MEMORANDUM

Agenda Item No. 4(B)

TO: Honorable Chairperson Barbara Carey-Shuler, Ed. D. and Members, Board of County Commissioners

DATE: October 21, 2003

FROM: George M. Burgess, County Manager

SUBJECT: Road Closing Petition P-699 A portion of SW 85th Avenue between SW 216th Street and SW 213th Street

RECOMMENDATION

It is recommended that the attached Road Closing Petition by Miami-Dade County Park and Recreation Department be granted following a public hearing. The subject right-of-way has never been improved or maintained by Miami-Dade County. Closing the right-of-way would not have a negative impact on vehicular traffic.

BACKGROUND

The Miami-Dade County Park and Recreation Department is requesting to close an unimproved portion of SW 85th Avenue between also unimproved portions of SW 213th Street and SW 216th Street. Resolution R-1259-99, adopted December 7, 1999 at a Government Facility Hearing approved the Lakes by the Bay Park. However, the subject right-of-way bisects the site. Closing the right-of-way will enhance future use of two adjacent park properties. The vehicular traffic will flow north/south on SW 87th Avenue and east/west on SW 216th Street.

The right-of-way to be closed consists of a 110-foot wide portion of unimproved SW 85th Avenue right-of-way, from SW 216th Street north for approximately 937 feet. Said right-of-way was dedicated at no cost to the County in 1991, by the Lakes By the Bay Plat, Section 9, recorded in Plat Book 141, Page 2, of the Public Records of Miami-Dade Count, Florida. The dedication contains a reverter clause stipulating that the property will revert back to the abutting property owner when lawfully closed.

The Miami-Dade County Departments of Planning and Zoning, Fire Rescue and Public Works have no objection to the closing. The Water and Sewer Department has requested a utility easement for an 8-inch force main existing in the center of the subject right-of-way and the petitioner has agreed to grant said utility easement. Revenue from property taxes will not be affected since the Park and Recreation Department is tax exempt.

Assistant County Manager
Pedro G. Hernandez

MEMORANDUM
(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

DATE: October 21, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(B)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

__✓__ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(B)
10-21-03

RESOLUTION NO. _____

RESOLUTION GRANTING PETITION TO CLOSE A 110-FOOT WIDE PORTION OF SW 85TH AVENUE BETWEEN SW 216TH STREET AND SW 213TH STREET IN SECTION 15, TOWNSHIP 56 SOUTH, RANGE 40 EAST (ROAD CLOSING PETITION NO. P-699)

WHEREAS, the County Commission held a public hearing to consider a petition to close a 110-foot wide portion of SW 85th Avenue between of SW 216th Street and SW 213th Street, as outlined in the accompanying petition and memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, (1) that the alleyway, street, road, highway or other place used for travel as described in the attached petition is hereby vacated, abandoned and closed, all rights of Miami-Dade County and the public in and to the same are hereby renounced and disclaimed; save and except that the land shall be retained as an easement for public utilities; (2) it is found that the action will serve a public purpose and benefit the public without violating private property rights; (3) that the procedure utilized in the adoption of this resolution is expressly ratified and approved; and (4) the Clerk is hereby directed to publish notice of the adoption of this resolution one time within thirty (30) days hereafter in a newspaper of general circulation of Miami-Dade County.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson
Katy Sorenson, Vice-Chairperson

Bruno A. Barreiro	Jose "Pepe" Diaz
Betty T. Ferguson	Sally A. Heyman
Joe A. Martinez	Jimmy L. Morales
Dennis C. Moss	Dorrin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of October, 2003. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

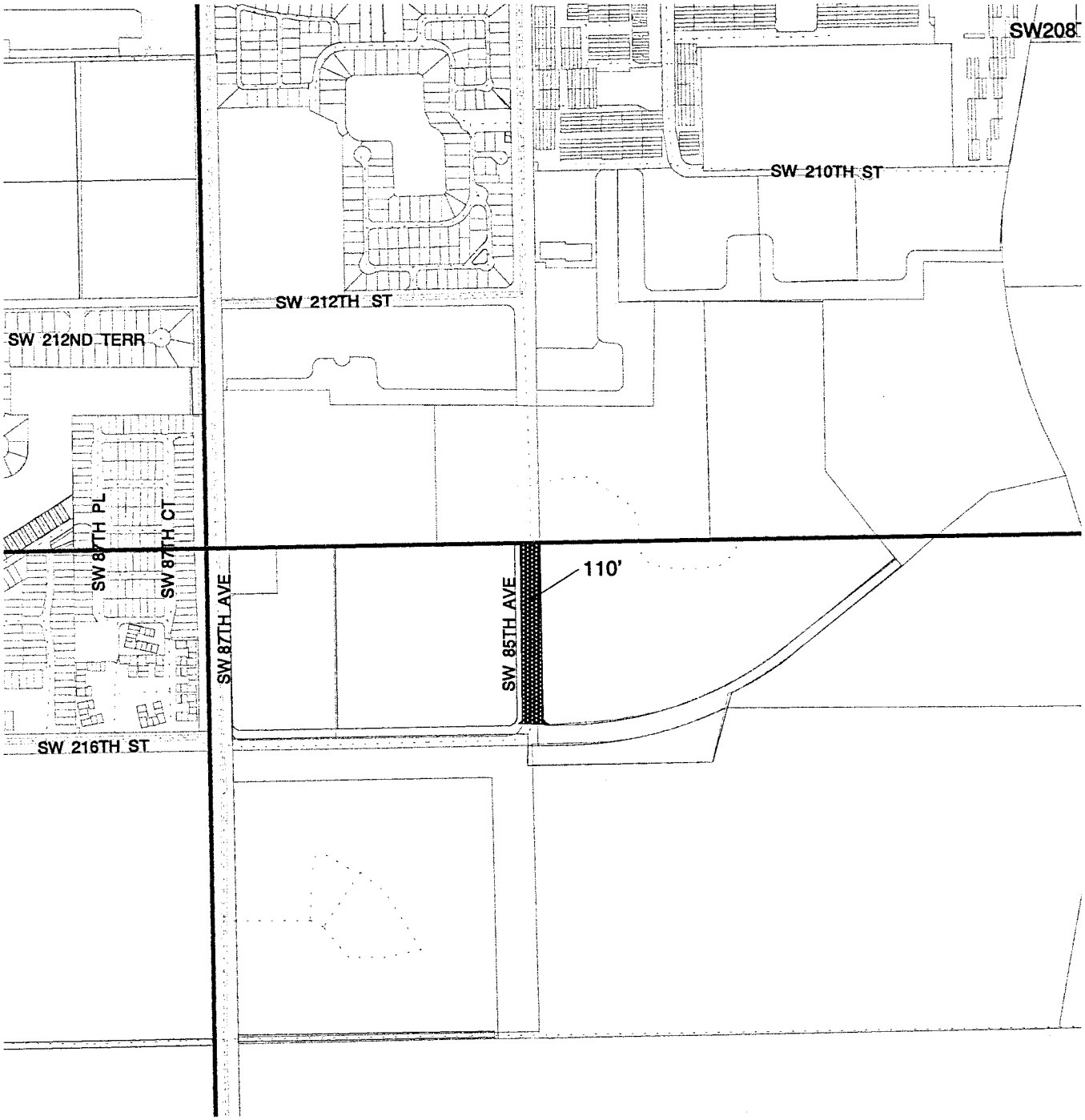
By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Thomas Goldstein

Location Map

TTRRSS: 564015



LEGEND
- P699
- Section Lines
- Major Roads
- Minor Roads
- Property
- Lot

P-699

8/6/03
S.R.

N W E S

5

PETITION TO CLOSE ROAD

TO: Board of County Commissioners
Miami-Dade County, Florida

The undersigned, pursuant to Sections 336.09 - 336.12, Florida Statutes, hereby petition the Board of County Commissioners to vacate, abandon, discontinue and close an existing public or private street, alleyway, road, highway, or other place used for travel, or a portion thereof, and to renounce and disclaim any right of the County and the public in and to any land in connection therewith; or to renounce and disclaim any right of the County and the public in and to certain land, or interest therein, acquired by purchase, gift, devise, dedication or prescription for street, alleyway, road or highway purposes; or to renounce and disclaim any right of the County and the public in and to certain land delineated on a recorded map or plat as a street, alleyway, road or highway.

The undersigned hereby certify:

1. LEGAL DESCRIPTION: The complete and accurate legal description of the road, right-of-way or land sought to be closed is as follows:

Commence at the Southwest corner of Tract D-9, LAKES BY THE BAY SECTION NINE, as recorded in Plat Book 141, at Page 2, of the Public Records of Miami Dade County, Florida; thence N 89°00'29" E, along the south line of said Tract D-9, a distance of 927.68' feet to the Point of Beginning, being the point of tangency of a curve to the left having as its elements a central angle of 89°50'36", a radius of 50.00' feet, and a chord distance of 70.61' feet: thence northeasterly northerly along the arc of said curve to the left, a distance of 78.40' feet to the point of tangency; thence N 00°50'07" W, along the East line of said Tract D-9 a distance of 937.77' feet to the Northeast corner of said Tract D-9; thence N 89°02'53" E, a distance of 110' feet to a point at the East line of Tract E-9, of LAKES BY THE BAY, as recorded in Plat Book 141, at Page 2 of the Public Records of Miami Dade County, Florida; thence S 00°50'07" E along the east line of said Tract E-9, a distance of 937.42' feet to the point of tangency of a curve to the left having as its elements a central angle of 90°09'24", a radius of 50' feet, and a chord distance of 70.81' feet; thence south southeasterly along the Arc of said curve to the left, a distance of 78.68' feet to the point of tangency; thence S 89°00'29" W, a distance of 210.00' feet to the Point of Beginning, having 0.23 Acres ±.

2. PUBLIC INTEREST IN ROAD: The title or interest of the County and the public in and to the above described road, right-of-way or land was acquired and is evidenced in the following manner (state whether public interest acquired by deed, dedication or prescription and set forth where deed or plat is recorded in public records):

Plat: Lakes by the Bay Section 9, as recorded in Plat Book 141, Page 2

3. ATTACH SURVEY SKETCH: Attached hereto is a survey or location sketch accurately showing and describing the above described road, right-of-way or land and its location and relation to surrounding property, and showing all encroachments and utility easements.

4. ABUTTING PROPERTY OWNERS: The following constitutes a complete and accurate schedule of all owners and occupants of property abutting upon or adjacent to the above described road, right-of-way or lands and all persons who will be affected by the closing and abandonment thereof (all interested or affected persons must either sign this petition or sign a written consent):

Name	Address	Description of Property
Malcom B. Wiseheart, Jr. & Richard L. LIttle, et. al.		Folio 30 6010 000 0040

5. ACCESS TO OTHER PROPERTY: The undersigned certify that in the event this petition is granted no other property owners will be prevented from access to and from their property and no other property owners in the vicinity will be adversely affected.

6. NO FEDERAL OR STATE HIGHWAY AFFECTED: The undersigned certify that the above described road, right-of-way or land is not a part of any state or federal highway and was not acquired or dedicated for state or federal highway purposes; and that such road, right-of-way or land is under the control and jurisdiction of the board of County Commissioners.

7. GROUNDS FOR REQUESTING PETITION: The undersigned submit as a grounds and reasons in support of this petition the following (state in detail why petition should be granted):

Road is not needed to connect to SW 216 Street because SW 87 Avenue nearby provides adequate service for traffic.
Leaving road open between 2 park properties would create conflicts between vehicles and pedestrians.

8. INTENT: The undersigned submit as grounds and reason for the utilization of the land sought to be closed (state purpose in detail)

To develop park in accordance with plan approved by Resolution 1259-99 of December 7, 1999.

(Petition must be signed by all property owners abutting the road, right-of-way or lands to be closed or abandoned)

Respectfully submitted,

Signature	Address
Vivian Donnell Rodriguez, Director	275 NW 2nd Street, 5th Flr. Miami, FL 33128
Malcolm B. Wiseheart, Jr., for himself and as attorney-in-fact of all co-owners of Folio 30-6010-000-0040	MALCOLM B. WISEHEART, JR., P.A. 2840 S.W. THIRD AVENUE MIAMI, FLORIDA 33129

Lakes by the Bay Pk
Road CLosing: SW 85 Ave