

# MEMORANDUM

Agenda Item No. 5(G)

---

**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** January 20, 2021

**FROM:** Geri Bonzon-Keenan  
Successor County Attorney

**SUBJECT:** Resolution granting Vacation of Right-of-Way Petition for portions of SW 128 Avenue from SW 2 Street north for 609.5 feet (Vacation of Right-of-Way Petition No. P-959); and waiving, pursuant to Implementing Order 4-41, the 10 percent processing fee

---

The accompanying resolution was prepared by the Transportation and Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.



---

Gerri Bonzon-Keenan  
Successor County Attorney

GBK/uw

# Memorandum



Date: December 15, 2020

To: Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

From: Daniella Levine Cava  
Mayor *Daniella Levine Cava*

Subject: Vacation of Right-of-Way Petition P-959  
Section: 2-54-39  
Portion of SW 128 Avenue from SW 2 Street North for 609.5 feet

## Recommendation

It is recommended that the Board of County Commissioners (Board) grant Vacation of Right-of-Way Petition P-959, attached to this Memorandum as Exhibit 2, following a public hearing, and waive, pursuant to Implementing Order 4-41, the 10 percent processing fee for the subject petition. The Miami-Dade Departments of Regulatory and Economic Resources, Transportation and Public Works (DTPW), Water and Sewer and Fire Rescue have no objection to this right-of-way being closed. This right-of-way is unimproved. A location map is attached as Exhibit 1.

## Scope

The subject Vacation of Right-of-Way is located in County Commission District 12, represented by Commissioner Jose "Pepe" Diaz.

## Fiscal Impact/Funding Source

The Property Appraiser's Office has assessed the adjacent properties to this right-of-way at an average of \$9.55 per square foot. Therefore, the estimated value of this right-of-way would be approximately \$292,277.75. Most of the properties abutting the right-of-way to be vacated are tax-exempt. If this right-of-way is closed and vacated, the portion of right-of-way that is not tax-exempt will be placed on the tax roll, generating an estimated \$1,058 per year in additional property taxes. The application fee for this road closing is \$1,960 and the processing fee is \$29,227.78. At the request of the applicant, the resolution seeks to waive the processing fee. Waiving the processing fee will not adversely affect DTPW as road closure petitions are difficult to anticipate and the revenues received are not budgeted.

## Track Record/Monitor

Alejandro Barrios, Manager, Stormwater Engineering and Right-of-Way Division, DTPW will be responsible for overseeing and monitoring this project.

## Background

The petitioner, Belen School, Inc., has requested to close an unimproved portion of SW 128 Avenue from SW 2 Street north for 609.5 feet, in order to incorporate the majority of the subject land into its property. The majority of the subject unimproved right-of-way is located between parcels of land that are used by the school as its soccer, baseball fields and other green space. Closing the subject unimproved right-of-way will allow students to safely traverse between the school's recreational fields. The petitioner states that the subject lands are not needed for access to adjoining properties.

The subject right-of-way was dedicated in 1927, by the plat of "SWEETWATER ESTATES", recorded in Plat Book 28, Page 36, and by a deed recorded in Official Records Book 28636, Page 3934, both of the Public Records of Miami-Dade County, Florida. The areas abutting the subject unimproved right-of-way are zoned EU-1 (Estates, Single-Family).

EXHIBIT 1

Location Map

SECTION 2 TOWNSHIP 54S RANGE 39 E



This is not a survey

**P- 959**

Municipality: UNINCORPORATED MIAMI-DADE  
Commission District: Jose "Pepe" Diaz 12

**Legend**



**P-959 ROAD CLOSING**

MIAMI-DADE COUNTY  
Department of Transportation & Public Works  
Roadway Engineering and Right-of-Way Division  
111 NW 1st STREET, SUITE 1610, MIAMI FLORIDA 33128  
PH (305) 375-2714 FAX (305) 375-2825

**EXHIBIT 2**

**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 petitions 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 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 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:

See Attached Exhibit "A"

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 was acquired and is evidenced in the following manner (state whether public interest was acquired by deed, dedication or prescription and set forth where deed or plat is recorded in public records):

Right of way was acquired via PB 28-36 & Deed Recorded in O.R.B. 28636 Page 3934

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

See Attached Exhibit "A"

4. ABUTTING PROPERTY OWNERS: The following constitutes a complete and accurate schedule of all owners of property abutting upon or adjacent to the above-described right-of-way. These firms or individuals have been advised in writing of the proposed closure.

PRINT NAME	FOLIO NO.	ADDRESS
<u>Belen School, Inc</u>	<u>30-4902-000-0050</u>	<u>500 SW 127 Avenue</u>
<u>Belen Jesuit Prep School, Inc</u>	<u>30-4901-001-0551</u>	<u>500 SW 127 Avenue</u>



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. GROUNDS FOR REQUESTING PETITION AND PROPOSED USE FOR THE LAND BY THIS REQUEST: The undersigned submits as a grounds and reasons in support of this petition the following (state in detail, why petition should be granted):

The subject right of way has not been developed as a roadway and the subject school encompasses both sides of the right of way for over 75% of the length of the area. The school has developed its fields on both sides of the unimproved right of way and the area is used for the students to traverse from one field to the other. Furthermore, the adjacent neighbors do not wish for this portion of the right of way to be improved as a connector because it does not lead to any major intersections and would just promote cut through traffic from one block to the other.

7. Signatures of all abutting property owners: Respectfully submitted,

SIGNATURE

ADDRESS

*Guillermo Garcia-Thron*  
Guillermo Garcia-Thron  
Belton School, PPA  
*Ruben Farach.*

*500 SW 127 Avenue, 33184*

*12901 S.W. 25T 33184*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attorney for Petitioner

Address: \_\_\_\_\_  
(Signature of Attorney not required)

STATE OF FLORIDA                    )  
  )  
MIAMI-DADE COUNTY                ) SS

BEFORE ME, the undersigned authority, personally appeared Guillermo Garcia Tizon  
\_\_\_\_\_, who first by me duly sworn, deposes and says that he/she  
is one of the petitioners named in and who signed the foregoing petition; that he/she is duly  
authorized to make this verification for and on behalf of all petitioners; that he/she has read  
the foregoing petition and that the statements herein contained are true.

Guillermo Garcia Tizon  
(Signature of Petitioner)

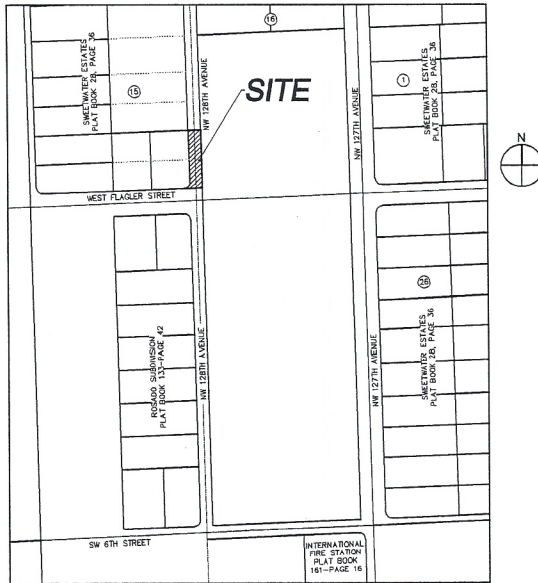
Sworn and subscribed to before me this

12 Day of December, 2019

Mirna Jimenez Menendez  
Notary Public State of Florida at Large

My Commission Expires \_\_\_\_\_  


**SKETCH AND LEGAL DESCRIPTION**  
(NOT A BOUNDARY SURVEY)



**LOCATION MAP**

N.T.S.

DESCRIPTION:

A PORTION OF SWEETWATER ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 28, PAGE 36 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF BLOCK 15 OF SWEETWATER ESTATES, PLAT BOOK 28, PAGE 36; THENCE, N87°45'21"E 586.81 FEET ALONG THE NORTH RIGHT OF WAY LINE OF SW 2ND STREET TO THE POINT OF BEGINNING; SAID POINT BEING THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 25.00 FEET; THENCE 38.92 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 89°11'31" TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N01°26'10"W 584.87 FEET; THENCE N87°45'20"E 50.00 FEET; THENCE S01°26'10"E 609.52 FEET; THENCE S87°45'21"W 74.65 FEET TO THE POINT OF BEGINNING.

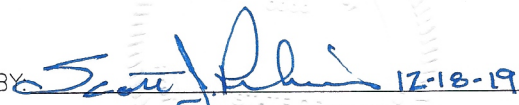
ALL LANDS DESCRIBED BASED ON AN ASSUMED BEARING OF N87°45'21"E ALONG THE CENTERLINE OF SW 2ND STREET, AND CONTAINING 30605 SQUARE FEET (0.70 ACRES), MORE OR LESS. LYING AND BEING IN MIAMI-DADE COUNTY, FLORIDA.

SURVEYOR'S NOTES:

- 1) NOT A BOUNDARY SURVEY
- 2) SKETCH AND LEGAL OF ROADWAY CLOSURE..
- 3) THIS EASEMENT STRIP FORMS A CLOSED GEOMETRIC FIGURE.
- 4) ALL DIMENSIONS SHOWN HEREON ARE IN THE UNITED STATES SURVEY FOOT.

SURVEYORS CERTIFICATE:

I HEREBY CERTIFY THAT THIS "SKETCH AND LEGAL DESCRIPTION" IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS SURVEYED AND DRAWN UNDER MY RESPONSIBLE DIRECTION, AND THAT THE SURVEY MEETS THE "STANDARDS OF PRACTICE" AS SET FORTH IN CHAPTER 5J-17.051 THROUGH 5J-17.052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, OF THE FLORIDA STATUTES.

BY:  12-18-19 FOR THE FIRM  
SCOTT J. PERKINS  
PROFESSIONAL SURVEYOR AND MAPPER No. 5686  
STATE OF FLORIDA

**EXHIBIT "A"**

SHEET 1 OF 2

**ROBAYNA**  
**AND ASSOCIATES INC.**  
ENGINEERS - PLANNERS - SURVEYORS  
5723 NW 158th STREET  
MIAMI LAKES, FL 33014

PH.(305) 823-9316 E.B. # 5004

JOB No. 190060  
DATE: 10-22-19  
SKETCH TO ACCOMPANY LEGAL DESCRIPTION  
BELEN JESUIT PREPARATORY SCHOOL







**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** January 20, 2021

**FROM:**   
Gen Bonzon-Keenan  
Successor County Attorney

**SUBJECT:** Agenda Item No. 5(G)

Please note any items checked.

- "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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 5(G)  
1-20-21

RESOLUTION NO. \_\_\_\_\_

RESOLUTION GRANTING VACATION OF RIGHT-OF-WAY PETITION FOR PORTIONS OF SW 128 AVENUE FROM SW 2 STREET NORTH FOR 609.5 FEET (VACATION OF RIGHT-OF-WAY PETITION NO. P-959); AND WAIVING, PURSUANT TO IMPLEMENTING ORDER 4-41, THE 10 PERCENT PROCESSING FEE

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

**WHEREAS**, Vacation of Right-of-Way Petition No. P-959 was signed by all property owners abutting on the right-of-way sought to be closed; and

**WHEREAS**, a public hearing was held in compliance with Resolution No. 7606; and

**WHEREAS**, Implementing Order (“IO”) 4-41 establishes the fee that the Department of Transportation and Public Works is required to charge for each road closing petition; and

**WHEREAS**, pursuant to IO 4-41, the fee to process a road closing petition is \$1,960.00, plus, the greater of (a) 10 percent of the per square foot ad valorem tax assessed land value for the property adjacent to the right-of-way being closed, or (b) a fee of \$1,200.00 (the “10 percent processing fee”); and

**WHEREAS**, IO 4-41 provides that the 10 percent processing fee, may be waived by the Board whenever it is deemed that it is in the best interest of the public; and

**WHEREAS**, the 10 percent processing fee for Vacation of Right-of-Way Petition No. P-959 is \$29,227.78; and



**WHEREAS**, the petitioner, Belen School, Inc., wishes to close an unimproved portion of SW 128 Avenue from SW 2 Street north for 609.5 feet in order to incorporate the majority of the subject land into its property which is where Belen Jesuit Preparatory School is located; and

**WHEREAS**, the majority of the subject unimproved right-of-way is located between parcels of land that are used by the school as its soccer and baseball fields and other green space; and

**WHEREAS**, closing the subject unimproved right-of-way will allow students to safely traverse between the school's recreational fields; and

**WHEREAS**, this Board finds that it is in the best interest of the public to waive the 10 percent processing fee,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that:

**Section 1.** The foregoing recitals are incorporated and approved as if fully set forth herein. Vacation of Right-of-Way Petition No. P-959 is hereby granted and the alley, avenue, street, highway or other place used for travel as described in the petition attached as Exhibit 2 to the Mayor's Memorandum is hereby vacated, abandoned, and closed. Pursuant to Implementing Order 4-41, this Board waives the 10 percent processing fee for Vacation of Right-of-Way Petition No. P-959.

**Section 2.** All rights of Miami-Dade County and the public in and to the same are hereby renounced and disclaimed.

**Section 3.** It is found that the action will serve a public purpose and benefit the public without violating private property rights.

**Section 4.** The procedure utilized in the adoption of this resolution is expressly ratified and approved.

**Section 5.** Pursuant to Resolution No. 7606, 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 and the County Mayor or County Mayor's designee shall record the proof of publication of the notice of public hearing of this resolution as adopted and the proof of publication of the notice of the adoption of this hearing in the public records 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:

Jose "Pepe" Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared this resolution duly passed and adopted this 20<sup>th</sup> day of January, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the 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.



Annery Pulgar Alfonso