Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(B)
09-18-07

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

RESOLUTION NO. R-1023-07

RESOLUTION GRANTING PETITION TO CLOSE NW 142 AVENUE, FROM NW 138 STREET TO NW 162 STREET; NW 137 AVENUE, FROM NW 154 STREET NORTH TO THE SOUTH LINE OF TRACT 3 OF SAID SECTION 15; NW 146 STREET, FROM NW 137 AVENUE WEST TO A LINE 470 FEET EAST OF NW 147 AVENUE; NW 154 STREET, FROM NW 137 AVENUE WEST TO A LINE 1,420 FEET EAST OF NW 147 AVENUE; NW 162 STREET, FROM NW 137 AVENUE WEST TO A LINE 1,420 FEET EAST OF NW 147 AVENUE (ROAD CLOSING PETITION NO. P-819)

**WHEREAS**, the County Commission held a public hearing to consider a petition to close NW 142 Avenue, from NW 138 Street to NW 162 Street; NW 137 Avenue, from NW 154 Street North to the South Line of Tract 3 of Said Section 15; NW 146 Street, from NW 137 Avenue West to a Line 470 Feet East of NW 147 Avenue; NW 154 Street, from NW 137 Avenue West to a Line 1,420 Feet East of NW 147 Avenue; NW 162 Street, from NW 137 Avenue West to a Line 1,420 Feet East of NW 147 Avenue, 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 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; (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

# MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: September 18, 2007

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 5(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**

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 Jose "Pepe" Diaz, who moved its adoption. The motion was seconded by Commissioner Joe A. Martinez and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman aye
Barbara J. Jordan, Vice-Chairwoman aye

| | | | |
|---|---|---|---|
| Jose "Pepe" Diaz | aye | Audrey M. Edmonson | aye |
| Carlos A. Gimenez | aye | Sally A. Heyman | absent |
| Joe A. Martinez | aye | Dennis C. Moss | aye |
| Dorrin D. Rolle | aye | Natacha Seijas | absent |
| Katy Sorenson | aye | Rebeca Sosa | aye |
| Sen. Javier D. Souto | aye | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of September, 2007. 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: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.
Thomas Goldstein

5

# Location Map

## SECTION 15 & 22 TOWNSHIP 52 RANGE 39

**Legend**

- Road Closing
- Lot_Lines

**P-819** 6

**NORTH**

Yazmin Moreno
Senior Cadastral Technician
February 07, 2006

**Memorandum** MIAMI-DADE COUNTY

Date: September 18, 2007

Agenda Item No. 5(B)

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Road Closing Petition P-819
Section: 15 & 22-52-39
Portions of NW 142 Avenue, from NW 138 Street to NW 162 Street; NW 137 Avenue, from NW 154 Street North to the South Line of Tract 3 of Said Section 15; NW 146 Street, from NW 137 Avenue West to a Line 470 Feet East of NW 147 Avenue; NW 154 Street, from NW 137 Avenue West to a Line 1,420 Feet East of NW 147 Avenue; NW 162 Street, from NW 137 Avenue West to a Line 1,420 Feet East of NW 147 Avenue
Commission District: 12

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**Recommendation**

It is recommended that the Board of County Commissioners (BCC) grant the attached Road Closing Petition following a public hearing. The Miami-Dade County Departments of Planning and Zoning, Public Works, Water and Sewer and Fire Rescue have no objection to these rights-of-way being closed.

**Scope**

This item is located within Commission District 12.

**Fiscal Impact/Funding Source**

The Property Appraiser's Office has assessed the adjacent property to this right-of-way at $0.41 per square foot. Therefore, the estimated value of these rights-of-way would be approximately $532,959. If these rights-of-way are closed and vacated, the land will be placed on the tax roll, generating an estimated $11,057 per year in additional property taxes. This petition was filed after October 1, 2004, when the BCC approved the resolution which amended Administrative Order 4-114 by creating the two tier fee system for Road Closing Petitions. Therefore, the total fee for this road closing is $54,095.90, instead of $750 which would have been the fee under the previous AO4-114 rules.

**Track Record/Monitor**

Not Applicable

**Background**

The Petitioner, Rinker Materials, Inc., wishes to close all the existing rights-of-way for NW 142 Avenue, from NW 138 Street to NW 162 Street; NW 137 Avenue, from NW 154 Street North to the South line of Tract 3 of said Section 15; NW 146 Street, from NW 137 Avenue West to a line 470 feet east of NW 147 Avenue; NW 154 Street, from NW 137 Avenue West to a line 1,420 feet east of NW 147 Avenue; NW 162 Street, from NW 137 Avenue West to a line 1,420 feet east of NW 147 Avenue, in order to incorporate the areas into their properties. The rights-of-way requested to be closed are located in an area designated as a "Rockmining Overlay Zoning Area" and have never been improved nor maintained by Miami-Dade County.

The subject rights-of-way were dedicated in 1951, by Deed Book 3383, Page 583, as recorded in the Public Records of Miami-Dade County, Florida. The Deed contains a reverter clause which stipulates that the rights-of-way revert to the current property owner of the abutting properties when their uses as public rights-of-way are lawfully and permanently discontinued. The area surrounding the subject rights-of-way are zoned AU (Agriculture District) and GU (Interim District).

Assistant County Manager

Note: The Clerk is directed to publish notice of a public hearing on a Road Closing Petition in a newspaper of general circulation in Miami-Dade County, one (1) time, at least two (2) weeks prior to the date of said public hearing in conformity with the statutory requirements.

# 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:

Please 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):

Dedicated in 1951 by Deed Book 3383, Page 583, recorded in the Public Records of Miami-Dade County, Florida.

3. ATTACH SURVEY SKETCH: Attached hereto is a survey or location sketch accurately showing and describing the above described road, right-of-way 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 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 |
|---|---|---|
| Rinker Materials, Inc. | 30-2915-001-0340 | 1501 Belvedere Road |
| " | 30-2915-001-0650 | West Palm Beach, Fl. 33406 |
| " | 30-2922-000-0010 | |
| " | 30-2914-000-0010 | |
| " | 30-2923-001-0050 | |
| " | 30-2915-001-0010 | |
| | | |
| | | |
| | | |
| | | |
| | | |

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 dedicated rights of way requested for vacation are not necessary for access to non-rock mining properties. Certain dedicaetd rights of way to the north in Section 15 and to the South in Section 23 were vacated by resolutions R-959-91 and R-636-92. There are no dedicated rights of way in Sections 10 or Section 14. Applicant is the owner of all land abutting the rights-of-ways requested to be vacated.

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

| SIGNATURE | ADDRESS |
|---|---|
| Rinker Materials, Inc. | |
| c/o Cliff Kirkmyer | 1501 Belvedere Road |
| Cliff Kirkmyer | West Palm Beach, FL 33406 |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

Attorney for Petitioner

Clifford A. Schulman, Esq.
Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami, FL 33131

Address:_____
Signature of Attorney not required)

STATE OF FLORIDA )
) SS
MIAMI-DADE COUNTY )

BEFORE ME, the undersigned authority, personally appeared he/she is one of the petitioners Clifford Kirkmyer, 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, petitioner; that he/she has read the foregoing petition and that the statements therein contained and true.

x Clifford Kirkmyer
(signature of Petitioner)

Clifford Kirkmyer
on behalf of Rinker Materials of Florida, Inc.

Sworn and subscribed to before me this

15 day of July, 2005

Margaret Cornell
Notary Public State of Florida at Large

My Commission Expires: 6-22-07

NOTARY PUBLIC STATE OF FLORIDA
MARGARET CORNELL
MY COMMISSION # DD 225104
EXPIRES: June 22, 2007
1-800-3-NOTARY FL Notary Discount Assoc. Co.

LEGAL DESCRIPTION OF RIGHTS-OF-WAY SOUGHT TO BE VACATED:

The EAST 35 feet of Tracts 4 thru 7;
the SOUTH 35 feet of Tract 9;
the SOUTH 35 feet and EAST 35 feet of Tract 40, less the West 100 feet thereof;
the SOUTH 35 feet and WEST 35 feet of Tract 57;
the SOUTH 35 feet and EAST 35 feet of Tract 56;
the EAST 35 feet of Tracts 50 thru 55;
the NORTH 35 feet and the EAST 35 feet of Tract 49;
the NORTH 35 feet and the EAST 35 feet of Tract 33, less the West 100 feet thereof;
the WEST 35 feet of Tracts 58 thru 63;
the EAST 35 feet of Tracts 35 thru 39; of:
FLORIDA FRUIT LAND COMPANY'S SUBDIVISION,
**Section 15**, Township 52 South, Range 39 East, as recorded in Plat Book 2, Page 17, Miami-Dade County, Florida.

The SOUTH 35 feet of the NE Quarter, LESS the EAST 35 feet thereof;
the WEST 35 feet of the NE Quarter, LESS the SOUTH 35 feet thereof and LESS the NORTH 35 feet thereof;
the SOUTH 35 feet of the NW Quarter, LESS the WEST 470 feet thereof;
the EAST 35 feet of the NW Quarter, LESS the NORTH 35 feet thereof and LESS the SOUTH 35 feet thereof;
the NORTH 35 feet of the SE Quarter, LESS the EAST 35 feet thereof;
the WEST 35 feet of the SE Quarter, LESS the NORTH 35 feet thereof and LESS the SOUTH 35 feet thereof;
the NORTH 35 feet of the SW Quarter, LESS the WEST 470 feet thereof;
the EAST 35 feet of the SW Quarter, LESS the NORTH 35 feet thereof and LESS the SOUTH 35 feet thereof;

the NORTH 35 feet of the NE Quarter, LESS the EAST 35 feet thereof;
the NORTH 35 feet of the NW Quarter, less the West 1420 feet thereof;
of **Section 22**, Township 52 South, Range 39 East, as recorded in DB 3383, PG 582, Deed No. 7025, Miami-Dade County, Florida.

by Andrew W. Slagle, July 18, 2005, Fla. P.E. No. 51039
rev. 7/7/06 by AS

H:\ASlagle\DATA\DATAWORD\PERMITS\DADE COUNTY\Pl. & Zoning\FEC\S22-23-14-15---52--39\LEGAL DESCRIPTION for road closure_July05_REV 7-7-06.rtf