



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.6.

5/4/2021

Subject:

Policies, Re: BCC-77, Vacating Public Access to Waterfront Property and BCC-81, Vacating County Roads, Right of Way, and Easements

Fiscal Impact:

None

Dept/Office:

Public Works Department - Surveying Section

Requested Action:

It is requested that the Board of County Commissioners (BOCC) approve the attached revised Policies, BCC-77 and BCC-81 and authorize the Chair to sign.

Summary Explanation and Background:

BCC-77 and BCC-81 require renewal. Minor revisions are being made. Changes are outlined in the "redlined" documents.

Clerk to the Board Instructions:

Return fully executed copies to Survey.



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

May 5, 2021

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item F.6., Policies for Board Policy BCC-77, Vacating Public Access to Waterfront Property and Board Policy BCC-81, Vacating County Roads, Right-of-Way, and Easements

The Board of County Commissioners, in regular session on May 4, 2021, approved revising Policies, BCC-77, Vacating Public Access to Waterfront Property, and BCC-81, Vacating County Roads, Right-of-Way, and Easements. Enclosed are the fully-executed Policies.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell", is written over the printed name of the clerk.

Kimberly Powell, Clerk to the Board

Encls. (2)

cc: Public Works



BOARD OF COUNTY COMMISSIONERS

POLICY

Number: BCC-77
Cancels: 03/06/2012
Approved: 05/04/2021
Originator: Public Works Department
Review: 05/04/2024

TITLE: Vacating Public Access to Waterfront Property

I. Objective

The Board of County Commissioners acknowledges the importance of maintaining public access to waterfront property, and therefore, will not consider vacating public access to waterfront property unless such action is clearly in the best interests of Brevard County.

II. Definitions and References

- A. Sections 336.09 through 336.12, Florida Statutes - Authority to Vacate Roads, Rights-of-Way, Alleys and/or Easements.
- B. Section 177.101(3), Florida Statutes -Vacating and annulment of plats subdividing lands.
- C. Brevard County Comprehensive Land Use Plan, Coastal Management Element, Policy 13.9.
- D. Chapter 86, Article II, Sections 86-36 through 86-41 of the Brevard County Code of Ordinances, Vacation of Roads, Rights-of-Way or Easements.
- E. Chapter 62, Article VII, Division 3, Section 62-2896(d) of the Brevard County Code of Ordinances -Vacating of plats.
- F. Chapter 62, Article X, Division 3. Surface Water Protection, Sections 62-3661 and 62-3663 of the Brevard County Code of Ordinances, Indian River Lagoon System.
- G. A0-73-Vacating County Roads, Rights of Way, and Easements.
- H. Current resolution establishing a specified fee for vacating roads, rights-of-ways, alleys and/or easements.
- I. Public Works Department - Department designated by the County Manager to process these requests.
- J. Waterfront Property - Property that abuts significant bodies of water including the Atlantic Ocean, the St. Johns River and its tributaries, the Indian River Lagoon System, navigable waterways, natural lake systems, man-made lakes and/ or any other systems appropriate.
- K. Indian River Lagoon System - Includes the Indian River, the Banana River, the Mosquito Lagoon, Newfound Harbor, Sykes Creek and its tributaries.

III. Directives

- A. The Public Works Department will process and review all vacating requests in accordance with applicable state and local laws, policies and procedures.
- B. The Public Works Department will advise all petitioners desiring to vacate public access to waterfront property that such requests will not be considered by the Board of County Commissioners unless such action is clearly in the best interest of Brevard County.
- C. If the petitioner desires to pursue the vacating request, the Public Works Department will process the request, and make a recommendation to the Board of County Commissioners regarding whether such action is in the best interest of Brevard County.
- D. The Board of County Commissioners will review the vacating request at a public hearing to determine if the request is in the best interest of Brevard County. A super majority vote is required to approve the vacating request. If the Board of County Commissioners determines that the request is not in the best interest of Brevard County, the Board will so advise the petitioners and the request will be denied.

IV. Reservation of Authority

The authority to issue and/or revise this policy is reserved to the Board of County Commissioners.



Rita Pritchett, Chair
Board of County Commissioners
As approved by the Board on May 4, 2021



BOARD OF COUNTY COMMISSIONERS

POLICY

Number: BCC-81
Cancels: 03/06/2012
Approved: 05/04/2021
Originator: Public Works Department
Review: 05/04/2024

TITLE: Vacating County Roads, Right-of-Way, and Easements

I. Objective

The objective of this policy is to establish the procedure and limit the volume of requests for vacating.

II. Definitions and References

- A. Chapter 336, Florida Statutes - Authority for closing and abandonment of roads, rights-of-way and easements.
- B. Chapter 86, Article II, Sections 86-36 through 86-41 of the Brevard County Code of Ordinances, Vacation of Roads, Rights-of-Way or Easements.
- C. Ordinance No. 03-15 amending Article II, Sections 86-36 through 86-41 of the Brevard County Code of Ordinances, to allow the County on its own motion to consider the Vacating of Roads, Rights-of-Way or Easements; and Repealing Sections 246-31 through 246-33.
- D. Policy BCC-77 - Vacating Public Access to Waterfront Property.
- E. AO-73 -Vacating County Roads, Rights of Way, and Easements.
- F. Current resolution establishing a specified fee for vacating roads, rights-of-way, alleys and/ or easements.
- G. Public Works Department - The department designated by the County Manager's office to process these requests.

III. Directives

- A. The Public Works Department shall be responsible for review and coordination of all vacating requests in accordance with applicable state and local laws, policies and procedures.
- B. When there is an encroachment into the rights-of-way or easement, the Public Works Department shall be given the authority to determine if the encroachment or proposed encroachment is consistent with the current or proposed use of the right-of-way or easement in order to issue a Right-of-Way Use Permit in lieu of vacating. The encroachment or proposed encroachment shall be consistent with the current (prescribed) and/or future use of the right-of-way or easement. Consistent with the right-of-way or easement shall mean for the purpose of this section that

the encroachment is removable and does not unreasonably obstruct or interfere with the right-of-way or easement. In such instances where a Right-of-Way Use Permit cannot be issued, the applicant will be notified in writing that a vacating request could be submitted. Nothing herein shall require the Board of County Commissioners to grant the vacating request.

- C. The County Manager, or his designee, shall be given the authority to set the public hearing date and advertise the same in accordance with all applicable state laws and county codes. The advertisement may include the legal description for more than one parcel and/ or more than a single vacating request.
- D. The County Manager, or his designee, shall have the ability to withhold the recording of documents (resolutions, advertisements, easements, etc.) until such time as the applicant has complied with the terms of the vacating. The vacating shall not become effective until a certified copy of the resolution is filed in the offices of the clerk of courts and recorded in the public records of Brevard County.
- E. The petitioner or permittee shall have the right to appeal and present any discrepancies to the Board.

IV. Reservation of Authority

The authority to issue and/or revise this policy is reserved to the Board of County Commissioners.



Rita Pritchett, Chair

Board of County Commissioners

As approved by the Board on May 4, 2021