

December 3, 2018

VIA E-MAIL

dreingold@ircgov.com

Indian River County Attorney's Office
C/O Dylan Reingold
1801 27th Street
Vero Beach, FL 32960-3365

Re: Hole in the Wall Island Right of Way

Dear Mr. Reingold:

Thank you for taking the time to discuss the issues associated with the right of way over Hole in the Wall Island, specifically relative to the ability to provide the opportunity to bring reclaimed water to John's Island. As you know, this is an environmentally sustainable project that has long been in the works. The last issue in making it happen is the provision of the reclaimed water pipe under Hole in the Wall Island. John's Island Water Management, Inc. ("JIWM") hoped to avoid the issue of ownership of right of way over Hole in the Wall Island by working with the Indian River Mosquito Control District ("District") to obtain an easement to provide for the reclaimed water pipe. Unfortunately, the District refused to provide the easement.

Now that the District has failed to work with JIWM, we have gone back to review what rights Indian River County ("County") has relative to the Hole in the Wall Island. We have determined that the County owns a 70-foot right of way over Hole in the Wall Island ("HITW ROW"). The County's ownership is evidenced in two separate title documents.

The County's initial ownership of the HITW ROW, along with other rights of way, came in 1923. At that time, St. Lucie County as predecessor to the County claimed for public use a 70-foot wide strip of land across Hole in the Wall Island, Pine Island, and upland portions across from Pine Island to the Atlantic Ocean. This is shown by three separate paragraphs in Minute Book 4, Page 77, with the HITW ROW identified in the first paragraph. A copy of the Minute Book page is attached for your consideration. Over time, this was developed and used for roadway purposes.

As additional ownership interest, the County received a Warranty Deed from Fred and Adriana Tuerk. As you know, the Tuerk family had acquired significant lands in the County,

Johns Island Water Management Inc.

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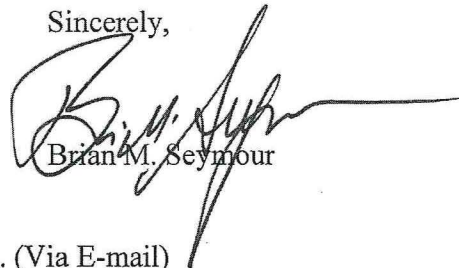
including Hole in the Wall Island. By the deed recorded at Official Records Book 86, Page 292, Tuerk conveyed to the County a 70 foot strip over Hole in the Wall Island which was located 35 feet on either side of the centerline of what was referred to as Winter Beach Bridge Road. This is identified in the final paragraph of the described property in the deed, which is attached for your reference.

We have not found that the County has ever abandoned its interest in the HITW ROW obtained in 1923 nor conveyed the ownership thereof that was received from the Tuerk family. We did find that the County abandoned interests in other property by way of a Resolution recorded at Official Records Book 87, Page 493. Specifically, the County abandoned the upland property after crossing Pine Island and to the Atlantic Ocean that was identified in the 1923 minute book; this was the third paragraph. Importantly, the 70-foot strip over Hole in the Wall Island that is the HITW ROW was not identified in the Resolution.

Based on our review of the above referenced documents, all of which are attached for your convenience, it appears that Indian River County maintains ownership over the right of way across Hole in the Wall Island. As the owner of that property, the County has the right to convey an easement for the placement of the reclaimed water pipe.

We hope that this is helpful in your discussions. Please let us know if you have any questions.

Sincerely,



Brian M. Seymour

Cc: John's Island water Management Inc. (Via E-mail)
Jim.Moller@jiproperties.com

WPB_ACTIVE 9026152.1

we pray to be discharged.

Jan 2, 1923

Book 4 Page 77

Birt Bell
J.A. Wynn
Edw. Weisman,
Road Committee.

and if no protest is filed with the Board, same will be declared a public county road after having given thirty days notice of same.

No protest having been filed against the establishment of a public county road as follows, same is hereby declared a public county road by this Board:

Beginning at a point on the west shore of Hole-in-the-wall island which point is 1992.9 feet east and 897.2 feet north of the southwest corner of Section Two (2), Township thirty two (32), South Range thirty nine (39) East, run north 60 degrees and 23 minutes East 1790 feet to the East shore of Hole-in-the-wall Island.

Also beginning at a point on the west shore of Pine Island, which point is 4460.9 feet east and 2299.2 feet north of the south west corner of Section Two (2), Township thirty two (32) South, Range thirty nine (39) East, run North 60 degrees and 23 minutes East 690 feet to the East shore of Pine Island.

Also beginning at a point on the East bank of the Indian River which is 2230.2 feet south and 254.1 feet west of the intersection of the east bank of the Indian River with the north line of Township Thirty two (32) South, Range thirty nine (39) East, run north 60 degrees and 23 minutes east 45 feet, thence on a 12 degree and 0 minute curve to the left 348 feet, thence north 18 degrees and 30 minutes East 690 feet more or less to a point which is 1320 feet south of the aforesaid township line. Thence East and parallel to the said township line 4230 feet more or less to the Atlantic Ocean. The right of way of said road to be 70 feet wide.

No protest having been filed against the establishment of a public county road as follows, said road is hereby declared a public county road by this Board.

Beginning at the intersection of the centre line of West St., Fort Pierce with the south corporate limits of the City of Fort Pierce, being the south line of Section Ten, Twp. 35 So. R. 40 E, thence S 0 deg. 02 min. W 698.4 ft, thence S 1 deg 17 min. W 545.3 ft.

FAX # 778-8836

WARRANTY DEED 86 Nov 29 1959

OFFICIAL RECORD

This Indenture, Made this 3rd day of November, A. D. 19 59.

Between Fred R. Tuerk and Adriana Tuerk, his wife,

of the County of Indian River and State of Florida part les of the first part, and Indian River County, a political subdivision of the State of whose mailing address is Indian River County Courthouse, Vero Beach, Florida

of the County of Indian River and State of Florida

part y of the second part. Witnesseth, that the said part les of the first part, for and in consideration of the sum of Ten and no/100 Dollars, and other good and valuable considerations to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part and its successors and assigns forever, all that certain parcel of land lying and being in the County of Indian River and State of Florida, more particularly described as follows:

A right of way for a public road over, on and across the North 70 feet of that part of the South 11.5 acres of Government Lot 10, Section 36, Township 31 South, Range 39 East, which lies East of State Road A1A according to the right of way map of Section 8807-102, as filed in the office of the Clerk of the Circuit Court of Indian River County, Florida. This right of way is conveyed for a public road and if ever the same is used for a public beach, then it shall be a public beach for the citizens of the Winter Beach area of Indian River County; ALSO,

A right of way for a public road 70 feet in width, the same being 35 feet on either side of a centerline described as follows: From the gate across the old county road, said gate lying 35 feet South and 15 feet West of the Southeast corner of Government Lot 1, Section 1, Township 32 South, Range 39 East, run North 9 degrees 11 minutes East a distance of 70.62 feet to the centerline of old State Road A1A, the same being the point of beginning; thence run 219.34 feet along the arc of a curve concave to the North, said curve having a radius of 991.12 feet to the P.C.; thence North 67 degrees 15 minutes 30 seconds East a distance of 1290 feet to Station 306 + 28.72 on the centerline of State Road A1A, according to the right of way map of Section 8807-102, as filed in the office of the Clerk of the Circuit Court of Indian River County, Florida; ALSO,

A right of way for a public road 70 feet in width, the same being 35 feet on either side of the centerline as the same has now and heretofore existed across Hole in the Wall Island and across Pine Island (Orchid Island) in the Indian River, the same being known as the Winter Beach Bridge Road.

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Together with all the tenements, hereditaments and appurtenances, with every privilege, right, title, interest and estate, dower and right of dower, reversion, remainder and easement thereto belonging or in anywise appertaining: To Have and to Hold the same in fee simple forever.

And the said part les of the first part do covenant with the said party of the second part that they are lawfully seized of the said premises, that they are free from all encumbrances and that they have good right and lawful authority to sell the same; and the said part les of the first part do hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, the said part les of the first part have hereunto set their hand and seal the day and year above written.

Signed, sealed and delivered in our presence:

Witness I. Carroll, Juan T. Pugh

Fred R. Tuerk

Adriana Tuerk



108986

OFFICIAL RECORD

BOOK 87 PAGE 493

RESOLUTION

BE IT RESOLVED by the Board of County Commissioners of Indian River County, Florida, that this Board does herewith find and determine as follows:

1. That this Board has heretofore determined upon its own motion by resolution duly adopted to vacate, abandon, discontinue, close, and renounce and disclaim any right of said County and the public in and to any land in connection with certain public roads and parts thereof described as follows:

A. That portion of the 200-foot dedication now used for State Road No. A1A, as shown on Replat No. 2 of Southern Shores Subdivision, according to plat thereof recorded in Plat Book 2, page 66, of the public records of Indian River County, Florida, lying more than sixty (60) feet from the Baseline of Survey as shown on the right-of-way map of Section 8807-102, State Road A1A filed in the office of the Clerk of the Circuit Court for Indian River County, Florida, EXCEPTING therefrom area needed for 25-foot radial returns at each corner of lanes.

B. All that part of the right-of-way of former State Road A1A extending from the North line of Silver Shores Subdivision, Units Nos. 1 and 2, according to plats thereof recorded in the office of the Clerk of the Circuit Court of Indian River County, Florida, in Plat Book 2, pages 45 and 60, respectively, to the South line of the Town of Indian River Shores, as the same now exists, that lies outside the limits of State Road No. A1A, according to the right-of-way map of Section 8807-102, State Road A1A, as filed in the office of the Clerk of the Circuit Court of Indian River County, Florida.

C. All that part of the public County road as designated in Minute Book 3, Page 397, of the Board of County Commissioners of St. Lucie County, Florida, commonly known as the Long Island Road, that lies within the limits of the Town of Indian River Shores, which said road is described as follows:

Beginning at the South end of the Oruld and Narrows Road running Southeast 592 feet to the division line between the McDonald and Dannel land thence East 2085 feet to the Southeast corner of the McDonald land then due South between the Dannel and Asker land to the Indian River 1008 feet corner with J.P. Hamilton then along Indian River to D. H. Mathis Northwest corner then along Indian River to Southwest corner of Government Lot No. 8, Section 36, Township 31 South Range

RESOLVED
BY THE BOARD OF COUNTY COMMISSIONERS
INDIAN RIVER COUNTY, FLORIDA

OFFICIAL RECORD

87-494

39 East to a cabbage tree in front of the B. S. Walker house, thence South 45 degrees East to the South corner of Lot 3, Section 18, Township 32 South, Range 40 East, then one-half mile South on half section line, then East 90 feet, then 18 degrees East of South to Public School Club, then same direction to a point 250 feet North of the Chamberlain house, thence East to Atlantic Ocean, thence along beach 437.5 feet to Palm Avenue, then West on Palm Avenue 450 feet to Indian River Drive, then South on Indian River Drive 450 feet to Live Oak Avenue, then 1000 feet South on Live Oak Avenue, then West to bridge. Said road to be 30 feet wide.

D. All that part of the County public road as described in minute Book 4, page 77, of the Board of County Commissioners of St. Lucie County, Florida, described as follows:

Beginning at a point on the East bank of Indian River, which is 230.5 feet South and 254.1 feet West of the intersection of the East bank of Indian River with the North line of Township 32 South, Range 39 East, run North 60 degrees and 20 minutes East 45 feet, thence on a 12 degree and 0 minute curve to the left 343 feet, thence North 18 degrees and 30 minutes East 690 feet, more or less, to a spot which is 1320 feet South of the aforesaid Township line, thence East and parallel to the said Township line 420 feet, more or less, to the Atlantic Ocean. The right of way of said road to be 70 feet wide.

EXCEPT, however, that part thereof which lies in Government Lots 1 and 2 in Section 1, Township 32 South, Range 39 East.

E. All that part of the right of way of former State Road A1A, extending from the South limits of the Town of Indian River Shores to the North limits of the Town of Indian River Shores lying outside the limits of State Road A1A, according to the right of way map of Section 887-102, State Road A1A, as filed in the office of the Clerk of the Circuit Court of Indian River County, Florida, EXCEPT, however, that part thereof described as follows:

Any and all parts thereof lying in Government Lots 1 and 2, Section 1, Township 32 South, Range 39 East, and except any parts thereof lying North of said section.

F. Any and all other public County roads situated within the limits of the Town of Indian River Shores EXCEPT, however, the following:

(1) That part thereof which lies in Government Lots 1 and 2 in Section 1, Township 32 South, Range 39 East.

(2) Any and all parts of former State Road A1A lying in Government Lots 1 and 2, Section 1, Township 32 South, Range 39 East, and except any parts thereof lying North of said section.

(3) From the gate across the old County road, said gate lying 35 feet South and 15 feet West of the Southeast corner of Government Lot 1, Section 11, Township 32 South, Range 39 East, run North 9 degrees 11 minutes East a distance of 70.62 feet to the center line of Old State Road A1A, the same being the point of beginning, thence run 219.34 feet along the arc of a curve concave to the North, said curve having a radius of 991.12 feet to the P.C.; thence North 67 degrees 13 minutes 30 seconds East a distance of 1290 feet to Station 300+28.7 on the center line of State Road A1A according to the right of way map of Section 8807-102, as filed in the office of the Clerk of the Circuit Court of Indian River County, Florida.

(4) The North 70 feet of that part of the South 1/4 5 acres of Government Lot 10, Section 36, Township 31 South, Range 39 East, that lies East of State Road A1A, according to the right of way map of Section 8807-102.

All of the same now being in Indian River County, Florida.

2. That this Board has published notice thereof one time in the Vero Beach Press Journal, a newspaper of general circulation in Indian River County, Florida, said publication being published at least two (2) weeks prior to the date stated therein for such public hearing, as will more fully appear by proof of publication filed in the records of this Board.

3. That each of the above described public roads is not a state or federal highway.

4. That a public hearing thereon has been held by the Board of County Commissioners of Indian River County, Florida, in the office of said Board in the Indian River County Courthouse, Vero Beach, Florida, on December 11, 1959, at 10:00 o'clock A.M.

and

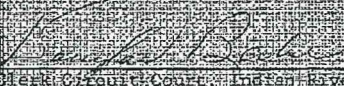
BE IT FURTHER RESOLVED that this Board does herewith vacate, abandon, discontinue, close, renounce and disclaim any right of the County and the public in and to any land in connection with the existing public roads hereinbefore described.

OFFICIAL RECORD

STATE OF FLORIDA BOOK 87 PAGE 496
COUNTY OF INDIAN RIVER

I, DOUGLAS BAKER, CLERK of the Circuit Court and ex-officio Clerk to the Board of County Commissioners for Indian River County, Florida do hereby certify the foregoing to be a true copy of Resolution duly adopted by said Board at a meeting thereof duly and regularly called and held on the 1st day of December, 1959.

Witness my hand and official seal at Vero Beach, Florida, this 1st day of December, 1959.


Clerk Circuit Court, Indian River
County, and ex-officio Clerk to
Board of County Commissioners