

RESOLUTION NO. 2-82

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELRAY BEACH, FLORIDA, VACATING AND ABANDONING ALL PUBLIC ROADS WITHIN THE HAMLET DEVELOPMENT, BEING THOSE PUBLIC ROADS AS SHOWN ON THE PLAT OF BOUGAINVILLE SUBDIVISION, AS RECORDED IN PLAT BOOK 32, PAGES 56 AND 57; THE ESTATES SUBDIVISION, AS RECORDED IN PLAT BOOK 38, PAGES 61 AND 62; THE ESTATES II SUBDIVISION, AS RECORDED IN PLAT BOOK 39, PAGES 97 AND 98; THE ESTATES III SUBDIVISION, AS RECORDED IN PLAT BOOK 40, PAGES 64 AND 65; EVERGREENE SUBDIVISION, AS RECORDED IN PLAT BOOK 33, PAGES 150 AND 151; THE FAIRWAYS SUBDIVISION, AS RECORDED IN PLAT BOOK 39, PAGES 62 AND 63; FOXPOINTE SUBDIVISION, AS RECORDED IN PLAT BOOK 32, PAGES 107 AND 108; GREENSWARD VILLAGE SUBDIVISION, AS RECORDED IN PLAT BOOK 29, PAGES 186, 187, 188, 189, AND 190; LAKEWOODE - SECTION I SUBDIVISION, AS RECORDED IN PLAT BOOK 33, PAGES 103 AND 104; LAKEWOODE - SECTION II SUBDIVISION, AS RECORDED IN PLAT BOOK 33, PAGES 105 AND 106; LAKEWOODE - SECTION III SUBDIVISION, AS RECORDED IN PLAT BOOK 34, PAGES 99 AND 100; PINELAKE SUBDIVISION, AS RECORDED IN PLAT BOOK 36, PAGES 165 AND 166 ALL IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; PROVIDING FOR CERTAIN CONDITIONS TO WHICH SAID VACATING AND ABANDONMENT IS SUBJECT.

WHEREAS, The Hamlet Residents Association, Inc., a Florida not for profit corporation, has been formed by the Residents of The Hamlet development; and,

WHEREAS, The Hamlet Residents' Association, Inc. through its agents and attorneys, Baskin and Sears, P.A., have petitioned the City of Delray Beach for the abandonment of certain roadways within The Hamlet development legally described below; and,

WHEREAS, the Residents of The Hamlet development have expressly assumed and agreed to be bound by and to comply with all covenants, terms, provisions and conditions set forth in that certain Declaration of Restrictive and Maintenance Covenants, dated the 1st day of December, 1981, by Hamlet Residents' Association, Inc., recorded in the Official Records of the Circuit Court of Palm Beach County, in Official Record Book 3644, page 1967; and,

WHEREAS, the Members of the Association have acknowledged to the City Council of the City of Delray Beach, Florida, by execution of an Affidavit of Acknowledgment and Consent, that such Declaration of Restrictive and Maintenance Covenants shall be construed as covenants running with the land of the Affiant, in favor of the Association, its successors and assigns, and that such Declaration may be enforced by the City of Delray Beach against the Association and each Member, their heirs, successors, representatives and assigns; and,

WHEREAS, each Member of the Association has acknowledged to the City Council of the City of Delray Beach, Florida, that The Hamlet Residents' Association's Articles of Incorporation, Bylaws or Declaration of Restrictive and Maintenance Covenants may not be amended or terminated unless and until the City of Delray Beach has approved same; and,

WHEREAS, the City Council of the City of Delray Beach, Florida, deems it to be in the best interests of the City of Delray Beach to vacate and abandon said roadways within The Hamlet development,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That pursuant to Chapter 166 of the Florida Statutes, it is hereby determined to vacate and abandon the following described real property:


- (a) All public roads located within the recorded plat of BOUGAINVILLE, as recorded in Plat Book 32, Pages 56 and 57, of the Public Records of Palm Beach County, Florida; and,
- (b) All public roads located within the recorded plat of THE ESTATES, as recorded in Plat Book 38, Pages 61 and 62, of the Public Records of Palm Beach County, Florida; and,
- (c) All public roads located within the recorded plat of THE ESTATES II, as recorded in Plat Book 39, Pages 97 and 98, of the Public Records of Palm Beach County, Florida; and,
- (d) All public roads located within the recorded plat of THE ESTATES III, as recorded in Plat Book 40, Pages 64 and 65, of the Public Records of Palm Beach County, Florida; and,
- (e) All public roads located within the recorded plat of EVERGREENE, as recorded in Plat Book 33, Pages 150 and 151, of the Public Records of Palm Beach County, Florida; and,
- (f) All public roads located within the recorded plat of THE FAIRWAYS, as recorded in Plat Book 39, Pages 62 and 63, of the Public Records of Palm Beach County, Florida; and,
- (g) All public roads located within the recorded plat of FOXPOINTE, as recorded in Plat Book 32, Pages 107 and 108, of the Public Records of Palm Beach County, Florida; and,
- (h) All public roads located within the recorded plat of GREENSWARD VILLAGE SUBDIVISION, as recorded in Plat Book 29, Pages 186 through 190, inclusive, of the Public Records of Palm Beach County, Florida; and,
- (i) All public roads located within the recorded plat of LAKEWOODE - SECTION I, as recorded in Plat Book 33, Pages 103 and 104, of the Public Records of Palm Beach County, Florida; and,
- (j) All public roads located within the recorded plat of LAKEWOODE - SECTION II, as recorded in Plat Book 33, Pages 105 and 106, of the Public Records of Palm Beach County, Florida; and,
- (k) All public roads located within the recorded plat of LAKEWOODE - SECTION III, as recorded in Plat Book 34, Pages 99 and 100, of the Public Records of Palm Beach County, Florida; and,
- (l) All public roads located within the recorded plat of PINELAKE, as recorded in Plat Book 36, Pages 165 and 166, of the Public Records of Palm Beach County, Florida.

Section 2. That this abandonment is expressly subject to the following conditions as a prerequisite to its effectiveness:

- (1) That the common property subject to this vacating and abandonment shall remain undivided, and no person, irrespective of the nature of his interest in the common property, shall bring any action or proceeding for partition or division of the common property.
- (2) The City hereby reserves to itself, its successors and assigns the right to use any portion of the abandoned property for the installation, operation, maintenance, and repair of utilities of every kind and description.
- (3) The City hereby reserves for itself, its successors and assigns the right to authorize in writing the installation, operation, maintenance, and repair of utilities of every kind and description, by any person, firm, association, partnership or corporation.

- (4) The City reserves for itself, its successors and assigns and any person or entity which it has authorized in writing as described in paragraph (3) above to install, operate, maintain, or repair utilities in the abandoned property, a right of ingress and egress over all of the abandoned property.
- (5) That this vacating and abandonment of certain public roads within The Hamlet development shall be expressly subject to the right of ingress and egress for all persons owning or occupying property in The Hamlet development, including those persons not members of The Hamlet Residents' Association, Inc., including their invitees, as well as the right of ingress and egress for all public utilities, and public vehicles, including, but not limited to police, fire, and garbage and trash disposal vehicles.
- (6) That a sufficient percentage of the total number of the persons owning property within The Hamlet development, and which must include both the Hamlet Development Association and the Hamlet Country Club, consent to become Members of The Hamlet Residents' Association, Inc., by executing an Affidavit of Acknowledgment and Consent, which has been subject to title certification verifying the signatory as being the last record owner of the property subject to the provisions of the Declaration of Restrictive and Maintenance Covenants for The Hamlet Residents' Association, Inc.
- (7) That the maintenance of roadways which are the subject of this abandonment shall henceforth be the responsibility of The Hamlet Residents' Association, Inc., which shall maintain said roadways to suitable standards to accommodate City services.
- (8) That all drainage facilities within The Hamlet shall be maintained by The Hamlet Residents' Association, Inc., and that all existing lakes within The Hamlet development shall be a part of these drainage facilities, and which shall be maintained to the extent same are owned by The Hamlet Residents' Association, Inc.
- (9) That The Hamlet Residents' Association, Inc. shall be responsible for all traffic control signs and marking devices, as well as the maintenance of these facilities in accordance with current traffic standards.
- (10) That if not already provided for, The Hamlet Residents' Association, Inc., shall take ownership of all street lights within The Hamlet development, and shall be responsible for all future costs of operation and maintenance of such street lights.
- (11) That in the event there is a default in the performance of any of the above-referenced conditions which continues after the City has provided sixty (60) days' written notice to The Hamlet Residents' Association, Inc., then the City shall have the right to declare this resolution null and void and thereby revoking the abandonment set forth herein and reinstating the roads described in Section 1 hereof as public streets and roadways vested in the City of Delray Beach.

PASSED AND ADOPTED in special session on this the 19th day of January, 1982.



MAYOR
LEON M. WEEKES

ATTEST:



City Clerk