



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