

ORDINANCE NO. 2016-01

AN ORDINANCE OF THE CITY OF MARY ESTHER, FLORIDA, PROVIDING FOR THE VACATION OF RIGHT-OF-WAY LOCATED AT POINT COMFORT COURT AND AS LEGALLY DESCRIBED HEREIN; PROVIDING FOR PRESERVATION OF EASEMENTS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

*WHEREAS*, in 2002 a quit-claim deed was prepared by George C. Crews and Fay A. Crews deeding to the City of Mary Esther certain property to the City to construct a road. The deed was never recorded in the Okaloosa County public records;

*WHEREAS*, the City has not constructed a road and does not plan to construct a road on the property in the foreseeable future;

*WHEREAS*, Mr. Crews as the owner of real property located adjacent to the City owned property has requested the City to vacate the right-of-way located adjacent to said property; and

*WHEREAS*, the City Council has found that the subject application and property meets all of the criteria for approval under 8.01.00 of the Mary Esther Land Development Code for a vacation request, and that it would be in the best interest of the citizens of the City for the application to be granted.

***NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MARY ESTHER, FLORIDA, AS FOLLOWS:***

**SECTION 1. Vacation of Right-of--Way.** The right-of-way vacation request provided for herein is adopted pursuant to the applicant request, and it is the City's intention that the City's interest in said right-of-way be terminated and pass to the owners of the properties abutting said right-of-way. The City of Mary Esther makes no warranties of any kind as to the vacation of this right-of-way.

This ordinance shall only be construed to release any legal or equitable interest the City may have in the subject roadway property now known as Point Comfort Court (identified by plat as Hickory Street) being that portion of Point Comfort Court located easterly of Point Comfort Road (identified by plat as Oak Street) shown as a road dividing Lots 1 and 2 of Block 1 from Lots 1 and 2 of Block 2 all being in Homestead Subdivision as dedicated to the City of Mary Esther in that certain plat recorded in Plat Book 3, Page 28 of the Public Records of Okaloosa County, Florida. The City of Mary Esther, Florida hereby clarifies that the vacation includes the right-of-way that may have been legally described by deed as:

ALL THAT LAND LYING NORTHERLY OF AND CONTIGUOUS WITH THE FOLLOWING DESCRIBED LINE: COMMENCE AT THE POINT OF INTERSECTION OF THE EASTERN BOUNDARY LINE OF HOMESTEAD SUBDIVISION AS RECORDED IN PLAT BOOK 3, PAGE 28 OF THE OFFICIAL RECORDS OF OKALOOSA COUNTY, FLORIDA AND THE EXISTING SOUTH RIGHT OF WAY LINE OF US HIGHWAY 98 (STATE ROAD 30) (100' RIGHT OF WAY); THENCE GO SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE EASTERN LINE OF SAID SUBDIVISION A DISTANCE OF 267.50 FEET TO THE POINT OF BEGINNING OF THE LINE HEREIN DESCRIBED, THENCE DEPARTING SAID EASTERN LINE, GO NORTH 89 DEGREES 56 MNUTES 46 SECONDS WEST, A DISTANCE OF 164.29 FEET TO THE TERMINUS OF SAID LINE.

Nothing contained herein shall be construed to affect the rights of parties having an interest in the right-of-way prior to the City acquiring said right-of-way interest.

**SECTION 2. Preservation of Easements.** The right-of-way described herein includes a utilities easement for the City of Mary Esther. That utilities easement shall remain with the City of Mary Esther in perpetuity. No permanent structures shall be built upon the easement property without permission of the City of Mary Esther.

**SECTION 3. Conflict.** This ordinance shall prevail over all prior Ordinances, resolutions or parts thereof in conflict herewith, and are hereby repealed to the extent of such conflict.

**SECTION 4. Severability.** If any portion or part of this ordinance is declared invalid, the valid remainder hereof shall remain in full force and effect.

**SECTION 5. Effective Date.** This ordinance shall become effective upon adoption by the City Council and signature of the Mayor.

SO DONE this 7<sup>th</sup> day of MARCH 2016.

By:

  
Margaret McLemore, Mayor

ATTEST:



Dana L.S. Williams, CMC  
City Clerk

1<sup>st</sup> Reading: February 1, 2016  
Published: February 26, 2016  
2<sup>nd</sup> Reading: March 7, 2016