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RESOLUTION NO. 07-122

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO REAL PROPERTY; RELEASING AN INTEREST IN CERTAIN REAL PROPERTY AND VACATING A RIGHT-OF-WAY FOR AN ALLEY LOCATED TO THE NORTH OF S.W.168TH STREET, BETWEEN S.W. 88TH AVENUE AND S.W. 87TH PLACE; PROVIDING FOR REVERTER OF TITLE TO ADJACENT PROPERTY OWNER; PROVIDING AN EFFECTIVE DATE

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay hold title to public land in trust and have the power to discontinue the use of streets and alleys, and to vacate rights-of-way when it is in the public interest; and,

WHEREAS, in 1971 the Miami-Dade County School Board conveyed a right-of-way deed to Miami-Dade County; which was transferred to the Village of Palmetto Bay upon incorporation; and,

WHEREAS, the right-of way deed provides a reverter clause should the property not be used for a roadway (*See Exhibit 1*); and,

WHEREAS, the property abutting the right-of-way to the North of S.W. 168th Street, between S.W. 88th Avenue and S.W. 87th Place, with the following legal description:

THE NORTH 5 FEET OF THE SOUTH 40 FEET OF THE SW ¼ OF THE SE ¼ OF THE SE ¼ OF SECTION 28, TOWNSHIP 55 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA;

AND

THE WEST 25 FEET AND THE EAST 25 FEET OF THE SW ¼ OF THE SE ¼ OF SAID SECTION 28, LESS THE SOUTH 40 FEET THEREOF;

AND

THE AREA BOUNDED BY THE NORTH LINE OF THE SOUTH 40 FEET OF THE SE ¼ OF SAID SECTION 28, AND BOUNDED BY THE WEST LINE OF THE EAST 25 FEET OF THE SW ¼ OF THE SE ¼ OF THE SE ¼ OF SAID SECTION 28, AND BOUNDED BY A 25 FOOT RADIUS ARC CONCAVE TO THE NORTHWEST, SAID ARC BEING TANGENT TO BOTH OF THE LAST DESCRIBED LINES;

AND

THE AREA BOUNDED BY THE NORTH LINE OF THE SOUTH 40 FEET OF THE SE ¼ OF SAID SECTION 28, AND BOUNDED BY THE EAST LINE OF THE WEST 25 FEET OF THE SW ¼ OF THE SE ¼ OF THE SE ¼ OF SAID SECTION 28, AND BOUNDED BY A 25 FOOT

1 RADIUS ARC CONCAVE TO THE NORTHEAST, SAID
2 ARC BEING TANGENT TO BOTH OF THE LAST
3 DESCRIBED LINES.
4

5 WHEREAS, the subject land is not being used as a right-of-way, is not being maintained,
6 is not used for emergency vehicle access to the rear of the properties, and is not used as legal
7 access to any of the properties abutting the right-of-way; and,
8

9 WHEREAS, the Village Manager recommends vacating the right-of-way; and,
10

11 WHEREAS, all adjacent property owners have been notified in writing, by letter dated
12 October 16, 2007, of the proposed vacated right-of-way; and,
13

14 WHEREAS, in accordance with §336.10, Florida Statutes, the Village advertised a public
15 hearing on the proposed vacated right-of way; which was advertised in The Miami Herald on
16 November 5, 2007, which is at least 14 days prior to this public hearing; and,
17

18 WHEREAS, the Mayor and Village Council desire to vacate the described right-of-way
19 and as a result, the right-of-way shall revert back to the Miami-Dade County School Board; and,
20

21 WHEREAS, ordinarily pursuant to §336.09, Florida Statutes, the vacated right-of-way
22 would be split amongst adjacent properties, however, due to the clause in the right-of-way deed
23 reverter the entire area being vacated is required to revert to the Miami-Dade County School
24 Board, upon discontinuance of the roadway.
25

26 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
27 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
28

29 Section 1. The Whereas clauses are incorporated and made a part of this resolution.
30

31 Section 2. The Village of Palmetto Bay releases all interest in, and vacates the above-
32 described right-of-way.
33

34 Section 3. Title to the vacated right-of-way shall revert to the Miami-Dade County
35 School Board as required under the reverter clause contained in the right-of-way deed. The lot is
36 owned by, and more particularly described, as:
37

38 **Lot 1 Miami-Dade County School Board, 8851 SW 168th Street,
39 Miami, Florida 33157; more particularly described as:**
40

41 28 55 40 8.583 AC M/L SW ¼ OF SE ¼ of SE ¼ LESS E25FT
42 & LESS W25FT & LESS R/W FOR SW 168 ST F/A/U 30-
43 5028-000-0440.
44

45 Section 4. Upon the adoption of this resolution, the Village of Palmetto Bay
46 disclaims any and all interest in the vacated property, disclaims any and all legal responsibility
47 relating to the right-of-way and drainage in the area, and further disclaims any and all legal liability
48 relating thereto.

1
2 Section 5. Notice of the vacation of the described right-of-way shall be published
3 one time within 30 days of the adoption of this resolution in The Miami Herald. A certified copy
4 of this resolution and proof of the publications of the notice of hearing and of the adoption of
5 this resolution shall be recorded in the public records of Miami-Dade County. The Village Clerk
6 shall provide a copy of these documents to the Miami-Dade County Tax Assessor.
7

8 Section 6. Due to the reverter provision in the underlying Miami-Dade County
9 School Board right-of-way deed, the right-of-way shall revert back to the Miami-Dade County
10 School Board, via quit claim deed, as provided in attached **Exhibit 2**.
11

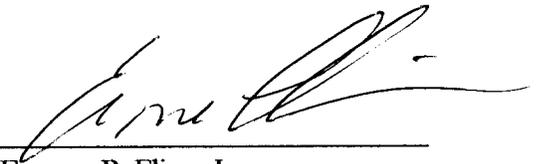
12 Section 7. If any section, clause, sentence, or phrase of this resolution is for any
13 reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not
14 affect the validity of the remaining portions of this resolution.
15

16 Section 8. All resolutions or parts of resolutions in conflict with the provisions of
17 this resolution are repealed.
18

19 Section 9. This resolution shall take effect immediately upon approval.
20

21 PASSED AND ENACTED this 19th day of November, 2007.
22

23
24 Attest: 
25 Meghan Rader,
26 Village Clerk
27


Eugene P. Flinn, Jr.,
Mayor

28 APPROVED AS TO FORM:
29

30
31 
32 Eye A. Boutsis,
33 Magin Gallop Figueredo, P.A.
34 Office of Village Attorney
35

36
37 FINAL VOTE AT ADOPTION:
38

39 Council Member Ed Feller Absent
40
41 Council Member Paul Neidhart YES
42
43 Council Member Shelley Stanczyk YES
44
45 Vice-Mayor Linda Robinson Absent
46
47 Mayor Eugene P. Flinn, Jr. YES