



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

21-118

H.1.

9/14/2021

### Subject:

Petition to Vacate, Re: A portion of a Public Right-of-way - Tkacs Drive - "Plan of Town of Pineda" Plat Book 1, Page 41 - Melbourne - KMM-FL, LLC - District 4

### Fiscal Impact:

The petitioners are charged \$640. These fees are deposited in Fund 0002-30265 revenue account for vacatings.

### Dept/Office:

Public Works Department - Surveying & Mapping

### Requested Action:

It is requested that the Board of County Commissioners (BOCC) conduct a public hearing to consider vacating part of a public Right-of-way, "Plan of Town of Pineda" in Section 12, Township 26 South, Range 36 East. If approved, it is requested that the Board authorize the Chair to sign the attached Resolution approving the vacating.

### Summary Explanation and 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 Blocks 38, 39 and part of Blocks 40, 41, 42, 43 & 44 and is requesting the vacating of a portion of a 50.00 ft. wide public right-of-way lying South of Block 38 and North of Block 26 to allow for road retention to be constructed within the vacated right-of-way. Right-of-way to be vacated contains 9,954 square feet or 0.23 acres, more or less. The property is located in Melbourne North of North Wickham and West of S. Highway 1.

August 30, 2021, 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. At this time, no objections have been received.

Simultaneously with this request under New Business, the Brevard County Land Acquisition Department is requesting Board action for the approval of a resolution, access easement, providing FPL an easement requested per the vacating and a Warranty Deed required per Land Development and Vacating actions.

Name: Amber.Holley@brevardfl.gov Phone: Ext. 58346

### Clerk to the Board Instructions:

Advertise Approved Resolution Notice and Record Vacating Resolution Documents as one resolution type document which in sequence includes the approved/signed resolution, the proof of publication of the public

hearing notice and the proof of publication of the adopted resolution notice.



October 1, 2021

KMM-FL, LLC, C/O Bryan Moffit  
7285 Waelti Drive  
Melbourne, FL 32940

Dear Sir/Madam:

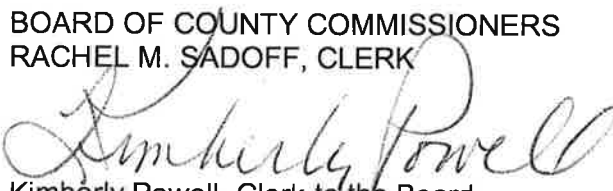
Re: Resolution Vacating a Portion of a Public Right-of-Way in Plat "Plan of Town of Pineda"  
Subdivision, Melbourne, Lying in section 12, Township 26 South, Range 36 East

The Board of County Commissioners, in regular session on September 14, 2021, adopted Resolution No. 21-118, vacating a portion of a public right-of-way in plat "Plan of Town of Pineda" subdivision, Melbourne, lying in Section 12, Township 26 South, Range 36 East, as petitioned by you. Said Resolution has been recorded in ORBK 9274, Pages 1220 through 1224. Enclosed is a certified copy of the recorded Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/sm

Encl. (1)

cc: Amber Holley, Public Works



October 1, 2021

**MEMORANDUM**

**TO:** Marc Bernath, Public Works Director    Attn: Amber Holley

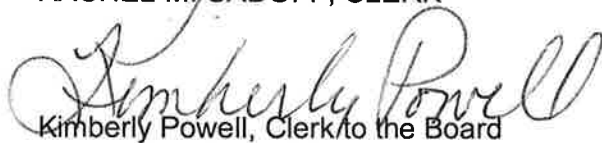
**RE:** Advertising Bills for Resolution Vacating a Portion of a Public Right-of-Way in plat "Plan of Town of Pineda" Subdivision, Melbourne, Lying in Section 12, Township 26 South, Range 36 East

Enclosed for your necessary action are copies of the advertising bills for Resolution No. 21-118, vacating a portion of a public right-of-way in plat "Plan of Town of Pineda" Subdivision, Melbourne, lying in Section 12, Township 26 South, Range 36 East, as petitioned by the Town of Grant-Valkaria. Said Resolution was adopted by the Board of County Commissioners, in regular session on September 14, 2021.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/sm

Encls. (2)

**Resolution 2021 - 118**

**Vacating a portion of a public right-of-way in plat "Plan of Town of Pineda" Subdivision, Melbourne,  
Florida, lying in Section 12, Township 26 South, Range 36 East**

WHEREAS, pursuant to Article II, Section 86-36, Brevard County Code, a petition has been filed by **KMM-FL, LLC** with the Board of County Commissioners to vacate a public right-of-way in Brevard County, Florida, described as follows:

**SEE ATTACHED BOUNDARY SURVEY**

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 the public right-of-way will not be detrimental to Brevard County or the public.

THEREFORE BE IT RESOLVED that said public right-of-way is hereby vacated; and Brevard County renounces and disclaims any rights in and to said right-of-way. 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 14<sup>th</sup> day of September, 2021 A.D.

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

ATTEST:

  
Rachel Sadoff, Clerk

  
Rita Pritchett, Chair

As approved by the Board on:  
September 14, 2021

# BOUNDARY SURVEY

SECTION 12, TOWNSHIP 26 SOUTH, RANGE 36 EAST  
PARENT PARCEL ID#: 26-36-12-DE-41-5

PURPOSE: RIGHT-OF-WAY TO BE VACATED

SHEET 1 OF 2

NOT VALID WITHOUT THE  
SKETCH ON SHEET 2 OF 2

## LEGAL DESCRIPTION: RIGHT-OF-WAY TO BE VACATED

A portion of the un-named right-of-way known as Tkacs Drive (a 50 foot wide right-of-way) lying South of Block 38 and North of Block 26, all lying in those lands platted in PLAN OF TOWN OF PINEDA, according to the plat thereof recorded in Plat Book 1, Page 41 of the Public Records of Brevard County, Florida.

Containing 9,954 square feet or 0.23 acres, more or less.

## SURVEYOR'S NOTES:

1. The bearings shown hereon are based on a bearing of N71°05'51"E referenced to grid north as established by the NOS, along the Northerly right-of-way of Tkacs Drive, a 50 Foot Right-Of-Way per Plat Book 1, Page 41.
2. ○ = Denotes 5/8" iron rod with cap stamped ALLEN ENG LB 266.



PREPARED FOR AND CERTIFIED TO:  
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

PREPARED BY: ALLEN ENGINEERING, INC.  
106 DIXIE LANE  
COCOA BEACH, FLORIDA 32931

DRAWN BY: AEI

CHECKED BY: DJI

PROJECT NO. 040071.5

REVISIONS

DATE

DESCRIPTION

DATE: 1-11-21

DRAWING: 0400715.dwg

3-02-21

COUNTY COMMENTS

3-13-21

COUNTY COMMENTS

SECTION 12  
TOWNSHIP 26 SOUTH  
RANGE 36 EAST

L:\Survey\Projects\040071 Plan of Town of Pineda Blocks 38-43\040071.5 Tkacs Drive\Drawings\CAD\0400715.dwg, 4/14/2021 11:56:34 AM



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

STATE OF WISCONSIN COUNTY OF BROWN:

Before the undersigned authority personally appeared said legal clerk, 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

Legal Notices

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

**08/30/2021**

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 30th of August 2021, by legal clerk who is personally known to me

Affiant

Notary State of Wisconsin County of Brown

My commission expires

AD#4882907 8/30/2021  
LEGAL NOTICE  
NOTICE FOR THE PARTIAL VACATING OF THE UNOPENED, 50.0-FOOT-WIDE PUBLIC RIGHT-OF-WAY OF TKACS DRIVE, PLAT OF "PLAN OF TOWN OF PINEDA", IN SECTION 12, TOWNSHIP 26 SOUTH, RANGE 36 EAST, MELBOURNE, 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 KMM-FL, LLC with the Board of County Commissioners of Brevard County, Florida, to request vacating the following described property, to wit:  
A portion of the unnamed right-of-way known as Tkacs Drive (a 50-foot-wide right-of-way) lying South of Block 38 and North of Block 26, all lying in those lands platted in PLAN OF TOWN OF PINEDA, according to the plat thereof recorded in Plat Book 1, Page 41 of the Public Records of Brevard County, Florida. Containing 9,954 square feet or 0.23 acres, more or less. Prepared by: David J. Irwin, PSM.

The Board of County Commissioners will hold a public hearing to determine the advisability of such vacating of the above-described easement at 9:00 A.M. on September 14, 2021 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.

SARAH BERTELSEN  
Notary Public  
State of Wisconsin

Publication Cost: \$213.81  
Ad No: 0004882907  
Customer No: BRE-6BR327  
This is not an invoice  
# of Affidavits 1



A Daily Publication By:



B.O.C.C. COUNTY MANAGER'S OFF  
2725 JUDGE FRAN JAMIESON WAY  
BLDG C  
MELBOURNE, FL, 32940

STATE OF WISCONSIN COUNTY OF BROWN:  
Before the undersigned authority personally appeared said legal clerk, 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

#### Legal Notices

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

**09/21/2021**

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 21th of September 2021, by legal clerk who is personally known to me

Affiant

Notary  State of Wisconsin County of Brown

  
My commission expires

Publication Cost: \$131.24  
Ad No: 0004918919  
Customer No: BRE-6BR446  
This is not an invoice

# of Affidavits 1

Ad#4918919, 09/21/2021  
LEGAL NOTICE  
RESOLUTION VACATING A PORTION OF  
A PUBLIC RIGHT-OF-WAY - TKACS DRIVE  
- "PLAN OF TOWN OF PINEDA" PLAT  
BOOK 1, PAGE 41 - MELBOURNE -  
KMM-FL, LLC  
TO WHOM IT MAY CONCERN:  
NOTICE IS HEREBY GIVEN that on the  
14th day of September 2021, the Board  
of County Commissioners of Brevard  
County, Florida, adopted a Resolution  
vacating a portion of a public right-of-  
way - Tkacs Drive - "Plan of Town of  
Pineda" plat book 1, page 41 -  
Melbourne, as petitioned by KMM-FL,  
LLC.

LEGAL DESCRIPTION:  
A PORTION OF THE UN-NAMED RIGHT-  
OF-WAY KNOWN AS TKACS DRIVE (A 50-  
FOOT-WIDE RIGHT-OF-WAY) LYING  
SOUTH OF BLOCK 38 AND NORTH OF  
BLOCK 26, ALL LYING IN THOSE LANDS  
PLATTED IN PLAN OF TOWN OF PINEDA,  
ACCORDING TO THE PLAT THEREOF RE-  
CORDED IN PLAT BOOK 1, PAGE 41 OF  
THE PUBLIC RECORDS OF BREVARD  
COUNTY, FLORIDA, CONTAINING 9,954  
SQUARE FEET OR 0.23 ACRES, MORE OR  
LESS. PREPARED BY: DAVID J. IRWIN,  
PSM.  
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  
RACHEL M. SADOFF, CLERK  
BY: Kimberly Powell, Clerk to the Board

SHELLY HORA  
Notary Public  
State of Wisconsin