



**BOARD OF COUNTY COMMISSIONERS**

**DATE:** February 10, 2015

**AGENDA ITEM NO.** 6

**Consent Agenda** ☐

**Regular Agenda** ☐

**Public Hearing** ☒

 **County Administrator's Signature:**

**Subject:**

Proposed Ordinance Adding Section 170-238 to the Pinellas County Land Development Code Prohibiting the Abandonment, Release or Vacation of Public Right-of-Way or Public Easement to any Publicly Accessible Waters with Limited Exceptions.

**Department:**

Real Estate Management

**Staff Member Responsible:**

Paul Sacco, Director

**Recommended Action:**

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) ADOPT A PROPOSED ORDINANCE ADDING SECTION 170-238 TO THE PINELLAS COUNTY LAND DEVELOPMENT CODE PROHIBITING THE ABANDONMENT, RELEASE, OR VACATION OF PUBLIC RIGHT-OF-WAY OR PUBLIC EASEMENT TO ANY PUBLICLY ACCESSIBLE WATERS WITH LIMITED EXCEPTIONS.

**Summary Explanation/Background:**

On January 13, 2015, the Board approved authority to advertise this proposed ordinance. The Board is statutorily authorized to abandon, release, or otherwise vacate public roads, public streets, public rights-of-way and public easements. In 2008, the Board considered a petition from private citizens to vacate a portion of public right-of-way in front of their home so they could build a dock. The Board unanimously denied the petition. These same citizens subsequently submitted a similar petition in 2013, which was again unanimously rejected by the Board; this time with prejudice.

Public opposition to the petitions was strong. Granting the petitions, citizens feared, would set a troubling precedent posing adverse impacts to the community and environment. Vacating waterfront public right-of-way also contravenes language in the Pinellas County Comprehensive Plan protecting public shoreline access and scenic coastal vistas. Accordingly, in addition to denying the cited petitions, the Board directed the County Attorney's Office to work with appropriate departments to draft legislation codifying the Board's position on this matter. This proposed ordinance is the result of that directive.

The proposed ordinance prohibits vacations of rights-of-way capable of granting public access to publicly accessible waters with limited exceptions. Specifically, a vacation is only proper where the Board is satisfied that (a) the vacation is in the best interest of the public; (b) the vacation is non-injurious to private property owners; (c) the vacation meets any other criteria provided by law; and (d) the petitioning party has provided comparable land granting public access to the same body of water in exchange.

**Fiscal Impact/Cost/Revenue Summary:**

N/A

**Exhibits/Attachments Attached:**

Proposed Ordinance



**ORDINANCE NO. 15- \_\_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY LAND DEVELOPMENT CODE, BE AMENDED BY ADDING A SECTION TO BE NUMBERED 170-238; PROVIDING FOR A PROHIBITION ON ABANDONING, RELEASING, OR VACATING PUBLIC RIGHT-OF-WAY OR PUBLIC EASEMENT TO ANY PUBLICLY ACCESSIBLE WATERS; PROVIDING FOR EXCEPTIONS THERETO; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Pinellas County Board of County Commissioners (“the Board”) is statutorily authorized to abandon, release, or otherwise vacate public road, public street, public accessway, public right-of-way, or public easement; and

WHEREAS, notwithstanding its ability to do so, the Board recognizes the importance of preserving public access to publicly accessible waters as determined necessary and in the best interest of the County and the public; and

WHEREAS, Policy 1.4.3 of the Recreation, Open Space and Culture Element of the Pinellas County Comprehensive Plan dictates that Pinellas County shall encourage and incentivize the retention of open vistas with emphasis on coastal areas; and

WHEREAS, Objective 3.4 of the Recreation, Open Space and Culture Element of the Pinellas County Comprehensive Plan dictates that Pinellas County shall maintain and enhance public beach and shoreline access; and

WHEREAS, in furtherance of the County’s longstanding Comprehensive Plan, the Board now desires to prohibit the abandonment, release or vacation of public access to publicly accessible waters, subject to limited exceptions.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA:

**Section 1.** That the Pinellas County Land Development Code is hereby amended by adding a section to be numbered 170-238, which section reads as follows:

**Section 170-238. – VACATION OF RIGHT-OF-WAY TO PUBLICLY ACCESSIBLE WATERS.**

- (a) No public road, public street, public accessway, public right-of-way, or public easement capable of granting public access to any publicly accessible waters of the County shall be abandoned, released, or otherwise vacated, except as otherwise provided in subsection (b).
- (b) In those instances where any party, including another governmental unit, petitions the County for abandonment, release, or vacation of a public road, public street, public accessway, public-right-of-way, or public easement capable of granting public access to any publicly accessible waters, and the Board determines that it is in the best interest of the public, is not injurious to individual property owners, and satisfies any other criteria as may be provided by law, the Board may, in its discretion, grant the petition, so long as the party agrees to provide, trade, convey, or dedicate to the public comparable land granting access to the same body of water, such access to be of such condition as not to work a hardship to the users thereof, the reasonableness of the distance and comparable land being left to the discretion of the Board.

**Section 2. SEVERABILITY.**

If any section, subsection sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative, or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the

legislative intent to pass the Ordinance without such unconstitutional, invalid, or inoperative part therein.

**Section 3. INCLUSION IN THE PINELLAS COUNTY LAND DEVELOPMENT CODE.**

The provisions of this Ordinance shall be included and incorporated into the Pinellas County Land Development Code and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Land Development Code.

**Section 4. EFFECTIVE DATE.**

Pursuant to Section 125.66 Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board within ten (10) days after enactment by the Board. This Ordinance shall become effective upon filing with the Department of State.

APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

By MZas Attorney