 2. Vacated Right-Of-Way. Subject to the condition contained herein, the City Commission of the City of Palmetto, Florida, pursuant to due and proper petition and application and other procedures as required by law and the rules and regulations of this Commission for vacating the following described right-of-way having been accomplished, the City Commission of the City of Palmetto, does hereby vacate, close and abandon that right-of-way, which is described on Exhibit “A” attached hereto and incorporated herein by reference; provided, however, that the City shall reserve a public drainage and utility easement. This vacation of right-of-way is conditioned upon the City obtaining any interest in adjoining property from Florida Fidelity Corporation, a Florida corporation, prior to December 31, 2009, and a utility easement being granted for the property being vacated.

Section 3. Severability. It is the intent of this Ordinance to comply with the requirements of all applicable law and constitutional requirements. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then such provisions or portions shall be deemed null and void but all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 4. Effective Date. This Ordinance shall take effect as provided by law and Section 14 of the City Charter upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

PASSED AND DULY ADOPTED, by the City Commission, in open session, with a quorum present and voting, this 1st day of June, 2009.

First Reading: May 4, 2009

Publication: May 8, 2009

Second Reading and

Public Hearing: May 18, 2009

and continued to June 1, 2009

CITY OF PALMETTO, FLORIDA,
BY AND THROUGH THE CITY
COMMISSION OF THE CITY OF
PALMETTO

By: _____

SHIRLEY GROOVER BRYANT,
MAYOR

ATTEST: James R. Freeman
City Clerk

By: _____

City Clerk/Deputy Clerk.

EXHIBIT "A"

**15TH AVENUE DRIVE WEST RIGHT-OF-WAY BETWEEN THE NORTH
RIGHT-OF-WAY LINE FOR 10TH STREET WEST AND THE SOUTH RIGHT-
OF-WAY LINE FOR 12TH STREET WEST**