

Meeting Date
August 4, 2015



Replacement	
AGENDA	
Section	Unf. Business
Item No.	V.A

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Acceptance of Mockingbird Lane Property from the St. Johns Water Management District (SJWMD).
DEPT/OFFICE:	Trudie Infantini, District 3 Commissioner

Requested Action:
 The Board of County Commissioners accept a transfer of property on Mockingbird Lane from the St. Johns Water Management District containing a dock that has been utilized by the community for an extended period of time.

Summary Explanation & Background:

On March 19, 2013 the Board of County Commissioners heard a citizen's request regarding a dock and ramp in what was believed to be County right-of-way located at the end of Mockingbird Lane in Micco, Florida. The request was for the Board to enter into an agreement for the County to maintain the dock and allow continued use by the community. The subject dock and ramp are built in the San Sebastian River adjacent to right-of-way previously held by Brevard County, but the structures were not built by Brevard County. Ultimately, the Board directed staff to take no action regarding the existing dock and other improvements.

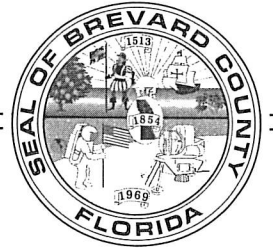
On July 8, 2014 Brevard County received a notice from the Army Corps of Engineers (ACOE) alleging violations of the Rivers and Harbors Act and the Clean Water Act as a result of a dock and boat ramp at the end of Mockingbird Lane in Micco, Florida. The County was given 15 days to respond. Staff responded requesting a 4 month extension. A 60 day extension was granted until September 24, 2014. The Board of County Commissioners, in regular session on September 16, 2014, approved Option 4, to block the ramp, do not disconnect the dock, and get after-the-fact permit for the dock, regarding the dock located adjacent to Brevard County Right-of-Way, Mockingbird Lane. Since the Board action, it was discovered the SJWMD may own the site and the violation has been placed on the District.

This request is for the Board to accept transfer of ownership via either a Quit Claim or Warranty Deed from the Water Management District in order to pursue the direction provided by the Board on September 16, 2014 and as referenced above.

Clerk to the Board Instructions:

Exhibits Attached:

Contract /Agreement (If attached):		Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager	Assistant County Manager		Department Director / Extension			District 3 Commission Office		
Stockton Whitten	Assistant County Manager							



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

Telephone: (321) 637-2001
Fax: (321) 264-6972

August 5, 2015

MEMORANDUM

TO: Commissioner Trudie Infantini, District 3

RE: Item V.A., Acceptance of Mockingbird Lane Property from St. Johns Water Management District (SJWMD)

The Board of County Commissioners, in regular session on August 4, 2015, denied request to accept a transfer of property on Mockingbird Lane from the St. Johns Water Management District containing a dock that has been utilized by the community for an extended period of time.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge

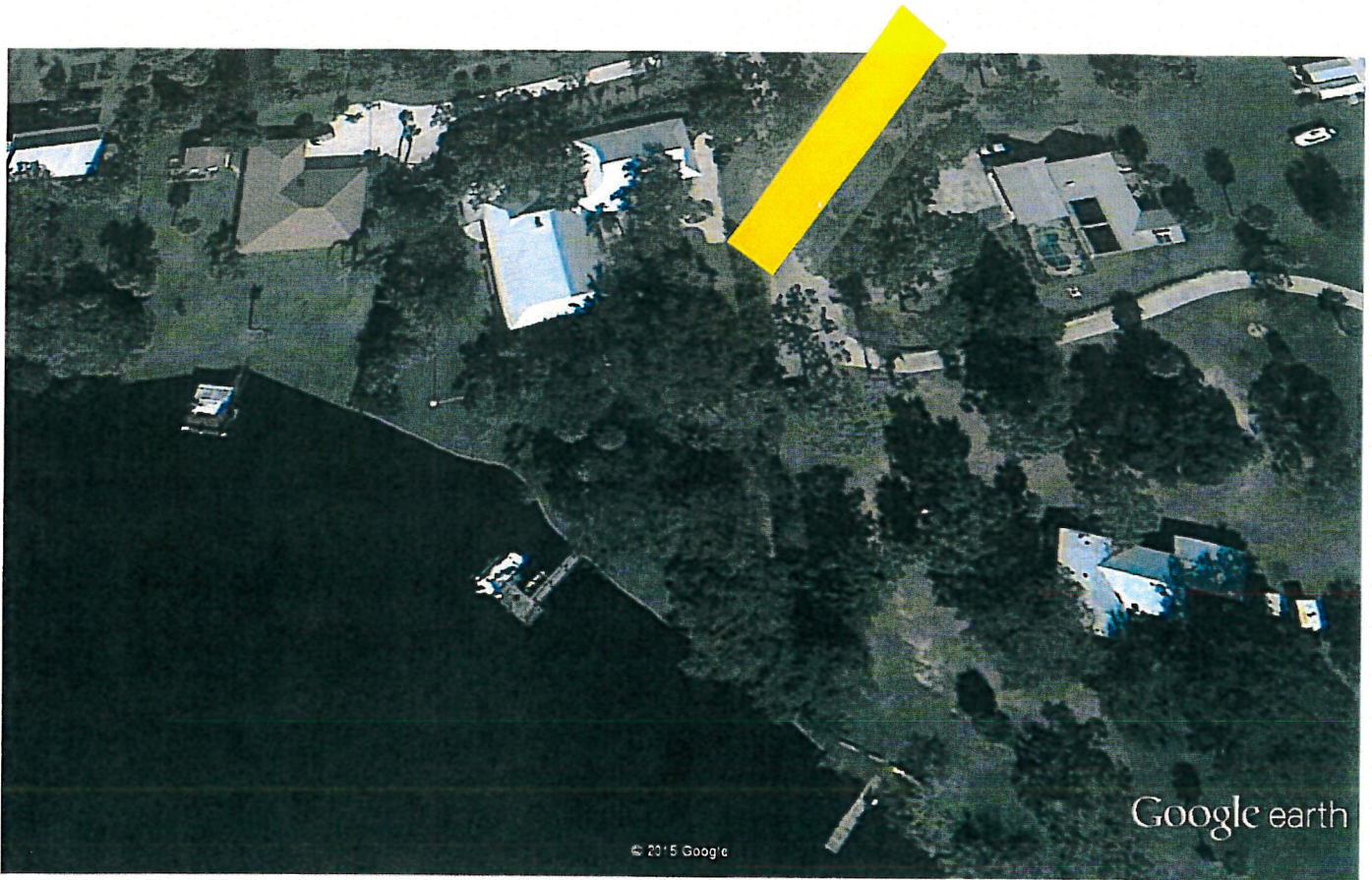
Tammy Etheridge, Deputy Clerk



Google earth



Audette house - worn path
to boat ramp before they
built their dock



Google earth

feet
meters

200

80



Audette 2010

New Dock

Shrubs block what
used to be a "worn path"
to boat ramp

Helton, Lori

From: Infantini, Trudie
Sent: Wednesday, September 24, 2014 4:28 PM
To: Gallagher, Shaun E SAJ; Bentley, Eden
Cc: Mannier, Linda; Helton, Lori; Sanderson, Katelyn
Subject: RE: Brevard County unauthorized dock (UNCLASSIFIED)

Shaun,

You have a deal. About it being built by the Army Corps, that was shared by someone that has lived there a long time. I cannot attest to the accuracy.

Trudie

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: "Gallagher, Shaun E SAJ"
Date: 09/24/2014 1:55 PM (GMT-05:00)
To: "Infantini, Trudie" , "Bentley, Eden"
Cc: "Mannier, Linda" , "Helton, Lori" , "Sanderson, Katelyn"
Subject: RE: Brevard County unauthorized dock (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Ms. Infantini,

Typically the U.S. Army Corps of Engineers only constructs Federally approved projects that have been appropriated by Congress. Since the ramp located at the end of Mockingbird Lane is a small basically dirt ramp it is unlikely that the Corps built it. There are other ramps within the area that FWC can use to access the river, and because of this we are still going to ask that the ramp be blocked for motorized vessel use.

Once the ramp has been blocked please supply me with pictures and we can proceed with the After-the-Fact process. Also, please be aware that if any of measures being used to block the ramp require structures to be placed below the ordinary high water mark, they will need authorization for placement. Please let me know if you have any questions or still need a copy of the Corps application. Thank you.

Shaun Gallagher
Enforcement Project Manager
Regulatory Division
352-372-9625

Please assist us in better serving you! Please complete the customer survey by clicking on the following link: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey

-----Original Message-----

From: Infantini, Trudie [<mailto:trudie.infantini@brevardcounty.us>]
Sent: Wednesday, September 17, 2014 3:06 PM
To: Gallagher, Shaun E SAJ
Cc: Mannier, Linda; Helton, Lori; Sanderson, Katelyn

Subject: [EXTERNAL] RE: Brevard County unauthorized dock (UNCLASSIFIED)

Shaun,

As you may or may not know, yesterday the Commissioners voted to bring the dock up to standards and block off the boat ramp to motorized vessels, option 4 on our agenda. We will be applying for a permit after-the-fact.

Also, at the Commission meeting, the residents in the area shared some history regarding the ramp. They stated the ramp was originally built by the ACOE and Fish and Wildlife (a few weeks ago) used the ramp in order to retrieve deceased manatees.

With this new information, I wanted to make sure you still wish to stand by your decision to block off the ramp for motorized vessels.

And thank you for all of your assistance. The residents are so appreciative and so am I.

Trudie

Trudie Infantini, CPA
District 3 County Commissioner
1311 E. New Haven Avenue
Melbourne, FL 32901
321-952-6300

-----Original Message-----

From: Gallagher, Shaun E SAJ [mailto:Shaun.E.Gallagher@usace.army.mil]

Sent: Friday, September 12, 2014 1:30 PM

To: Infantini, Trudie

Subject: RE: Brevard County unauthorized dock (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Ms. Infantini,

Here are the Department of the Army permits you and I discussed today. If you have any questions please feel free to give me a call. Thank you.

Shaun Gallagher
Enforcement Project Manager
Regulatory Division
352-372-9625

Please assist us in better serving you! Please complete the customer survey by clicking on the following link: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey

-----Original Message-----

From: Infantini, Trudie [mailto:trudie.infantini@brevardcounty.us]

Sent: Thursday, September 11, 2014 1:25 PM

To: Gallagher, Shaun E SAJ

Cc: Mannier, Linda; Helton, Lori; Sanderson, Katelyn; Blach, Benjamin; john_milio@fws.gov

Subject: [EXTERNAL] RE: Brevard County unauthorized dock (UNCLASSIFIED)

Dear Shaun,

We noticed a dock, at 9690 Mockingbird lane, Barefoot Bay, FL 32976, was added to the property in 2010. Will you forward a copy of the permit they pulled when installing the dock. We have not been able to locate a county permit so I guess they went through your agency for permission.

Thank you for looking into this for me. We have an agenda item for the other dock scheduled for our September 16 Commission

Helton, Lori

From: Blach, Benjamin
Sent: Thursday, October 02, 2014 10:23 AM
To: Infantini, Trudie
Cc: Helton, Lori
Subject: Mockingbird Lane

Mel Scott just called back. I asked him about the fence at the end of Mockingbird Lane. He gave me a bit of an attitude and told me that he was "following board direction" by putting two fences up. One will be located at the end of the road, and the other will be used to block boats from using the ramp.

Benjamin Blach
Business Assistant
District 3 Commission Office
(321)-952-6300

Helton, Lori

From: Valdengo, Venetta
Sent: Friday, January 09, 2015 4:44 PM
To: Infantini, Trudie; Masson, Jack
Cc: Mannier, Linda; Helton, Lori; Weiler, Regina
Subject: RE: Mockingbird Dock

Actually Commissioner, I thought the dock was in pretty good shape. We can add railings and fix a few boards and I think it will be just fine.....unless we are required to improve it to some higher standard to meet the permit requirements?

Venetta Valdengo

Assistant County Manager, Community Services
Brevard County
2725 Judge Fran Jamieson Way
Building C, Third Floor
Viera, FL 32940
321-633-2003

From: Infantini, Trudie
Sent: Friday, January 09, 2015 3:18 PM
To: Valdengo, Venetta; Masson, Jack
Cc: Mannier, Linda; Helton, Lori; Weiler, Regina
Subject: FW: Mockingbird Dock

Actually, looking at the pictures, what is wrong with the dock as it is? It looks fine to me.
Trudie

Trudie Infantini, CPA
District 3 County Commissioner
1311 E. New Haven Avenue
Melbourne, FL 32901
321-952-6300

Happy New Year!

2015

From: Valdengo, Venetta
Sent: Friday, January 09, 2015 2:59 PM
To: Masson, Jack; Infantini, Trudie
Subject: Mockingbird Dock

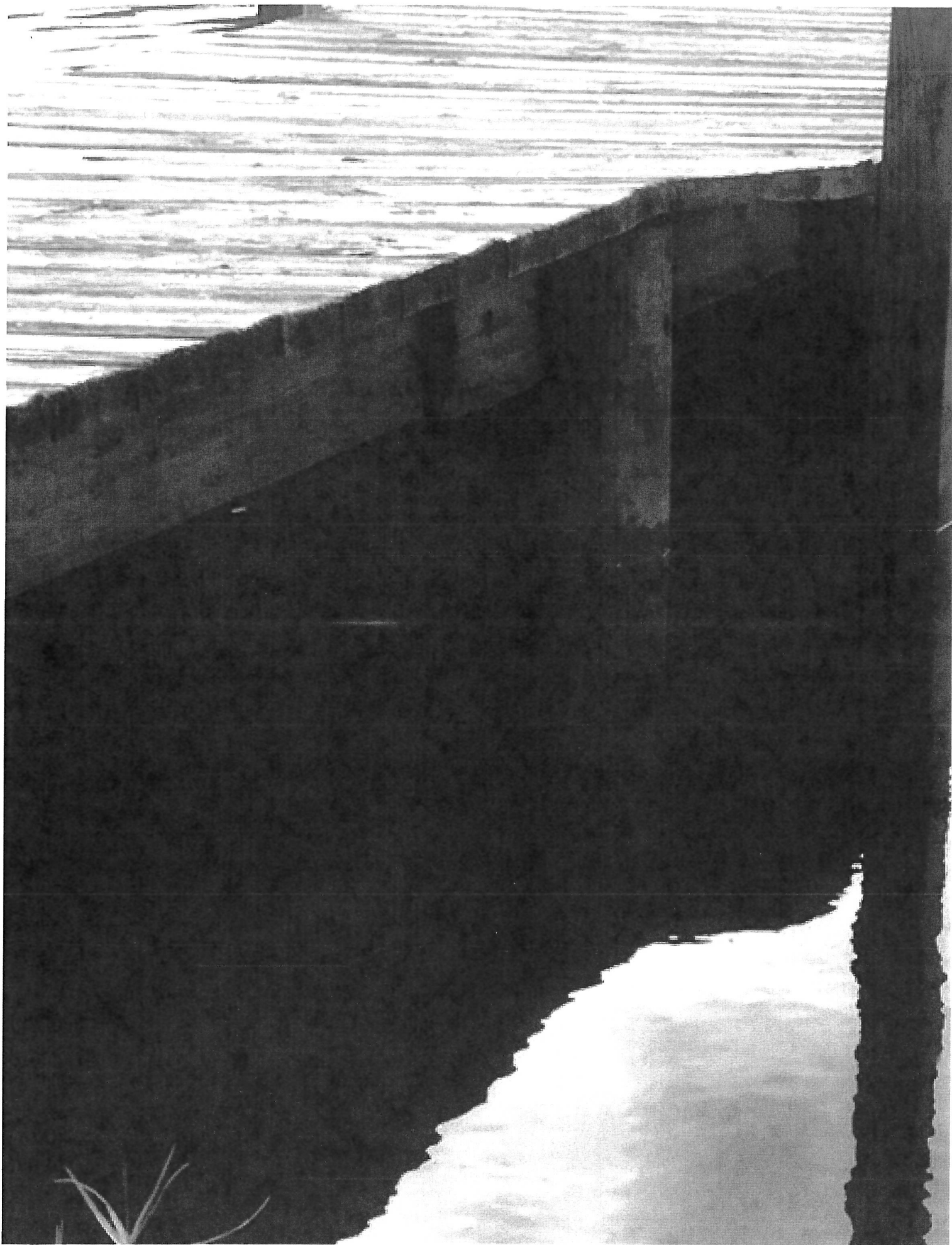
Commissioner Infantini and Jack

These are pictures from today's visit. Water level is down and the pilings actually looked to be in pretty good shape. The water was about 8 inches at the shallow part and maybe 2.5 to 3 ft at the end of the dock. I don't think repair/replacement of this dock would exceed \$15,000 at the most.

It was a good meeting today.

Venetia Valdengo

Assistant County Manager, Community Services
Brevard County
2725 Judge Fran Jamieson Way
Building C, Third Floor
Viera, FL 32940
321-633-2003







QUITCLAIM DEED

THIS DEED, Executed this the 29th day of May A. D., 1967, by HARRY T. ARENS and RUTH B. ARENS, his wife of the County of BREVARD and State of Florida parties of the first part; and CENTRAL AND SOUTHERN FLORIDA FLOOD CONTROL DISTRICT, a body corporate, created by the Acts of the Florida Legislature of 1949, with its principal office in West Palm Beach, and whose Post Office Box is 1671, West Palm Beach, of the County of Palm Beach, in the State of Florida, party of the second part;

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of TEN DOLLARS (\$10.00), and other valuable considerations, in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have remised, released and quit-claimed, and by these presents do remise, release and quit-claim unto the said party of the second part, and its successors and assigns forever, the following described land, situate, lying and being in the County of Brevard, State of Florida, to wit:

All that part of the right of way for Mockingbird Lane as shown and dedicated on the Plat of Arens Wild Acres, a subdivision in Section 19 of the Fleming Grant, according to the Plat thereof, as recorded in Plat Book 10, page 75, Brevard County, Florida, public records, lying Southerly of the following specifically described line:



From a concrete monument marking the Easterly corner of said Section 19, bear South 45° 04' 08" West, along the Southeasterly line of said Section 19, a distance of 949.84 feet to the intersection thereof with a curve concave to the North having a radius of 1,000 feet; Thence, Northwestwardly along the arc of said curve, a distance of 364.21 feet to the point of tangency; said distance being the length of arc of a curve having a central angle of 20° 52' 05" and a long chord bearing of North 72° 42' 02" West; Thence, North 62° 16' 00" West, a distance of 229.73 feet to the intersection thereof with the Easterly right of way line for said Mockingbird Lane and the point of beginning; hence, continue North 62° 16' 00" West, a distance of 60.69 feet to the intersection thereof with the Westerly right of way line for said Mockingbird Lane and the end of the specifically described line; containing 0.04 acres.

The bearings in the above description refer to the standard plane rectangular coordinate system for the East Zone of Florida.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said parties of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part, its successors and assigns forever.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the presence of:

Willis A. Morton

Benjamin C. Oshorn

Harry T. Arens (Seal)
HARRY T. ARENS

Ruth B. Arens (Seal)
RUTH B. ARENS

STATE OF FLORIDA

COUNTY OF BREVARD

I HEREBY CERTIFY, That on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, HARRY T. ARENS and RUTH B. ARENS, his wife to me well known and known to me to be the individuals described in and who executed the foregoing deed, and have acknowledged before me that they executed the same freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal at Sebastian in the State and County above mentioned, this the 29th day of May A.D., 1967

Willis A. Morton
Notary Public

My Commission Expires: Notary Public, State of Florida at Large
My Commission Expires Oct. 30, 1969



RECORDED
INDEXED
VERIFIED
573075
MAY 5 11 58
C. R. BROWN
CLERK COUNTY CLERK

573075
3-25-68
Copies to The Flood
Control District
901 Esplanade St.
West Palm Beach, Fla.

July 6, 1967

OFFICE RECS 963 PAGE 432

Motion by Commissioner Muldrew, seconded by
Commissioner Brewster, the following resolution
was adopted:

R E S O L U T I O N

WHEREAS, proper petition having been filed with the Board of County Commissioners, requesting that the following named streets, roads and/or easements for roads, be vacated, abandoned, discontinued and closed for use of the County and the public, to-wit:

The Southern twenty (20) feet, more or less, of Mockingbird Lane, Plat of Arens Wild Acres, Plat Book 10, Page 75, Public Records of Brevard County, Florida, said portion of road or street right-of-way lying Southerly of a line connecting the Northeast corner of a portion of Lot 11, with the Northwest corner of a portion of Lot 10, which line is coterminous at that point with the Northern right-of-way line of the Petitioner's Canal 54.

and,

WHEREAS, after due consideration by the Board of County Commissioners, it was deemed advisable to hold a public hearing to consider the advisability of such closing, and that a public hearing would be held at the hour of 10:30 A.M., on the 6th day of July 19 67, and the Clerk directed to give notice accordingly, and

WHEREAS, proof of publication, showing that Notice was given of publication in the Daily Times a newspaper of general circulation, in the issue of June 20, 1967, was presented; and no objections, either oral or written were presented at said hearing, to the closing of said streets, roads, and/or easements for roads, described above and in the Notice,-

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, that the above named streets, roads, and/or easements for roads, be, and they are hereby closed, vacated, abandoned, discontinued, and Brevard County, by and through its Board of County Commissioners, hereby renounce and disclaim any right of the County and the public in and to said streets, roads, and/or easements for roads, hereinabove described. The Clerk is directed to give notice thereof, as directed by law.

DONE AND ADOPTED in Regular session, this 6th day of
July 19 67.

Lee Wenner

LEE WENNER, CHAIRMAN,
BOARD OF COUNTY COMMISSIONERS,
BREVARD COUNTY, FLORIDA.

ATTEST:

Curtis R. Barnes
CURTIS R. BARNES, CLERK.

(S E A L)

The Daily Times

Published Daily

MELBOURNE, BREVARD COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared Fred McFarlin, who on oath says that he is publisher of The Daily Times, a daily newspaper published at Melbourne, in Brevard County, Florida; that the attached copy of advertisement, being a Legal Notice

Public Hearing

in the matter of Road Street
Alley, in the

_____ Court, was published
in said newspaper in the issue of June 20,
1967

Affiant further says that the said The Daily Times is a newspaper published at Melbourne, in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, each week and has been entered as second class mail 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 has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.


Fred McFarlin

Sworn to and subscribed

before me this 21st

day of June, A. D. 1967

John P. ...

 Notary Public
Notary Public, State of Florida at large
My Commission Expires April 1, 1968

OFF 963 PAGE 431

LEGAL NOTICE

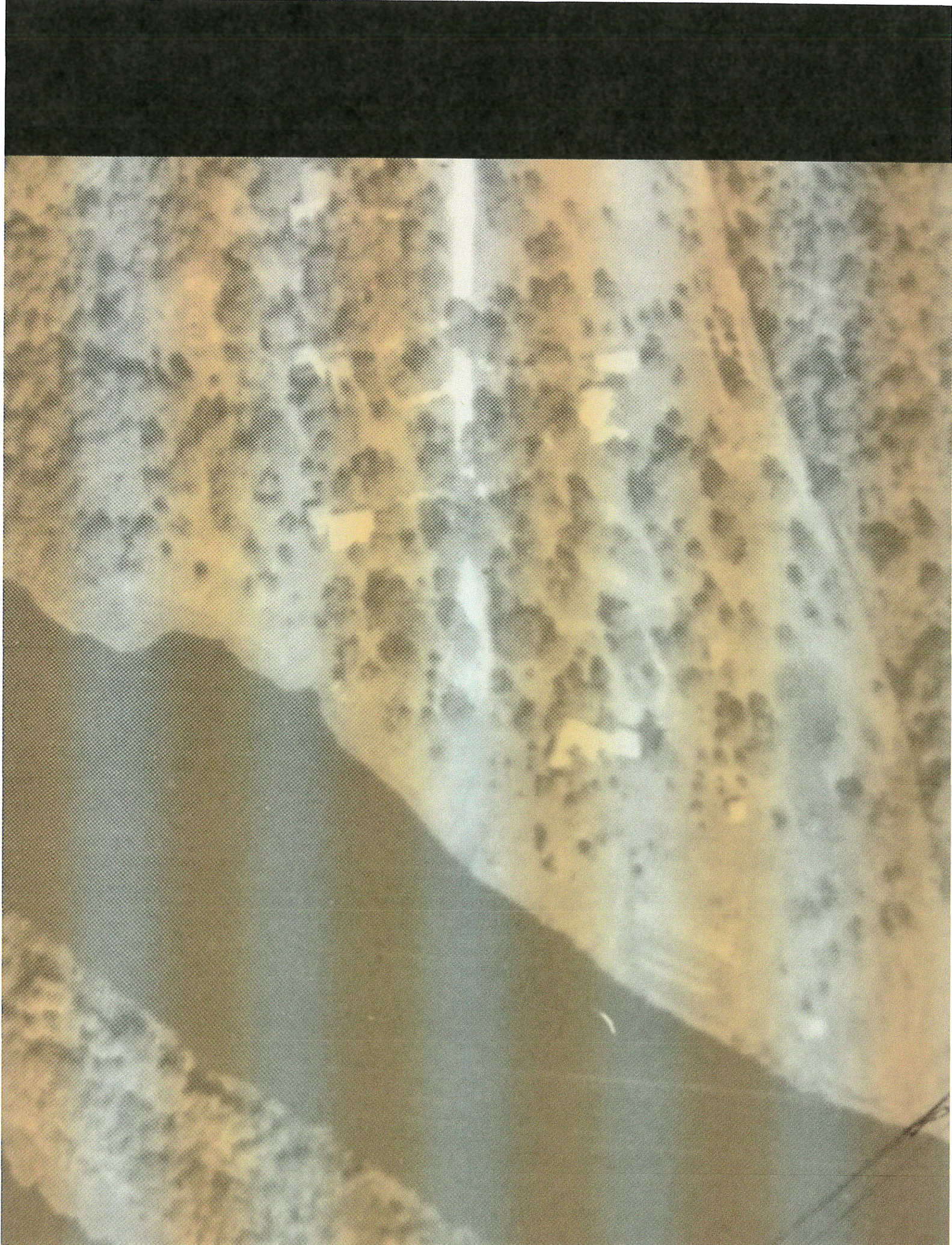
NOTICE OF PUBLIC HEARING ON CLOSING OF ROAD STREET ALLEY

NOTICE is hereby given that pursuant to Chapter 38, Florida Statutes, (1967), a Petition was filed with the Board of County Commissioners, requesting the closing, vacation and abandonment of that certain road right-of-way, Street and Alley, described as:

The Southern Property (City Section) or part, of Map 10,000,000, State of Florida, was Acquired, and is located in Brevard County, Florida, and portion of road or street right-of-way lying southerly of a line connecting the Northern corner of a portion of Lot 11, with the Northwest corner of a portion of Lot 10, which line is continuous at that point with the Northern right-of-way line of the Petitioner's Claim. It is the duty of the Board of County Commissioners to hold a Public Hearing to determine the advisability of such closure of the above named Road Street Alley, at the hour of 10:00 a.m. on July 6th, 1967, in the Court House, in Titusville, Florida, at which time and place all those in or against the same can be heard before final action is taken.

By Order of the Board of County Commissioners
June 13, 1967
LEE WENNER
Chairman, Board of County Commissioners,
Brevard County, Florida
June 20, 1967





Mannier, Linda

From: Dianne Bovender <dblhp@aol.com>
Sent: Thursday, July 30, 2015 8:38 PM
To: Commissioner, D3
Subject: Fwd: Mockingbird Lane, Micco

Follow Up Flag: Follow up
Flag Status: Completed

-----Original Message-----

From: Dianne Bovender <dblhp@aol.com>
To: gtcharlie6 <gtcharlie6@aol.com>
Sent: Thu, Jul 30, 2015 8:21 pm
Subject: Mockingbird Lane, Micco

Dear Commissioners:

I live at 9685 Mockingbird Lane, Micco and have resided there for 10 years. We purchased this property specifically for the sweeping view of the Sebastian River and the public access to the river. Countless evenings have been spent there enjoying the sunsets and spotting manatee and porpoise in the waters. For the most part, we are a neighborhood of senior (and nearly senior) residents. We cause no problems for our fellow neighbors. I cannot for the life of me understand how we got to this place, but my gut feeling is that someone is "in this to win this."

Below is a brief outline of events leading up to this as researched by Jillian Schoeller, also of Mockingbird Lane:

In 1958, development of the individual lots of Ahrens Wild Acres included the creation of a street from Fleming Grant Road down to the natural border of the North Prong of the Sebastian River (AKA Canal 54). The road was named Mockingbird Lane and dedicated "to the perpetual use of the public."

In 1967, SJRWMD (AKA Central and Southern Florida Flood Control District) acquired ownership of the last 20 feet of the road from Brevard County as part of obtaining a 400 foot wide right-of-way along the length of Canal 54. This includes portions of property on either side of the road/right-of-way that currently have dockage/retention walls.

A dock was present in 1958 per aerial photographs and local resident knowledge, and has largely been present/utilized/maintained during the past 50+ years.

The property and dock have been maintained and enjoyed by a majority of property owners and neighbors on the street from/through multiple generations. Removing the dock and closing/limiting use of the property IS NOT in the interest of the majority of the neighborhood that currently utilizes the space and not in keeping with the original dedication of the land "to the perpetual use of the public."

Transfer of property back to Brevard County will return ownership to a previous owner (the county) and keep the property in government ownership.

To: Brevard County Commissioners

August 1, 2015

Subject: Mockingbird Lane Agenda Item

Dear Commissioners,

We never thought we would be having to debate the merits of keeping the "right of way" and dock again. Now, with all the money and effort already put forth it would be a shame not to finish the job. We are certain that St John's WMD will return the land back to the county where it originated without blinking an eye. The decision was made and agreed to by all parties to proceed with blocking off the boat ramp and repairing the dock at the commission meeting last September. This agreement should not change and we implore you to be true to your word to support this venture. We do realize there are a few new board members but that should not be cause to balk on doing the right thing. The desires of a couple of disgruntled neighbors to disrupt the process at every turn should not be heard again and again. In addition, if Mr. Barnes or Mr. Audette do not wish to cut the grass down to the water any longer we (and several others) will gladly volunteer. This is about a neighborhood trying to hold on to something that has been dear to them for many years. Please don't let it slip away so easily.

Sincerely,

Gerry & Kay Audlee

9620 Mockingbird Ln.

Micco, Fl. 32976