

TAB 11



# City of Palmetto Agenda Item

Meeting Date

7/26/10

Presenter: **Mark P. Barnebey**

Department: **City Attorney**

Title:

**ORDINANCE 2010-14, ANNEXING A PORTION OF 8<sup>TH</sup> AVENUE WEST INTO THE CITY OF PALMETTO**

**ISSUE:**

When the MFC lands were annexed into the City in 1999, 8<sup>th</sup> Avenue West was omitted from the legal description of the annexed lands. Manatee County is the apparent owner of 8<sup>th</sup> Avenue West, from existing 23<sup>rd</sup> Street West to its northern terminus, pursuant to statute, by virtue of the County's long-term maintenance of that roadway. In the event that MFC has any remaining interest in the 8<sup>th</sup> Avenue West right-of-way, MFC has provided its consent to the annexation and vacation.

**BACKGROUND:**

The annexation is logical to eliminate a gap in City jurisdiction between large tracts currently located within the City. Additionally, as part of the ball field project and land swap, MFC desires 8<sup>th</sup> Avenue West to be vacated between existing 23<sup>rd</sup> Street West and the new 23<sup>rd</sup> Street West. Once the new road is opened this will eliminate a road to no where and create a unified tract for MFC. Rather than having MFC proceed through the County's road closure and street vacation process, which can take many months, the City proposed that the County transfer that right-of-way to the City, so that the City could annex and consider possible vacation of the roadway.

At the July 27, 2010, meeting of the Board of County Commissioners, the County Commission is expected to approve both a roadway transfer agreement, in order to transfer jurisdiction of 8<sup>th</sup> Avenue West to the City, and a quitclaim deed, to transfer the County's ownership interest in 8<sup>th</sup> Avenue West to the City. Upon the approval of these documents, the City may lawfully proceed with annexation of the roadway.

As with all annexations, Manatee County will be notified prior to the public hearing and final action on the annexation.

Budgeted Amount: \$0.00    Budget Page No(s):    Available Amount: \$0.00    Expenditure Amount: \$0.00

Additional Budgetary Information:

Funding Source(s):    Sufficient Funds Available:  Yes  No    Budget Amendment Required:  Yes  No    Source:

City Attorney Reviewed:  Yes  No  N/A    Advisory Board Recommendation:  For  Against  N/A    Consistent With:  Yes  No  N/A

Potential Motion/Direction Requested: I move to approve Ordinance 2010-14 for First Reading and authorize publishing notice for a public hearing on the next available agenda.

Staff Contact:

Attachments: Ordinance 2010-14

**ORDINANCE NO. 2010-14**

**AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; ANNEXING CERTAIN REAL PROPERTY INTO THE CITY OF PALMETTO; PROVIDING FOR AMENDMENT OF CITY BOUNDARIES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**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**, Florida Statute 171.044 provides for the voluntary annexation of reasonably compact, contiguous real property to a municipality; and

**WHEREAS**, the property described in **Exhibit A**, attached hereto and incorporated herein, is reasonably compact and contiguous to the City of Palmetto; and

**WHEREAS**, the property described in **Exhibit A** is owned by the City of Palmetto; and

**WHEREAS**, the City of Palmetto recognized the need of the annexation of said real property into the City of Palmetto; and

**WHEREAS**, said property is right-of-way for 8<sup>th</sup> Avenue West, north of 23rd Street; and

**WHEREAS**, notice of said annexation, a copy of which is attached hereto and incorporated herein as **Exhibit B**, has been published as required and provided under Section 171.044, Florida Statutes; and

**WHEREAS**, annexation of the land described in **Exhibit A** does not result in the creation of any enclaves; 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 above “whereas” clause are adopted herein as findings of fact.

**Section 2.** **Annexation of Land.** The land legally described in **Exhibit A** is hereby annexed into and incorporated within the City of Palmetto, Manatee County, Florida, as fully and effectually as if the same were included within the boundary of the City of Palmetto, Florida, as set forth in its Charter.

**Section 3.** **Amendment of City Boundaries.** The legal description of the City of Palmetto, Florida, kept on file in the City Clerk’s office, is hereby amended to reflect this annexation. The City Clerk is hereby directed to undertake measures necessary to affect such amendment consistent herewith.

**Section 4.** **Repeal of Ordinance.** This Ordinance hereby repeals all ordinances and parts of ordinances in conflict herewith to the extent of such conflict.

**Section 5.**     **Severability.** It is the intent of this Ordinance to comply with all applicable law and constitutional requirements. If any provision, paragraph or section of this Ordinance or the standards and codes adopted hereby, shall be determined by a court of competent jurisdiction to be inapplicable, illegal, unenforceable or unconstitutional, then to that extent such provisions or portions shall be deemed null and void, but the remaining provisions of this Ordinance shall be in full force and effect as applicable.

**Section 6.**     **Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14 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 16th day of August, 2010.

First Reading:	August 2, 2010
Publication:	August 6, 2010 August 13, 2010
Second Reading and Public Hearing:	August 16, 2010

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

By: \_\_\_\_\_  
SHIRLEY GROOVER BRYANT, MAYOR

Ordinance No. 2010-14  
Page 4

ATTEST: James R. Freeman  
City Clerk

By: \_\_\_\_\_  
City Clerk/Deputy Clerk

G:\DOCUMENT\MPB\CITY OF PALMETTO 2008 -\Palmetto Ball Fields\Draft ordinance for 8th ave w annexation.doc

2010-14

**8th Avenue West Annex**

DESCRIPTION: A parcel of land lying in Section 11, Township 34 South, Range 17 East, Manatee County, Florida, being more particularly described as follows:

**COMMENCE** at the Northwest corner of the Southeast 1/4 of said Section 11, for the **POINT OF BEGINNING**, run thence along the North boundary of the Northwest 1/4 of the Southeast 1/4 of said Section 11, S.89°17'24"E., 14.50 feet to a point on the Easterly Maintained Right-of-Way line of 8th AVENUE WEST; thence along said Easterly Maintained Right-of-Way line of 8th AVENUE WEST, S.00°31'10"W., 735.67 feet to a point on a curve on the Southerly Right-of-Way line of 23rd STREET WEST; thence along said Southerly Right-of-Way line of 23rd STREET WEST, Westerly, 27.60 feet along the arc of a curve to the left having a radius of 350.00 feet and a central angle of 04°31'07" (chord bearing N.84°41'57"W., 27.60 feet) to a point on the Westerly Maintained Right-of-Way line of aforesaid 8th AVENUE WEST; thence along said Westerly Maintained Right-of-Way line of 8th AVENUE WEST, N.00°31'10"E., 733.37 feet to a point on the North boundary of the Northeast 1/4 of the Southwest 1/4 of said Section 11; thence along said North boundary of the Northeast 1/4 of the Southwest 1/4 of Section 11, S.89°40'51"E., 13.00 feet to the **POINT OF BEGINNING**.

Containing 0.464 acres, more or less.

Bearings shown hereon are Grid Bearings referenced to the State Plane Coordinate System, North American Horizontal Datum of 1983 (NAD 83 - 1990 ADJUSTMENT), as established from Manatee County GPS Control Monuments "M 003" and "M 008", and are based on the North boundary of the Northeast 1/4 of the Southwest 1/4 and the South boundary of the Southeast 1/4 of the Northwest 1/4 of Section 11, Township 34 South, Range 17 East, having a grid bearing of S.89°40'51"E.

**8th AVENUE WEST ANNEX  
CITY OF PALMETTO**



Prepared For: **CITY OF PALMETTO**

**DESCRIPTION  
SKETCH**

(Not a Survey)  
*David A. Williams*  
David A. Williams

FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. **6423**

**GeoPoint  
Surveying, Inc.**

1403 E. 5th Avenue Phone: (813) 248-8888  
Tampa, Florida 33605 Fax: (813) 248-2260  
www.geopointsurvey.com Licensed Business Number LB 7768

No.	Date	Description	Dwn.
REVISIONS			
SHEET NO. 1 OF 2 SHEETS			

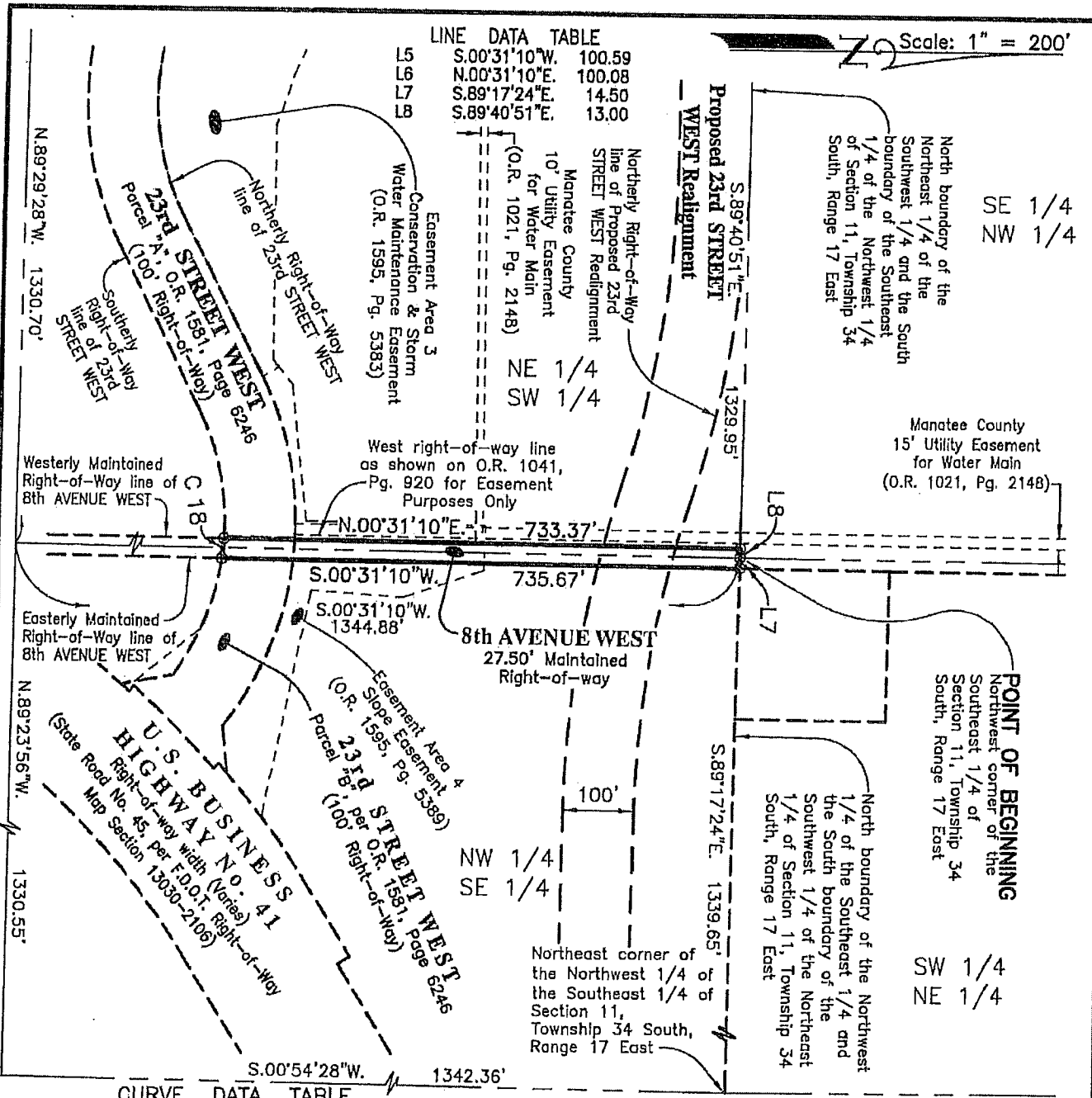
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL  
RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

Drawn: SEC	Checked: DAW	P.C.: N/A	Data File: N/A
Date: 03/24/10	Dwg: 8TH-AVENUE-ANNEX-DS	Order No.: 999-99-999	
SECTION 11, TOWNSHIP 34 SOUTH, RANGE 17 EAST			

Scale: 1" = 200'

LINE DATA TABLE

L5	S.00°31'10"W.	100.59
L6	N.00°31'10"E.	100.08
L7	S.89°17'24"E.	14.50
L8	S.89°40'51"E.	13.00



CURVE DATA TABLE

NO.	RADIUS	DELTA	ARC	TANGENT	CHORD	BEARING
18	350.00	04°31'07"	27.60	13.81	27.60	N.84°41'57"W.

8th AVENUE WEST ANNEX  
CITY OF PALMETTO

Prepared For: CITY OF PALMETTO

DESCRIPTION  
SKETCH

(Not a Survey)

David A. Williams

FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6423

**GeoPoint**  
Surveying, Inc.

1403 E. 5th Avenue  
Tampa, Florida 33605  
www.geopointsurvey.com  
Phone: (813) 248-8888  
Fax: (813) 248-2266  
Licensed Business Number LB 7768

No.	Date	Description	Dwn.
REVISIONS			

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

Drawn: SEC	Checked: DAW	P.C.: N/A	Data File: N/A
Date: 03/24/10	Dwg: 8TH-AVENUE-ANNEX-DS	Order No: 997-??-???	
SECTION 11, TOWNSHIP 34 SOUTH, RANGE 17 EAST			