

**TAB 5**

**CITY OF PALMETTO  
ORDINANCE NO. 09-994**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, VACATING THE 9<sup>TH</sup> AVENUE WEST RIGHT-OF-WAY FROM THE SOUTHERN RIGHT-OF-WAY LINE OF 9<sup>TH</sup> STREET WEST TO A LINE 153 FEET SOUTH OF THE 9<sup>TH</sup> STREET WEST RIGHT-OF-WAY LINE; 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 of the right-of-way for 9<sup>th</sup> Avenue West right-of-way from the southern right-of-way line of 9<sup>th</sup> Street West to a line 153 feet south of the 9<sup>th</sup> Street West right-of-way line; 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 and Reservation of Utility Easement.** 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 public drainage and utility easement over the entire right-of-way vacated. The vacation of the right-of-way described in Exhibit “A” is contingent upon the School Board of Manatee County obtaining the fee simple title in Lots 2, 3, and 4 of Robinson & Brunjes Subdivision and utility easements to be 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"**

**9<sup>th</sup> AVENUE WEST RIGHT-OF-WAY FROM THE SOUTHERN RIGHT-OF-WAY LINE OF 9<sup>TH</sup> STREET WEST TO A LINE 153 FEET SOUTH OF THE 9<sup>TH</sup> STREET WEST RIGHT OF LINE, LOCATED IN THE CITY OF PALMETTO, FLORIDA**