

Meeting Date
January 10, 2017



AGENDA	
Section	PUBLIC HEARING
Item No.	III, A.

**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

SUBJECT:	Petition to Vacate, Re: 6.00 ft. wide public Utility Easement – Oriole Court - "Barefoot Bay Unit Two Part Ten" – Barefoot Bay – Joseph Proto – District 3 (Fiscal impact: Petitioner paid \$640.00 Vacating Application Fee)
DEPT/OFFICE	Public Works Department – Surveying Section

**Requested Action:**

It is requested that the Board of County Commissioners (BOCC) conduct a public hearing to consider the partial vacating of a 12.00 ft. wide public utility easement centered along the common line of Lots 15 and 16, Block 139, plat of "Barefoot Bay Unit Two Part Ten" in Section 09, Township 30 South, Range 38 East. If approved, it is requested that the Board authorize the Chairman to sign the attached Resolution approving the vacating.

**Summary Explanation & Background:**

Florida Statutes, Section 336.09 and Brevard County Article II, Section 86-36, provide a method to the Board of County Commissioners to vacate and abandon unused rights-of-way and easements.

The petitioner owns Lots 15 and 16, Block 139 and is requesting the vacating of the 12.00 ft. wide public utility easement centered along the common line of the lots to allow for the permitting and construction of a patio over and across the common lot line. The alley to be vacated contains 888.00 square feet, more or less.

December 15, 2016, the legal notice was advertised in Florida TODAY informing the public of the date a public hearing would be held to consider the vacating.

All pertinent county agencies and public utility companies have been notified. One objection was received from a neighbor stating not enough information was provided; no other objections were received. The property is located in Barefoot Bay as follows: Begin at the intersection of U. S. Highway No.1 and Micco Road; thence 1.71 miles westerly along Micco Road; thence 0.11 miles northerly along Bird Drive; thence a total of 0.15 miles westerly and northerly along Oriole Court to the residence to the west (left).

**Fiscal Impact:** The petitioners are charged \$640 for processing, advertising, and recording costs associated with the vacating of a county right-of-way or easement. These fees are deposited in Fund 0002-30265-3699000, revenue account for vacatings. This action is in keeping with the County's efforts to create cooperative partnerships between County Government and its citizenry. No additional funding will be requested for next year's budget.

Name: [Marc.Cazessus@brevardcounty.us](mailto:Marc.Cazessus@brevardcounty.us) Phone: Ext. 57315

**Exhibits Attached:** Resolution, Appraisers detail sheet, vicinity map, aerial map, plat (if applicable), petitioner's deed, boundary survey (if available), boundary survey (right-of-way vacating) or sketch and description (easement Vacating), comment summary sheet and legal notice of public hearing advertisement.

**Clerk to the Board instruction:** Advertise Approved Resolution Notice and Record Vacating Resolution Documents (as one resolution type document which in sequence includes the proof of publication of the public hearing notice, the approved/signed resolution, and the proof of publication of the adopted resolution notice.

<b>Contract / Agreement (If attached):</b>	<b>Reviewed by County Attorney</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	PR <input type="checkbox"/>
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County Manager	Assistant County Manager	Department Director / Extension
Stockton Whitten	Assistant County Manager Venetta Valdengo	John Denninghoff / Ext. 57202



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

January 31, 2017

MEMORANDUM

TO: John Denninghoff, Public Works Director Attn: Marc Cazessus

RE: Advertising Bills for Resolution Vacating a 6.00 Ft. Wide Public Utility Easement – Oriole Court Barefoot Bay Unit Two Part Ten, Barefoot Bay

Enclosed for your necessary action are copies of the advertising bills for Resolution No. 17-002, vacating a 6.00 foot wide public utility easement – Oriole Court Barefoot Bay Unit Two Part Ten, Barefoot Bay, as petitioned by Nathaniel Proto. Said Resolution was adopted by the Board of County Commissioners, in regular session on January 10, 2017.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

/ds

Encls. (2)



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

January 31, 2017

Nathaniel Proto  
1031 Oriole Circle  
Barefoot Bay, FL 32796

Dear Mr. Proto:

Re: Resolution Vacating a 6.00 Ft. Wide Public Utility Easement – Oriole Court Barefoot Bay Unit Two Part Ten, Barefoot Bay

The Board of County Commissioners, in regular session on January 10, 2017, adopted Resolution No. 17-002, vacating a 6.00 foot wide public utility easement at Oriole Court Barefoot Bay Unit Two Part Ten, Barefoot Bay, as petitioned by you. Said Resolution has been recorded in ORBK 7803, Pages 1236 through 1240. Enclosed is a certified copy of the recorded Resolution for your records.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

cc: Marc Cazessus, Public Works

**VACATING OF A PUBLIC UTILITY EASEMENT IN "BAREFOOT BAY UNIT TWO, PART TEN", BAREFOOT BAY, FLORIDA, LYING IN SECTION, 09, TOWNSHIP 30 SOUTH, RANGE 38 EAST**

WHEREAS, pursuant to Article II, Section 86-36, Brevard County Code, a petition has been filed by **Nathaniel Proto** with the Board of County Commissioners to vacate a portion of a public utility easement in Brevard County, Florida, described as follows:

**SEE ATTACHED SKETCH AND DESCRIPTION**

WHEREAS, the vacating action will in no way affect any private easements which may also be present in the existing public easement(s) or public right-of-way, nor does this action guarantee or transfer title.

WHEREAS, notice of the public hearing before the Board of County Commissioners was published one time in the TODAY Newspaper, a newspaper of general circulation in Brevard County, Florida, prior to the public hearing; and

WHEREAS, the Board finds that vacating a portion of the public utility easement will not be detrimental to Brevard County or the public.

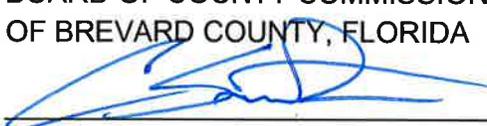
THEREFORE BE IT RESOLVED that said portion of the public utility easement is hereby vacated; and Brevard County renounces and disclaims any rights in and to said easement. Pursuant to Section 177.101(5), Florida Statutes, the vacating shall not become effective until a certified copy of this resolution is filed in the offices of the Clerk of Courts and recorded in the Public Records of Brevard County.

DONE, ORDERED AND ADOPTED, in regular session, this 10<sup>th</sup> day of January, 2017 A.D.

ATTEST:

  
\_\_\_\_\_  
SCOTT ELLIS, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
\_\_\_\_\_  
CURT SMITH, CHAIRMAN  
321-633-2080  
As approved by the Board on:  
January 10, 2017

# SKETCH & DESCRIPTION

SHEET 1 OF 2

NOT VALID WITHOUT THE  
SKETCH ON SHEET 2 OF 2  
(NOT A BOUNDARY SURVEY)

SECTION 9, TOWNSHIP 30 SOUTH, RANGE 38 EAST

TAX I.D. NO.: 30-38-09-JS-139-16

PURPOSES OF SKETCH AND DESCRIPTION:  
VACATING OF 12.00 FEET WIDE PUBLIC  
UTILITY AND DRAINAGE EASEMENT

LEGAL DESCRIPTION:

THAT PORTION OF A PUBLIC UTILITY EASEMENT DESCRIBED AS FOLLOWS:

THE NORTH 6.00 FEET OF LOT 15, BLOCK 139 AND THE SOUTH 6.00 FEET OF LOT 16, BLOCK 139, LESS AND EXCEPT THE WESTERLY 6.00 FEET OF BOTH LOTS, BAREFOOT BAY UNIT TWO, PART 10, AS RECORDED IN PLAT BOOK 22, PAGE 105-115, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

CONTAINS 0.020 ACRES (888 SQUARE FEET) MORE OR LESS.

SURVEYOR'S NOTE:

IMPROVEMENTS AS SHOWN HEREON ARE BASED ON A BOUNDARY SURVEY PREPARED BY SMITH SURVEYING & MAPPING, INC. DATE OF FIELD WORK: SEPTEMBER 22, 2016, JOB No. 16-2956

ABBREVIATIONS:

CONC. = CONCRETE  
R/W = RIGHT-OF-WAY

PREPARED BY:



1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32907  
Brevard(321)724-2940 Indian River(772)589-3228 Fax(321)951-4879  
E-MAIL: SMITHSURVEYING @ AOL.COM

KEVIN A. SMITH - FLORIDA CERTIFICATE NO. 4457  
(NOT VALID UNLESS SIGNED AND SEALED)

PREPARED FOR:

DRAWN BY: P.A.D.

CHECKED BY: KAS

DRAWING NO. 16-3387

SECTION 9

DATE: 11-21-2016

SHEET 1 OF 2

REVISIONS 11-24-16

TOWNSHIP 30 SOUTH

12-13-16

RANGE 38 EAST

# SKETCH & DESCRIPTION

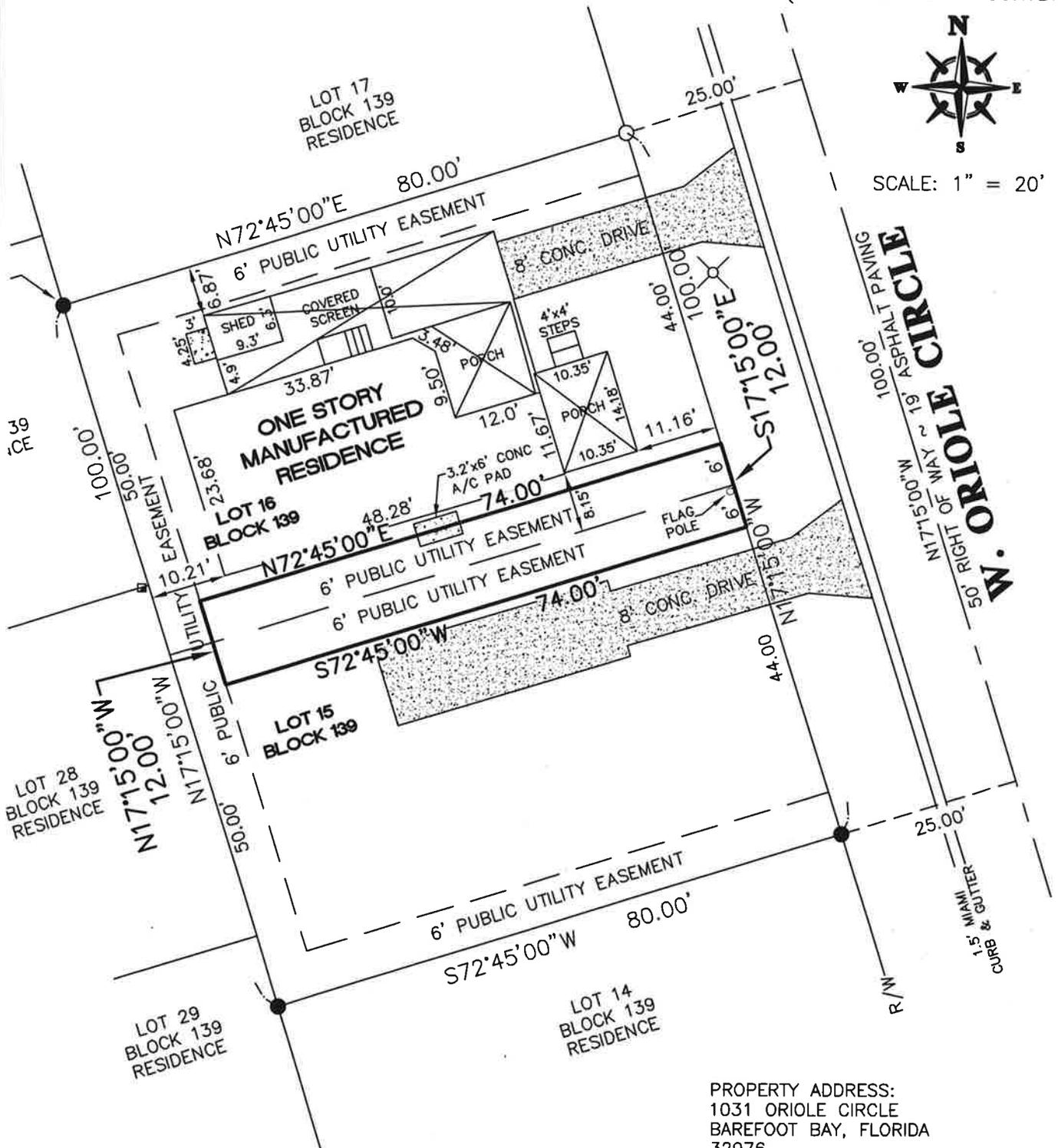
SECTION 9, TOWNSHIP 30 SOUTH, RANGE 38 EAST  
 PARCEL ID NUMBER: 30-38-09-JS-139-16

SHEET 2 OF 2

NOT VALID WITHOUT THE LEGAL  
 DESCRIPTION ON SHEET 1 OF 2  
 (NOT A BOUNDARY SURVEY)



SCALE: 1" = 20'



LOT 28  
 BLOCK 139  
 RESIDENCE

LOT 29  
 BLOCK 139  
 RESIDENCE

LOT 14  
 BLOCK 139  
 RESIDENCE

PROPERTY ADDRESS:  
 1031 ORIOLE CIRCLE  
 BAREFOOT BAY, FLORIDA  
 32976

PREPARED BY:



1350 MALABAR ROAD S.E., SUITE 1, PALM BAY, FLORIDA 32907  
 Brevard(321)724-2940 Indian River(772)589-3228 Fax(321)951-4879  
 E-MAIL: SMITHSURVEYING @ AOL.COM

DRAWING NO. 16-3387

BEARINGS BASED ON THE CENTERLINE  
 OF W. ORIOLE CIRCLE BEING  
 N17°15'00"W (ASSUMED)



**BREVARD CTY PUBLIC WORKS DEPT**  
2725 JUDGE FRAN JAMIESON WAY  
BLDG A 220  
VIERA, FL 32940

STATE OF FLORIDA COUNTY OF BREVARD:

Before the undersigned authority personally appeared **Kim Curro**, who on oath says that he or she is a Legal Advertising Representative of the **FLORIDA TODAY**, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

**Notice Public Hearing**

as published in **FLORIDA TODAY** in the issue(s) of:

12/15/16

Affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 15th of December 2016, by Kim Curro who is personally known to me

  
Ruby Royer  
Notary Public for the State of Florida  
My Commission expires January 30, 2018

Publication Cost: \$177.54  
Ad No: 0001796510  
Customer No: BRE-6BR327



RUBY ROYER  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF080043  
Expires 1/30/2018

AD#1796510 12/15/16

**LEGAL NOTICE**  
**NOTICE TO VACATE A PORTION OF A 12.00 FT. WIDE PUBLIC UTILITY EASEMENT CENTERED ALONG THE COMMON LINE OF LOTS 15 AND 16, BLOCK 139, "BAREFOOT BAY UNIT TWO PART TEN" LYING IN SECTION 09, TOWNSHIP 30 SOUTH, RANGE 38 EAST, BAREFOOT BAY, FL**

NOTICE IS HEREBY GIVEN that pursuant to Chapter 336.09, Florida Statutes, and Chapter 86, Article II, Section 86-36, Brevard County Code, a petition has been filed by **NATHANIEL PROTO** with the Board of County Commissioners of Brevard County, Florida, to request vacating the following described property, to wit:

**SEE EXHIBIT "A"**

The Board of County Commissioners will hold a public hearing to determine the advisability of such vacating of the above-described easement at 6:00 p.m. on **January 10, 2017** at the Brevard County Government Center Board Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida, at which time and place all those for or against the same may be heard before final action is taken.

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the board, agency, or commission with respect to the vacating, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

Persons seeking to preserve a verbatim transcript of the record must make those arrangements at their own expense.

The needs of hearing or visually impaired persons shall be met if the department sponsoring the meeting/hearing is contacted at least 48 hours prior to the public meeting/hearing by any person wishing assistance.

**EXHIBIT "A"**

THAT PORTION OF A PUBLIC UTILITY EASEMENT DESCRIBED AS FOLLOWS: THE NORTH 6.00 FEET OF LOT 15, BLOCK 139 AND THE SOUTH 6.00 FEET OF LOT 16, BLOCK 139, LESS AND EXCEPT THE WESTERLY 6.00 FEET OF BOTH LOTS, BAREFOOT BAY UNIT TWO, PART 10, AS RECORDED IN PLAT BOOK 22, PAGE 105-115, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. CONTAINS 0.020 ACRES (888 SQUARE FEET) MORE OR LESS.  
PREPARED BY: KEVIN A. SMITH, PSM



**BREVARD CTY PUBLIC WORKS DEPT**  
2725 JUDGE FRAN JAMIESON WAY  
BLDG A 220  
**VIERA, FL 32940**

STATE OF FLORIDA COUNTY OF BREVARD:  
Before the undersigned authority personally appeared Kim Curro, who on oath says that he or she is a Legal Advertising Representative of the FLORIDA TODAY, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

**Notice Public Hearing**

as published in FLORIDA TODAY in the issue(s) of:

01/13/17

Affiant further says that the said FLORIDA TODAY is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 13th of January 2017, by Kim Curro who is personaiily known to me

  
Ruby Royer  
Notary Public for the State of Florida  
My Commission expires January 30, 2018

Publication Cost: \$148.70  
Ad No: 0001855952  
Customer No: BRE-6BR327

AD#1855952 1/13/17  
**LEGAL NOTICE**  
RESOLUTION VACATING A 6.00 FT. WIDE PUBLIC UTILITY EASEMENT ON ORIOLE COURT, BAREFOOT BAY - NATHANIEL PROTO  
**TO WHOM IT MAY CONCERN:**  
NOTICE IS HEREBY GIVEN that on the 10th day of January, 2017, the Board of County Commissioners of Brevard County, Florida, adopted a Resolution vacating a 6.00 ft. wide public utility easement on Oriole Court, Barefoot Bay, as petitioned by Nathaniel Proto.  
**SEE ATTACHED EXHIBIT "A"**  
The Board further renounced and disclaimed any right of the County in and to said public easement.  
**BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**  
SCOTT ELLIS, CLERK  
BY: Tammy Rowe, Deputy Clerk  
**LEGAL DESCRIPTION:**  
**EXHIBIT "A"**  
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THE NORTH 6.00 FEET OF LOT 15, BLOCK 139 AND THE SOUTH 6.00 FEET OF LOT 16, BLOCK 139, LESS AND EXCEPT THE WESTERLY 6.00 FEET OF BOTH LOTS, BAREFOOT BAY UNIT TWO, PART 10, AS RECORDED IN PLAT BOOK 22, PAGE 105-115, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.  
CONTAINS 0.020 ACRES (888 SQUARE FEET) MORE OR\*LESS.





Classified Ad Receipt  
(For info Only - NOT A BILL)

**Customer:** BREVARD CTY PUBLIC WORKS DEPT  
**Address:** 2725 JUDGE FRAN JAMIESON WAY  
VIERA FL 32940  
USA

**Ad No.:** 0001855952  
**Pymt Method:** Invoice  
**Net Amt:** \$148.70

**Run Times:** 1

**No. of Affidavits:** 1

**Run Dates:** 01/13/17

**Text of Ad:**

AD#1855952 LEGAL NOTICE 1/13/17

RESOLUTION VACATING A 6.00 FT. WIDE  
PUBLIC UTILITY EASEMENT ON ORIOLE  
COURT, BAREFOOT BAY - NATHANIEL  
PROTO

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on the  
10th day of January, 2017, the Board of  
County Commissioners of Brevard Coun-  
ty, Florida, adopted a Resolution  
vacating a 6.00 ft. wide public utility  
easement on Oriole Court, Barefoot Bay,  
as petitioned by Nathaniel Proto.

SEE ATTACHED EXHIBIT "A"

The Board further renounced and dis-  
claimed any right of the County in and  
to said public easement.

BY ORDER OF THE BOARD OF COUNTY  
COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA  
SCOTT ELLIS, CLERK  
BY: Tammy Rowe, Deputy Clerk

LEGAL DESCRIPTION:

EXHIBIT "A"

THAT PORTION OF A PUBLIC UTILITY  
EASEMENT DESCRIBED AS FOLLOWS :

THE NORTH 6.00 FEET OF LOT 15, BLOCK  
139 AND THE SOUTH 6.00 FEET OF LOT  
16, BLOCK 139, LESS AND EXCEPT THE  
WESTERLY 6.00 FEET OF BOTH LOTS,  
BAREFOOT BAY UNIT TWO, PART 10, AS  
RECORDED IN PLAT BOOK 22, PAGE 105-  
115, PUBLIC RECORDS OF BREVARD  
COUNTY, FLORIDA.

CONTAINS 0.020 ACRES (888 SQUARE  
FEET) MORE OR LESS.

LEGAL NOTICE

RESOLUTION VACATING A 6.00 FT. WIDE PUBLIC UTILITY EASEMENT ON ORIOLE COURT, BAREFOOT BAY – NATHANIEL PROTO

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on the 10<sup>th</sup> day of January, 2017, the Board of County Commissioners of Brevard County, Florida, adopted a Resolution vacating a 6.00 ft. wide public utility easement on Oriole Court, Barefoot Bay, as petitioned by Nathaniel Proto.

**SEE ATTACHED EXHIBIT “A”**

The Board further renounced and disclaimed any right of the County in and to said public easement.

BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA

SCOTT ELLIS, CLERK

BY: Tammy Rowe, Deputy Clerk

**Florida TODAY:**

Please advertise in the January 12, 2017, issue of the Florida TODAY.

**Bill the Board of County Commissioners Account Number 6BR327  
and forward bill and proof of publication to:**

**Marc Cazessüs, Public Works Department  
2725 Judge Fran Jamieson Way, Bldg. A-220  
Viera, FL 32940**

LEGAL DESCRIPTION:

**EXHIBIT "A"**

THAT PORTION OF A PUBLIC UTILITY EASEMENT DESCRIBED AS FOLLOWS :

THE NORTH 6.00 FEET OF LOT 15, BLOCK 139 AND THE SOUTH 6.00 FEET OF LOT 16, BLOCK 139, LESS AND EXCEPT THE WESTERLY 6.00 FEET OF BOTH LOTS, BAREFOOT BAY UNIT TWO, PART 10, AS RECORDED IN PLAT BOOK 22, PAGE 105-115, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

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