

*Date Critical*

Lee County Board Of County Commissioners  
Agenda Item Summary

Blue Sheet No. 20051564

**1. ACTION REQUESTED/PURPOSE:**

Approve re-conveyance of a roadway and utility easement located in Section 28, Township 46 South, Range 25 East; authorize Chairman to execute Release of Easements; authorize County Lands Division to handle all documentation necessary to complete transaction.

**2. WHAT ACTION ACCOMPLISHES:**

Returns a portion of a roadway and utility easement that was conveyed to Lee County for the purpose of constructing Koreshan Drive to the adjacent owner.

**3. MANAGEMENT RECOMMENDATION:** Approve

**4. Departmental Category:** 12

*C12B*

**5. Meeting Date:**

*11-15-2005*

**6. Agenda:**

<input checked="" type="checkbox"/>	Consent
<input type="checkbox"/>	Administrative
<input type="checkbox"/>	Appeals
<input type="checkbox"/>	Public
<input type="checkbox"/>	Walk-On

**7. Requirement/Purpose: (specify)**

<input checked="" type="checkbox"/>	Statute	255.22
<input type="checkbox"/>	Ordinance	
<input type="checkbox"/>	Admin. Code	
<input type="checkbox"/>	Other	

**8. Request Initiated:**

Commissioner	
Department	County Attorney
Division	Land Use
By:	<i>[Signature]</i> Timothy Jones Chief Assistant County Attorney

**9. Background:**

This roadway and utility easement was created by the document recorded in Official Record Book 1612, Page 1365, Public Records of Lee County, Florida. The roadway and utility easement was previously conveyed to Lee County for the purpose of constructing Koreshan Drive. According to staff, the County does not use, maintain, nor have any plans to construct a roadway on this property in the future.

Carlos Frizone, the present owner of the adjacent parcel identified by STRAP Number 28-46-25-00-00100.0000, is requesting this parcel be re-conveyed.

Florida Statutes §255.22 authorizes the County to re-convey property donated for a specific purpose if a request is received from an adjacent owner, and the County has not used the property for the purpose intended for a period of 60 consecutive months. A review of the documents concerning this parcel indicates the statutory requirements for re-conveyance have been met.

Staff recommends the Board approve the Requested Motion.

Attachment: Letter from Attorney Cody Vaughan-Birch  
Release of Easement Rights

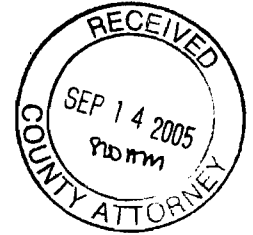
**10. Review for Scheduling:**

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				<i>[Signature]</i>	Analyst	Risk	Grants	Man	<i>[Signature]</i>
					<i>RK</i>	<i>[?]</i>	<i>[?]</i>	<i>[?]</i>	<i>11-3-05</i>

**11. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: <i>[Signature]</i>
<i>11-2</i>
<i>9:51</i>
COUNTY ADMIN FORWARDED TO:



Reply to  
Cody B. Vaughan-Birch  
Direct Dial Number 239.344.1249  
E-Mail: cody.vaughan-birch@henlaw.com

September 13, 2005

**VIA US MAIL AND ELECTRONIC MAIL**

Joan Henry  
Lee County Attorney's Office  
2115 Second Street, Post Office Box 398  
Fort Myers, FL 33902-0398

Re: §255.22 Reconveyance Request

Dear Joan:

Please accept this letter as a request for reconveyance of lands from Lee County in accordance with Florida Statutes §255.22. Our firm represents the owner of a parcel of land adjacent to a 60-foot wide easement that was dedicated without consideration to Lee County for public roadway and utility purposes in 1982, and to date, it has never been utilized for said purposes. Mr. Carlos Frizone is the owner of a 5.3+/- acre parcel of land in Estero (STRAP no. 28-46-25-00-00100.0000), and he is the successor in title to the original grantor of the easement in question. It seems that this roadway and utility easement, recorded in Lee County Official Records Book 1612, Page 1365, was originally intended as a means to construct Koreshan Drive. However, Koreshan Drive was never constructed in this location.

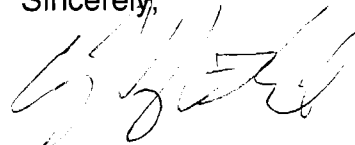
The roadway easement occupies approximately 1.06 acres of the northern portion of Mr. Frizone's property, and we are requesting reconveyance of the easement to allow for proper utilization of the entire parcel. We respectfully request that Lee County execute a quitclaim deed to Mr. Frizone because, in accordance with Florida Statutes §255.22:

1. The easement was conveyed without receipt of valuable consideration
2. A specific use is contained in the recorded grant of easement
3. Lee County has not utilized the easement for the stated purpose for 60 consecutive months, and
4. Mr. Frizone owns the underlying fee simple and is the successor in title to the grantor

Joan Henry  
September 13, 2005  
Page 2

Attached for your reference is a copy of the grant of easement recorded in the Lee County Official Records, and a worksheet indicating the location of the easement in question. Thank you in advance for your assistance, and if you have any questions or desire further information, please contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Cody B. Vaughan-Birch". The signature is written in a cursive, somewhat stylized font.

Cody B. Vaughan-Birch

CBV/  
Enclosures    Grant of Easement  
Worksheet

# This Indenture

OFF REC 1612 PG 1365

1560230

Whenever used herein, the term "party" shall include the heirs, personal representatives, assigns and assigns of the party to first mentioned. The term "parties" shall include the heirs and assigns of the party to first mentioned. Grantor and grantee, and, if used, the term "both" shall include the heirs, personal representatives and assigns of both.

Made this 10th day of May, A. D. 1982

Between KORESHAN UNITY, INC.,

a corporation existing under the laws of the State of New Jersey party of the first part, and LEE COUNTY, a political subdivision of the State of Florida

Lee and State of Florida party of the second part,

**Witnesseth,** that the said party of the first part, for and in consideration of the sum of -Ten Dollars and other good and valuable consideration ~~in hand~~ in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has remised, released and quitclaimed, and by these presents does remise, release and quitclaim unto the said party of the second part all the right, title, interest claim and demand which the said party of the first part has in and to the following described lot, piece or parcel of land, situate lying and being in the County of Lee State of Florida, to wit:

A right-of-way for public roadway and utility purposes, and for no other purpose or purposes, to run across the following described land:

SEE SCHEDULE "A" ATTACHED HERETO AND MADE A PART HEREOF.

PROVIDED, HOWEVER, the said road right-of-way shall be known as Koreshan Drive, and provided that this instrument shall be in no way construed to require Grantor herein to construct, maintain or otherwise improve the property demised herein.

SUBJECT TO right of Grantor herein to use said road right-of-way for ingress and egress to Grantor's property lying south of said right-of-way.

SUBJECT TO easements, restrictions, and reservations of record and real property taxes for the year 1982 and subsequent years.

**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 and claim whatsoever of the said party 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.

**In Witness Whereof,** the said party of the first part has caused these presents to be signed in its name by its President, and its corporate seal to be affixed, attested by its Secretary, this day and year above written.

(Corporate Seal)

KORESHAN UNITY, INC.

By Hedwig Michel President  
Hedwig Michel, President.

Attest: \_\_\_\_\_ Secretary

Signed, Sealed, and Delivered in Our Presence:

Sal Geraci

Documentary Tax Paid \$ 45  
Fees for \_\_\_\_\_  
SAL GERACI, CLERK, LEE COUNTY

Sal Geraci

RECORD VERIFIED - SAL GERACI, CLERK  
BY: J. BEHLER, D.C.  
THIS INSTRUMENT WAS PREPARED BY DENIS H. NOAH, Attorney at Law, P. O. BOX 280, FORT MYERS, FL 33902.

*Approved  
5/1/82  
[Signature]*

State of Florida.  
County of LEE

REC 1612 PG 1366

I Herby Certify. That on this 17th day of May, A. D. 1982,  
before me personally appeared HEDWIG MICHEL and  
[Signature], respectively President and  
of KORESHAN UNITY, INC., a corporation  
under the laws of the State of New Jersey, to me known to be the  
persons described in and who executed the foregoing conveyance to  
LEE COUNTY, a political subdivision of the State of Florida,

and severally acknowledged the execution thereof to be their free act and deed as  
such officers, for the uses and purposes therein mentioned; and that they affixed  
thereto the official seal of said corporation, and the said instrument is the act and  
deed of said corporation.

Witness my signature and official seal at  
in the County of Lee and State of Florida, the day and  
year last aforesaid.

My Commission Expires 5/1/83

[Signature]  
Notary Public

(NOTARY SEAL)

Date

TO

FROM CORPORATION  
**Quit-Claim deed**

SCHEDULE A

REC 1612 PG 1367

DESCRIPTION

60 FOOT ROADWAY EASEMENT  
SECTION 28, T. 46 S., R. 25 E.  
LEE COUNTY, FLORIDA  
FOR CONVEYANCE  
TO LEE COUNTY

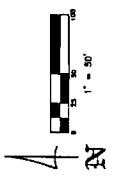
A tract or parcel of land for roadway purposes lying in Block A of TRAIL ACRES, as recorded in Plat Book 7 at Page 46 of the Public Records of Lee County, Section 28, Township 46 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:

Beginning at a concrete monument marking the northeast corner of said Block A; thence run S 87° 43' 15" W along the north line of said Block A for 785.81 feet to a concrete monument and the northeasterly right-of-way line (132 feet from the centerline) of U.S. 41; thence run southeasterly along said northeasterly right-of-way line along the arc of a curve to the right of radius 1769.02 (chord bearing S 33° 05' 22" E) for 94.61 feet; thence run N 58° 26' 34" E for 43.44 feet to an intersection with a line parallel with and 60 feet southerly of the north line of said Block A, thence run N 87° 43' 15" E along said parallel line for 681.37 feet to the southeast line of Northeast Drive as shown on said plat; thence run N 43° 06' 20" E along the southeast line for 26.24 feet to the east line of said Block A; thence run N 03° 04' 34" W along said east line for 41.58 feet to the Point of Beginning.

Containing 1.06 acres of land more or less.

Bearings are derived from a bearing of N 87° 30' E along the centerline of Broadway as shown on the plat of TRAILSIDE, recorded in Plat Book 8 at Page 22 of the records of Lee County.

JUN 15 2 45 PM '82  
RECORDED  
LEE COUNTY FLORIDA  
RESORNS VERMILION  
SALUTE ROAD  
DE HINDS EQUIN



COUNTY TAX MAP ADJUSTMENT PARCEL  
 #22-14-23-00-00000000 BEING  
 RECORDED IN OR IMPROVED. COUNTY  
 RECORDS CONTAIN THIS DOCUMENT AS  
 UNAVAILABLE.

10' RIGHT-OF-WAY FOR PUBLIC  
 ROADWAY AND UTILITY PURPOSES  
 -OR- 1817' 9" 1888'

NOTE: THIS IS A WORKSHEET AND  
 NOT INTENDED TO BE AN OPINION  
 AS TO BOUNDARY OR TITLE ISSUES

DEED RADUS = 1748.02'  
 POSSIBLE PREVIOUS RIGHT OF  
 WAY BOUNDARY. THIS LINE  
 MAY BE A VARIANCE IN DISTANCE TO  
 DOCUMENTATION PROVIDED TO  
 SUPPORT DIFFERENCE.

PC CURVE = 2.85, ANGLE IN XY PLANE = 12407.44',  
 DISTANCE = 100.00'  
 ANGLE FROM XY PLANE = 000°0'  
 DELTA X = -1.48, DELTA Y = 2.80, DELTA Z = 0.00

10' NATURAL VEGETATION BUFFER  
 PER OR 1048 PC 2319

DEED BEARING IS S33°31'34" E  
 AND SHOULD BE S33°31'34" E  
 AND DISTANCE TO THE EAST LINE  
 OF BLOCK 'D'. (OR 1048 PC  
 2319)

ON 1048 PC 2318  
 ON 1048 PC 2318  
 ON 1048 PC 2318

SE CORNER BLOCK 'D'

CANNOT CLOSE PLAT - NO DISTANCE CALL ON THIS LINE

# WORKSHEET

This Instrument Prepared by:  
Timothy Jones  
Chief Assistant County Attorney  
Lee County Attorney's Office  
Post Office Box 398  
Fort Myers, Florida 33902-0398

STRAP No. Part of 28-46-25-00-00100.0000

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**Release of Easement Rights  
(Statutory)**

**THIS RELEASE OF EASEMENT RIGHTS**, executed this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by **LEE COUNTY, FLORIDA, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA**, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398, COUNTY, to **CARLOS FRIZONE** whose address is 9131 College Parkway, Suite 13, Box 208, Fort Myers, FL 33919, Grantee.

**WITNESSETH:** The party of the first part for and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable considerations in hand paid by the said party of the second part, the receipt of which is hereby acknowledged does hereby release any and all easement rights which the said party of the first part has in or to the following described property, lying in the County of Lee, State of Florida, to wit:

A right-of-way for public roadway and utility purposes as described in and conveyed by the Quit Claim Deed from Koreshan Unity, Inc. to Lee County, a political subdivision of the State of Florida, dated May 10, 1982 and recorded in Official Records Book 1612, Page 1365, Public Records of Lee County, Florida; and, as said easement rights are further described in Lee County Resolution No. 82-5-10 dated May 12, 1982 and recorded in Official Records Book 1612, Page 1359 of the Public Records of Lee County, Florida.

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described, and does not warrant the title or represent any state of facts concerning the title.

**IN WITNESS WHEREOF** the COUNTY has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chair or Vice Chair of said Board, the day and year above.

(OFFICIAL SEAL)

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Office of County Attorney