

COUNCIL ITEM 81
DATE 10-22-12

COUNCIL ITEM 100
DATE 10/8/12

ORDINANCE 12 -66

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A NON-EXCLUSIVE FLOWAGE EASEMENT FROM THE CITY OF PORT ST. LUCIE TO PGA VILLAGE PROPERTY OWNERS' ASSOCIATION, INC., A FLORIDA NONPROFIT CORPORATION; PROVIDING AN EFFECTIVE DATE.

THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. That there is hereby authorized the conveyance of a non-exclusive flowage easement ("Easement") from the City of Port St. Lucie to PGA Village Property Owners' Association, Inc., a Florida nonprofit corporation ("PGA POA"), which shall serve to allow PGA POA to construct, operate, maintain, repair, and perform other activities as may be necessary for the conveyance of stormwater and other drainage purposes. The non-exclusive flowage easement to be conveyed to PGA POA is more particularly described in the proposed Easement, attached hereto as Exhibit "A," and said Easement is authorized and approved in substantially the same form attached hereto. The Mayor and city officials are hereby authorized to execute any and all documents necessary to complete the conveyance.

Section 2. That this Ordinance shall become effective ten (10) days after its final adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, this ____ day of _____, 2012.

CITY COUNCIL
CITY OF PORT ST. LUCIE

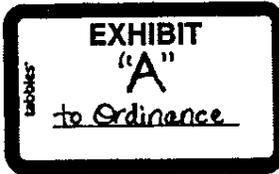
ATTEST:

Karen A. Phillips, City Clerk

BY: _____
JoAnn M. Faiella, Mayor

APPROVED AS TO FORM

BY: _____
Roger G. Orr, City Attorney



Prepared by and when recorded return to:
Azlina Goldstein Siegel, Assistant City Attorney
CITY OF PORT ST. LUCIE
City Attorney's Office
121 S.W. Port St. Lucie Boulevard
Port St. Lucie, FL 34984

(Space above this line reserved for recording office use only)

FLOWAGE EASEMENT

THIS FLOWAGE EASEMENT ("Easement"), executed this _____ day of _____, 2012 by the **CITY OF PORT ST. LUCIE, a Florida municipal corporation**, whose post office address is 121 S.W. Port St. Lucie Boulevard, Port St. Lucie, Florida, 34984 of the County of St. Lucie, State of Florida ("Grantor") to **PGA VILLAGE PROPERTY OWNERS' ASSOCIATION, INC., a Florida nonprofit corporation**, whose principal address is 2140 NW Reserve Park Trace, Port St. Lucie, Florida, 34986 ("Grantee").

(Wherever used herein the terms "Grantor" and "Grantee" shall include all the parties to this instrument and their respective heirs, legal representatives, successors and assigns.)

WITNESSETH that the said Grantor, for and in consideration of the sum of Ten Dollars and No Cents (\$10.00), and other good and valuable consideration in hand paid by the Grantee, the receipt of which is hereby acknowledged, does hereby convey to said Grantee, its successors or assigns forever, a perpetual easement for water flowage through, upon, over, and across the following real property ("Easement Area"), situate, lying and being in the County of **St. Lucie, State of Florida**, to wit:

See Exhibit "A," attached hereto and incorporated herein.

Subject to easements, restrictions, and reservations of record.

The reasonable right of ingress and egress over the subject real property is also hereby granted for the maintenance of the proper flow of surface water and drainage of certain areas, as determined by the Grantee from time to time, within the Easement Area.

This Easement shall be subject to the following terms and conditions:

1. **ERECTION OF STRUCTURES PROHIBITED.** The Grantee and its successors and assigns shall not erect any structure, building, or fence over or within the Easement Area without obtaining the prior written approval of the City Engineer.

2. OBSTRUCTIONS PROHIBITED. Grantee and its successors and assigns shall not erect or cause to be placed on or within the Easement Area any structure, material, device, thing or matter, or plant trees, shrubs, hedges, or other type of landscaping materials which could obstruct, impede, or otherwise interfere with the normal flow of surface water and drainage over the real property without obtaining the prior written approval of the City Engineer.
3. CHANGE IN GRADE PROHIBITED. Grantee and its successors and assigns shall not change or perform any activities that would cause any change to the grade, elevation or contour of any part of the Easement Area without obtaining the prior written approval of the City Engineer.
4. RESTORATION OF THE REAL PROPERTY. In the event the Grantee, its agents, employees, representatives, contractors, subcontractors and consultants perform any construction, reconstruction, repair, enlargement or maintenance of any improvements in the Easement Area, or restore or clear any related drainage facilities, structures, ditches, swales or other such mechanisms of stormwater conveyance contained therein, the Grantee shall be liable to restore said Easement Area contained within the Grantor's real property, and to re-seed, re-sod, replace and/or relocate landscape material (of the same or similar kind), as necessary or as directed by Grantor. The Grantee, its agents, employees, representatives, contractors, subcontractors and consultants shall be liable to the Grantor, and its successors in title and assigns, for any landscaping, sod, or any other improvements located on the real property which are damaged in the course of the Grantee's repair or maintenance of any of Grantee's drainage facilities, structures, ditches, swales or other such mechanisms of stormwater conveyance within the Easement Area.
5. INDEMINIFICATION. The Grantee shall indemnify and hold harmless the Grantor, its officers, employees, agents and instrumentalities from any and all liability, losses, or damages including attorney's fees and costs of defense, which the Grantor, its officers, employees, agents and instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the Grantee's actions, negligence or failure to exercise care in the construction, operation, maintenance or reconstruction of Grantee's drainage and/or stormwater conveyance system located upon, over, under, within and around the Easement Area.

TO HAVE AND TO HOLD the same unto the Grantee, together with the right to enforce the intended use stated herein. The Grantor reserves the right to use the Easement Area and all adjacent City property in any manner that will not unreasonably interfere with the easement rights granted to the Grantee herein. This easement shall run with the land and shall be binding upon the Grantor, all parties entitled to use or possession of the Easement Property by or through the Grantor, including lessees, and the successors and assigns of each of the aforementioned parties unless or until this easement is terminated.

EXHIBIT "A"

C-108 FLOWAGE EASEMENT

PARCEL 1

A portion of Sections 13, 14 and 18, Township 36 South, Range 39 East and Section 18, Township 36 South, Range 40 East being more particularly described as follows:

The South 100.00 feet of said Sections 13, 14 and 18 as shown on the Plat of PORT ST. LUCIE SECTION FORTY FOUR, recorded in Plat Book 16, Page 23 of the Public Records of St. Lucie County, Florida as being designated as Tract "J", Tract "F-48", Tract "F-54" and Tract "F-24".

PARCEL 2

A portion of Section 17, 18, 19 and 20, Township 36 South, Range 40 East and being more particularly described as follows:

The South 50.00 feet of said Sections 17 and 18 as shown on the Plat of PORT ST. LUCIE SECTION FORTY THREE, recorded in Plat Book 16, Page 15 of the Public Records of St. Lucie County, Florida as being designated as DRAINAGE RIGHT OF WAY.

AND

The North 50.00 feet of said Sections 19 and 20 as shown on the Plat of PORT ST. LUCIE SECTION TWENTY FIVE, recorded in Plat Book 13, Page 32 of the Public Records of St. Lucie County, Florida as being designated as DRAINAGE RIGHT OF WAY.

PARCEL 3

A portion of Section 16 and 21, Township 36 South, Range 40 East and being more particularly described as follows:

That portion of said Section 21 as shown on the Plat of PORT ST. LUCIE SECTION TWENTY SIX as recorded in Plat Book 14, Page 4 of the Public Records of St. Lucie County, Florida as being designated as the OCEAN BREEZE WATERWAY.

AND

That parcel described in Official Records Book 411, Page 1193 as the South 110.00 feet of said Section 16 lying West of the North-westerly prolongation of the Easterly right-of-way line of the Cove Waterway as shown on said Plat of PORT ST. LUCIE SECTION TWENTY SIX.



CITY OF PORT ST. LUCIE

Engineering Department

Accredited Agency – American Public Works Association

MEMORANDUM

TO: GREGORY J. ORAVEC – CITY MANAGER

FROM: JAMES E. ANGSTADT, P.E. – ACTING ASSISTANT CITY ENGINEER **JEA**

DATE: SEPTEMBER 26, 2012

RE: CONVEYANCE OF NON-EXCLUSIVE DRAINAGE EASEMENT TO PGA VILLAGE PROPERTY OWNERS ASSOCIATION, INC. AND AUTHORIZATION ORDINANCE

Attached for review and approval by the City Council of the City of Port St. Lucie is an ordinance authorizing the conveyance of a non-exclusive flowage easement to the PGA Village Property Owners Association, Inc., a Florida nonprofit corporation (PGA POA). The purpose of the easement is to permit PGA POA to convey a small portion of stormwater from their site west of I-95 through the C-108 Canal to the north fork of the St. Lucie River. Staff has reviewed the request along with the drainage calculations and has no issues. In addition, staff utilized the services of Captec Engineering on a pro-bono basis to review the calculations and model the impacts of the addition of this stormwater on the canal. They noted that there will be no significant impacts to the canal and the canal has excess capacity. This non-exclusive drainage easement will allow PGA POA to construct, operate, maintain, repair, reconstruct and perform other activities as may be needed for conveyance of stormwater and other drainage purposes. The attached easement has been reviewed by Azlina Goldstein Siegel, Assistant City Attorney, for conformity with the City's standards.

Please place this matter on the appropriate City Council agendas for first and second readings. If you have any questions, please do not hesitate to contact me.

JEA/cc

Attachments: Ordinance 12-_____
Proposed Non-Exclusive Drainage Easement

cc: Patricia Roebing, P.E. – City Engineer

RECEIVED

SEP 26 2012

City Manager's Office

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