



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

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MEMORANDUM

TO: Commissioner Ruth Stanbridge

FROM: *WGC* William G. Collins II – Deputy County Attorney

DATE: May 7, 2001

SUBJECT: Ownership of Old North Winter Beach Road on Hole in the Wall Island

William L. Hyde, Esq. in a letter to Mary Jane Angelo, the Assistant General Counsel of the St. John's River Water Management District on May 4, 1999 claimed title for Horse Head Ltd. to the old road bed for Old North Winter Beach Road as it traversed Hole in the Wall Island by virtue of a Resolution adopted by the Board of County Commissioners on December 1, 1959 which vacated, abandoned and discontinued, closed and renounced any right of the County and the public to certain public roads including:

“F. Any and all other public county roads situated within the limits of the Town of Indian River Shores, except, however, the following ...”

Certain exceptions that don't concern the island were then listed.

A County claim to title to the road bed would be possible if:

1. Hole in the Wall Island was not within the corporate limits of the Town of Indian River Shores on December 1, 1959; or
2. The road was not a County road at the time the Resolution was adopted, but rather was part of the state road system.

As to the first, Jeff Maasch from the Property Appraiser's Mapping Unit researched his records and provided a map which indicated that Hole in the Wall Island was a part of the Town of Indian River Shores as of June 29, 1957 by virtue of Chapter 57-1415, Laws of Florida.

As to the second, Public Works Director Jim Davis indicated that most of the roads on the state secondary system were transferred to the County in the late '70s. We then consulted a list of the state primary and state secondary road systems adopted June 20, 1956. At that time, included on the state primary road system was State Road A-1-A and State Road 5, also known as U.S. 1, as well as State Road 60. Also included was the State Road 502 which appears to be Beachland Boulevard from State Road 60 east to A-1-A.

The state secondary road system which was transferred to County control and jurisdiction in the late 70's included S-510 from State Road 512 to the south and east; S-611 from the St. Lucie County line to State Road 60 at Vero Beach; S-505 from State Road 60 north to State Road 510; S-512 from State Road 60 to State Road 512 southwest of Fellsmere; S-505-A from Oslo Road north to the Relief Canal; and S-630 from State Road S-505 to State Road 5 at Vero Beach (South Gifford Road).

CONCLUSION:

Because Hole in the Wall Island was within the corporate limits of the Town of Indian River Shores on December 1, 1959, and North Winter Beach was not part of the state road system, the road right-of-way for North Winter Beach Road through Hole in the Wall Island would have effectively been vacated by the County's 1959 resolution.

(As an aside, the application with St. John's states in part that "the applicant has an agreement with FP&L, acceptable to district legal staff, allowing the removal of the dike and the placement of the FP&L feeder line under ground." An exhibit to the application with a revision date of 2/2/99 shows a 25-foot FP&L easement running through the former road bed with a 40-foot by 40-foot FP&L easement at the east and west termini of the road on Hole in the Wall Island.)

WGC/nhm

cc: Paul G. Bangel – County Attorney