

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20040335

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct a Public Hearing to adopt a Petition to Vacate and convey sixteen County road rights-of-way to the homeowners' association for the subdivision located in Punta Gorda Isles, Section 22 (Case No. VAC2003-00072), and authorize the Chairman to accept the donation of a replacement Perpetual Public Utility Easement Grant.

WHY ACTION IS NECESSARY: To vacate and convey the roads to the homeowners' association to allow the subdivision to be gated and maintained by the homeowners' association. **The vacation and conveyance of the roads will not alter traffic conditions and the roads are not necessary to accommodate any future traffic requirement.** With respect to the replacement easement, the Board must accept all real estate conveyances to Lee County.

WHAT ACTION ACCOMPLISHES: Vacates the public's interest in the named roads and conveys same to the homeowner's association; and accepts the replacement easement.

2. DEPARTMENTAL CATEGORY: 04
COMMISSION DISTRICT # 1

5:00 #4

3. MEETING DATE:

04-13-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- Time Required: 20Min.

5. REQUIREMENT/PURPOSE:

- (Specify)*
- STATUTE F.S. Ch. 336 (PTV) & 125 (Easement)
 - ORDINANCE
 - ADMIN. CODE 13-8 (PTV)
 - OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT Community Development
- C. DIVISION Development Services
- BY: *[Signature]* 3/18/04
Peter J. Eckenrode, Director

7. BACKGROUND: Punta Gorda Isles, Section 22 Homeowners Association, Inc., a Florida not for profit corporation under F.S. Chapter 617, has submitted a Petition to vacate the public's interest in the roads, rights-of-ways and drainage facilities of sixteen roads located in the subdivision known as Punta Gorda Isles, Section 22. The vacation request is submitted pursuant to §316.00825, F.S., (adopted in 2002) in conjunction with the existing vacation procedure found in F.S. Chapter 336 (and Lee County Administrative Code Section 13-8).

(Continued on next page.)

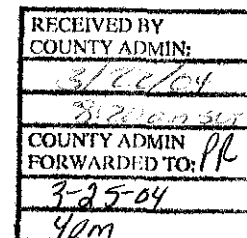
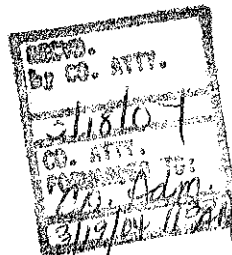
8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>Mary G. [Signature]</i>	N/A	N/A	N/A	<i>John Medez 3-14-04</i>	<i>OA [Signature]</i>	<i>OM [Signature]</i>	<i>RISK [Signature]</i>	<i>GC [Signature]</i>	<i>[Signature]</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER



BT

The vacation, if granted, will result in the simultaneous conveyance of the roads to the homeowners association (HOA) and a shifting of the maintenance responsibility from the County to the HOA . The HOA seeks to gate the community, but can only do so if the County grants the requested vacation.

The following is a list of the roads within the Plat of Punta Gorda Isles Section 22 (located in Sections 1 and 6, Township 43 South, Ranges 22 and 23 East, respectively) as recorded in Plat Book 28, Page 118, and replatted in Plat Book 34, Page 92 of the Public Records of Lee County, Florida:

- | | | | |
|------------------------|----------------------|---|------------------------|
| 1) Sea Turtle Lane | 2) Pirates Lane | 3) Big Pine Lane | 4) Cape Cole Boulevard |
| 5) Matecumbe Key Road | 6) Sugarloaf Key Rd. | 7) Marathon Way | 8) Key Largo Lane |
| 9) Key Largo Circle | 10) Sable Key Circle | 11) Marianne Key Rd. | 12) Romano Key Circle |
| 13) Big Pass Lane | 14) Big Bend Circle | 15) Islamorada Road, a/k/a Islamorada Boulevard | |
| 16) Little Pine Circle | | | |

A summary of the requirements of §316.00825, F.S., created and adopted by the Legislature in 2002, is as follows:

1. The petitioning homeowners' association has requested the abandonment and conveyance for the purpose of converting the subdivision to a gated neighborhood with restricted public access; and
2. No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the petitioning homeowners' association; and
3. The petitioning homeowners' association is a "homeowners' association" as defined under Section 720.301(7), F.S., with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks and pavement in the subdivision; and
4. The petitioning homeowners' association has adequate funds, reserve funds and funding sources for the ongoing operation, maintenance and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting and sidewalks in the subdivision after the abandonment by the County.

Additionally, the petitioning HOA must represent that it will:

1. Install, operate, maintain, repair and replace all signs, signals, markings, striping, guardrails and other traffic control devices necessary or useful for the roads conveyed herein; and
2. Hold the roads and rights-of-way in trust for the benefit of the owners of the property in the subdivision, and will operate, maintain, repair and, from time to time, replace and reconstruct the roads, street lighting, sidewalks and drainage facilities as necessary to ensure their use and enjoyment by the property owners, tenants and residents of the subdivision and their guests and invitees.

A replacement Perpetual Public Utility Easement has been prepared and executed in favor of Lee County for the benefit of the servicing utility companies, such as LCEC, Time Warner Cable and Florida Cities Water to guarantee continued access to the providers' respective facilities located within the bounds of the platted subdivision. The executed easement is being held in trust by the County pending the outcome of the public hearing on the request to vacate and privatize the roads.

The request was presented to the Waterway Advisory Committee (W.A.C.) on April 10, 2003. The W.A.C. voted unanimously to not object to the request since there was no public access to water within the boundaries of the plat and the roads sought to be vacated.

Documentation pertaining to this Petition to Vacate is available for viewing at the Office of Lee Cares.

There are no objections to this Petition to Vacate. Staff recommends the scheduling of the Public Hearing.

Attached to this Blue Sheet is Resolution, with exhibits and the replacement Perpetual Public Utility Easement

THIS INSTRUMENT PREPARED BY:

Department of Community Development
Development Services Division
1500 Monroe Street
Fort Myers Florida 33901

RESOLUTION NO. _____ FOR PETITION TO VACATE

Case Number: VAC2003-00072

WHEREAS, Petitioner, Punta Gorda Isles, Section 22 Homeowners Association, Inc., a Florida not for profit corporation organized and good standing under Florida Statutes (F.S.) Chapter 617, in accordance F.S. Chapter 336 and Lee County Administrative Code (LCAC) 13-8, filed a Petition to Vacate the public's interest in the roads, rights-of-way and appurtenant drainage facilities, legally described in the attached Exhibit "A," and request the simultaneously conveyance of the same to the petitioning homeowners association for the subdivision where those improvements are located; and

WHEREAS, Petitioner has represented its petitioned request is consistent with the provisions of Section 316.00825, F.S., as set forth therein, including the following:

1. The petitioning homeowners' association has requested the abandonment and conveyance for the purpose of converting the subdivision to a gated neighborhood with restricted public access; and
2. No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the petitioning homeowners' association; and
3. The petitioning homeowners' association is a "homeowners' association" as defined under Section 720.301(7), F.S., with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks and pavement in the subdivision; and
4. The petitioning homeowners' association has adequate funds, reserve funds and funding sources for the ongoing operation, maintenance and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting and sidewalks in the subdivision after the abandonment by the County.

WHEREAS, consistent with the additional provisions of Section 316.00825, F.S., the Petitioner has represented that it will:

1. Install, operate, maintain, repair and replace all signs, signals, markings, striping, guardrails and other traffic control devices necessary or useful for the roads conveyed herein; and
2. Hold the roads and rights-of-way in trust for the benefit of the owners of the property in the subdivision, and will operate, maintain, repair and, from time to time, replace and reconstruct the roads, street lighting, sidewalks and drainage facilities as necessary to ensure their use and enjoyment by the property owners, tenants and residents of the subdivision and their guests and invitees; and

WHEREAS, the Board of County Commissioners of Lee County, Florida held a Public Hearing on this Petition to Vacate on the 13th day of April, 2004, at 5:00 P.M.; and

WHEREAS, notice concerning the intent of the Petition to Vacate was provided in accordance with LCAC 13-8; and

WHEREAS, a legally sufficient Affidavit of Publication regarding the Notice of Public Hearing on this Petition to Vacate was entered into the minutes of the County Commission Meeting and a copy of said Affidavit is attached as Exhibit "C;" and

WHEREAS, it appears that vacating, abandoning and conveying the roads, rights-of-way and appurtenant drainage facilities legally described in attached Exhibit "A" is in the best interest of the public and promotes the public's health, safety, and welfare without invading or violating any individual property rights; and

WHEREAS, the letters of review and recommendation provided by the various governmental and utility entities indicate granting the Petitioner's request is appropriate and in accordance with F.S. Chapter 336.

NOW therefore be it resolved by the Board of County Commissioners as follows:

1. Petition to Vacate No. VAC2003-00072 is hereby granted.
2. The public's interest in the roads, rights-of-way and drainage facilities legally described in attached Exhibit "A" and graphically depicted in the sketch attached as Exhibit "B" is hereby vacated and abandoned, and simultaneously conveyed to the Petitioner homeowners' association.

3. A Notice of Resolution Adoption will be published one time within 30 days of adoption in a newspaper of general circulation. An Affidavit of Publication for the Notice of Resolution Adoption will be attached to this Resolution as Exhibit "D."
4. This Resolution will become effective upon recording of a fully executed Resolution, including all exhibits referred to above, in the Public Records of Lee County, Florida.

This Resolution passed by voice and entered into the minutes of the Board of County Commissioners of Lee County, Florida, this 13th day of April, 2004, at 5:00 P.M.

ATTEST:
CHARLIE GREEN, CLERK

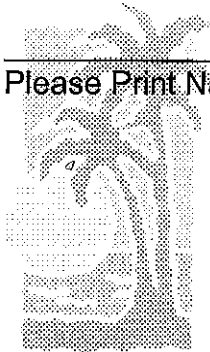
BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

Deputy Clerk Signature

Chairman Signature

Please Print Name

Please Print Name



APPROVED AS TO FORM

LEE COUNTY

County Attorney Signature

SOUTH WEST FLORIDA

Please Print Name

Exhibit "A"
Petition to Vacate
VAC2003-00072

Legal Description of
Road/Road Rights-of-way to be Vacated

All road rights-of-way as shown on the Plat of Punta Gorda Isles, Section Twenty Two, a portion of Section 1, T43S, R22E & a portion of Section 6, T43S, R23E, as recorded in Plat Book 28, at Page 118 of the Public Records of Lee County, Florida, AND the Plat of Punta Gorda Isles, Section Twenty Two Replat, a portion of Section 1, Township 43 South, Range 22 East, being a Replat of Plat of Punta Gorda Isles, Section Twenty Two as recorded in Plat Book 28, Page 118, said replat being recorded in Pat Book 34, at Page 92 of the Public Records of Lee County, Florida, and any amendments and supplements thereto, inclusive of cul-de-sac endings, irregular or curved rights of way lines at intersecting streets and the points of terminus and curves establishing said points of those streets intersecting the boundary of Section 22 as described below:

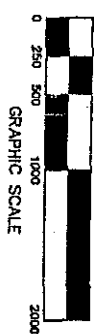
Big Pine Lane,
Cape Cole Boulevard,
Matecumbe Key Road,
Marathon Way,
Key Largo Lane,
Key Largo Circle,
Sugarloaf Key Road,
Sable Key Circle,
Marianne Key Road,
Romano Key Circle,
Big Pass Lane,
Big Bend Circle,
Islamorada Road, a/k/a Islamorada Boulevard,
Little Pine Circle, and
Pirates Lane.

THIS IS NOT A SURVEY !

GENERAL NOTES:

1. PORTION OF TITLE WAS NOT INVESTIGATED.
2. BEARINGS SHOWN HEREON ARE BASED UPON NORTH LINE OF SECTION 1, TOWNSHIP 43S, RANGE 22E TO BEAR S 89°35'30" E.
3. ALL RECORDED INFORMATION SHOWN HAS BEEN TAKEN FROM THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.
4. ALL ROAD RIGHTS-OF-WAY HAVE BEEN CALCULATED AS SHOWN ON THE PLAT OF PUNTA GORDA ISLES SECTION 22. THE SPACING STRIPES ON THE BEYOND ARE NOT TO BE CONSIDERED AS INDICATING THE OCCUPATION OF THE ROADS SHOWN HEREON NOR THE STATUS OF ANY INDIVIDUAL ROAD PLATTED WITHIN THIS AREA.

Exhibit "B"
Petition to Vacate
VAC2003-00072



A PORTION OF LAND IN PUNTA GORDA ISLES, SECTION TWENTY TWO AS RECORDED IN PLAT BOOK 28 AT PAGES 118-138 AMONG THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA AND LYING WITHIN SECTION 1, TOWNSHIP 43S, RANGE 22E AND SECTION 5, TOWNSHIP 43S, RANGE 22E AS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF THE RIGHTS-OF-WAY AS SHOWN ON THE PLAT OF SAID PUNTA GORDA ISLES SECTION 22 INCLUSIVE OF OUT-DE-SAC ENDINGS, IRREGULAR AND CURVED RIGHT-OF-WAY LINES AT INTERSECTING STREETS AND THE POINTS OF TERMINUS AND CURVES ESTABLISHING SAID POINTS OF THOSE STREETS INTERSECTING THE BOUNDARY OF SAID SECTION 22 AS DESCRIBED BELOW:

- SEA TURTLE LANE (80' ROW)
- SUGARLOAF KEY ROAD (80' ROW)
- MATEQUEE KEY ROAD (80' ROW)
- PIRATES LANE (80' ROW)
- CAPE COLE BOULEVARD (100' ROW)
- MARATHON WAY (80' ROW)
- KEY LARGO LANE (80' ROW)
- KEY LARGO CIRCLE (80' ROW)
- ROMANO KEY CIRCLE (80' ROW)
- ISLAMORADA ROAD (80' ROW)
- MARJANNE KEY ROAD (80' ROW)
- LITTLE PINE CIRCLE (80' ROW)
- BIG PASS LANE (80' ROW)
- BIG BEAD CIRCLE (80' ROW)
- BIG PINE LANE (80' ROW)
- ST. VINCENT AVENUE (COUNTY ROAD)

BEARINGS BASED UPON NORTH LINE OF SECTION 1, TOWNSHIP 43S, 23E TO BEAR S 89°35'30" E.

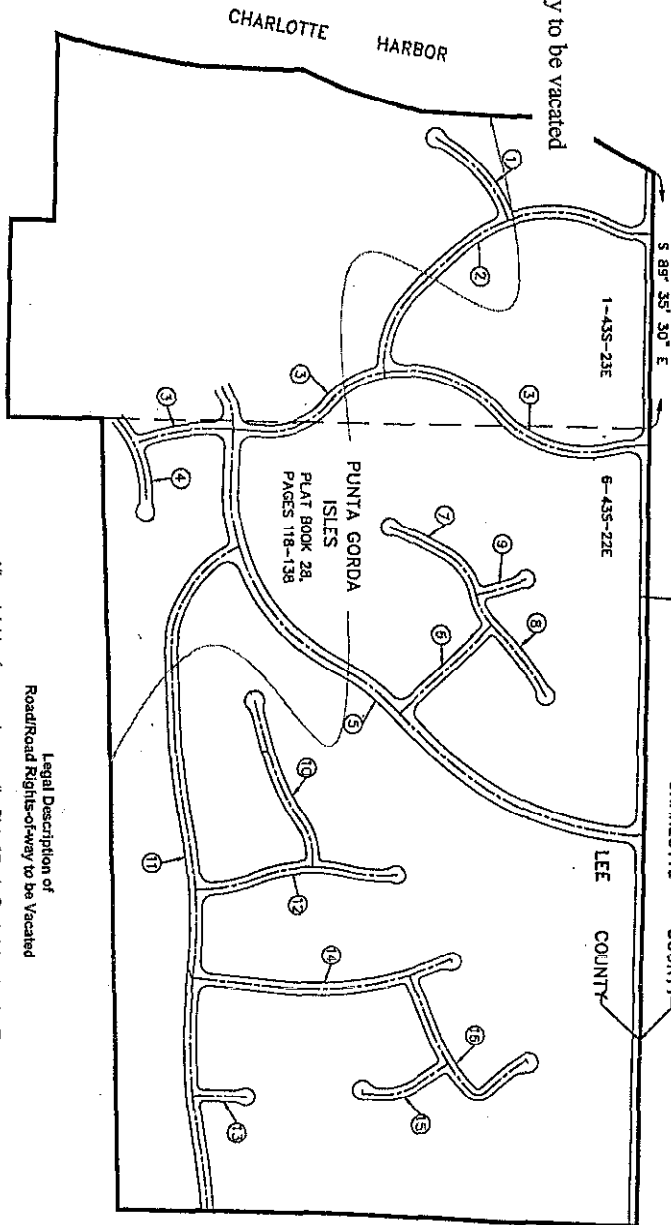
LEGEND Roads/Road Rights-of-way to be vacated

- ① = SEA TURTLE LANE (80' ROW)
- ② = SUGARLOAF KEY ROAD (80' ROW)
- ③ = MATEQUEE KEY ROAD (80' ROW)
- ④ = PIRATES LANE (80' ROW)
- ⑤ = CAPE COLE BOULEVARD (100' ROW)
- ⑥ = MARATHON WAY (80' ROW)
- ⑦ = KEY LARGO LANE (80' ROW)
- ⑧ = KEY LARGO CIRCLE (80' ROW)
- ⑨ = SABLE KEY CIRCLE (80' ROW)
- ⑩ = ROMANO KEY CIRCLE (80' ROW)
- ⑪ = ISLAMORADA ROAD (80' ROW)
- ⑫ = MARJANNE KEY ROAD (80' ROW)
- ⑬ = LITTLE PINE CIRCLE (80' ROW)
- ⑭ = BIG PASS LANE (80' ROW)
- ⑮ = BIG BEAD CIRCLE (80' ROW)
- ⑯ = BIG PINE LANE (80' ROW)
- ⑰ = ST. VINCENT AVENUE (COUNTY ROAD)

I HEREBY CERTIFY TO:
PUNTA GORDA ISLES SECTION 22

THIS SKETCH AND LEGAL DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED LICENSED SURVEYOR AND MAPPER.

JAMES O. BURCH
PROFESSIONAL SURVEYOR AND MAPPER, NO. 5527



All road rights-of-way as shown on the Plat of Punta Gorda Isles, Section Twenty Two, a portion of Section 1, T43S, R22E & a portion of Section 6, T43S, R23E, are recorded in Plat Book 28, at Page 118 of the Public Records of Lee County, Florida, AND the Plat of Punta Gorda Isles, Section Twenty Two Replat, a portion of Section 1, Township 43 South, Range 22 East, being a Replat of Plat of Punta Gorda Isles, Section Twenty Two as recorded in Plat Book 28, Page 118, said replat being recorded in Plat Book 34, at Page 82 of the Public Records of Lee County, Florida, and any amendments and supplements thereto, inclusive of out-de-sac endings, irregular or curved rights of way lines at intersecting streets and the points of terminus and curves establishing said points of those streets intersecting the boundary of Section 22 as described below.

Legal Description of
Road/Road Rights-of-way to be Vacated

<p>B.S.M. BURCH SURVEYING & MAPPING INC. 2223 MCGREGOR BOULEVARD, FT. MYERS, FLORIDA 33901 PHONE: (841)-337-1108 FAX: (841)-337-0173</p>	<p>PREPARED FOR: PUNTA GORDA ISLES SECTION 22</p>	<p>REVISIONS:</p>	<p>DATE:</p>	
	<p>FILE: 4323-017</p>	<p>F.B./PAGE</p>		
	<p>SCALE: 1" = 1000'</p>	<p>DATE: JANUARY 13, 2003</p>		