

# **TOWN OF PALM BEACH**

Information for Town Council Meeting on: August 14, 2019

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TO: Mayor and Town Council

VIA: Kirk Blouin, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Phase 1 North Easement Abandonment

DATE: July 29, 2019

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## **STAFF RECOMMENDATION**

Town staff recommends that Town Council approve vacating the rear yard easements, where possible, for properties that provided easements for the Town-wide Undergrounding for Phase 1 North. Therefore, all others will be responsible for pursuing the easement abandonment through their own resources.

## **GENERAL INFORMATION**

Most of the overhead utilities, which includes Florida Power and Light (FPL), ATT and Comcast, are being removed from rear yard easements into either road right-of-way or front yard easements. As a result a majority of the rear yard easements will no longer have utilities located within them. It is important to note that there will continue to be utilities such as water, sewer, gas, or drainage in some instances in the rear yards. Also, in some cases, the underground program will utilize these easements where savings can be achieved. With the majority of the rear yard easements becoming vacant, there is an opportunity to abandon these easements, which allows the property owner to fully utilize this property. Staff has done an assessment of the cost and time associated with abandoning these easements. Staff's recommendation is to focus solely on the properties that have provided easements for the location of undergrounding equipment on their properties. If Town Council supports this recommendation, all other properties will have the opportunity to request the abandonment of the rear yard easements as long as no other utilities occupy the easement, but will have to utilize their own resources to complete the process.

Town Code of Ordinances, Chapter 106, Article IV, requires an application to abandon the public utility easement to be made in writing on an application form provided by the Town and include the following information:

- (1) The name and address of the applicant.
- (2) A general description of the street, alley, special purpose easement or other non-fee interest of the Town the applicant seeks to have abandoned, and the location of same. A legal description shall be provided, which description shall be accompanied by a plat, map, or drawing, that also shows the general area involved and the location of the specific property interest to be abandoned.
- (3) The reason for the request of abandonment.
- (4) The names and addresses of the owners and occupants of real property bounding and abutting the street, alley, special purpose easement or other non-fee interest of the Town the applicant seeks to have abandoned, and all owners of property within 300 feet in all directions from any point of a street or alley proposed to be abandoned. The owners of property shall be deemed to be those shown on the then current tax assessment role of the Town.

- (5) Letters of consent from affected utilities in the event of a utility abandonment, including but not limited to, FPL, Southern Bell Telephone Company, Florida Public Utilities, West Palm Beach Water Department, Comcast Cable Television, American Telephone and Telegraph, Town of Palm Beach Water Pollution Control Division, Operations Division, and the Town of Palm Beach Electrical Bureau.
- (6) Existing utilities or improvements, if any, in the area involved. If utilities and improvements need to be relocated, all details regarding same should be identified, including dedication of new easements including legal descriptions.
- (7) At least 45 days prior to the Town Council meeting at which the application is to be considered, 20 complete copies of the application should be submitted to the Public Works Department.
- (8) Such other relevant information as the Town may require. The application shall be signed by the party requesting same, who shall verify same under oath that the information contained therein is true and correct.

These steps are required for each and every property that has an easement that is being abandoned. In Phase 1 North, if the easement abandonment process was initiated for each easement that is eligible for abandonment, this would be 141 individual applications. Town staff has requested a proposal for the development of the required legal descriptions and exhibits for all 141 parcel. This cost is approximately, \$30,000, but this does not include the seven (7) others steps described above. To complete the entire process for all 141 parcels, the Town would need to dedicate a full time employee for the next 2 months. This process would repeat with each future phase of undergrounding.

As an alternative to performing the easement abandonment for each parcel, staff recommends that the abandonment process be provided solely to property owners that provided an easement for undergrounding. This reduces the number of parcels to approximately thirty (30) parcels. The cost for developing the legal descriptions and documents would be significantly reduced and the staff time could be handled by existing staff within the normal daily workload.

**FUNDING/FISCAL IMPACT:**

The funding will be from the Underground Utility Fund for the Town-wide undergrounding work.

**PURCHASING REVIEW**

Not required at this time.

**TOWN ATTORNEY REVIEW**

Not required at this time.

cc: Jane Le Clainche, Finance Director  
Steven Stern, Project Manager Town Wide Undergrounding Program  
Patricia Strayer, P.E., Town Engineer