

RESOLUTION NO. 2004- 270

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CLERK OF THE COURTS, UNDER SECTION 95.361, FLORIDA STATUTES TO FILE THE SURVEY MAP FOR HANNAH STREET, CLAIMING A VESTED INTEREST IN THE ROAD DESCRIBED IN THE SURVEY MAP, AND/OR ESTABLISHING A PRESCRIPTIVE EASEMENT IN THE SAME RIGHTS-OF-WAY, IN ACCORDANCE WITH THE PRINCIPLES SET FORTH IN DOWNING V. BIRD, 100 SO.2D 57 (FLA. 1958)

WHEREAS, the Board of County Commissioners of St. Johns County, Florida have instructed staff to obtain documentation in order to justify continued County maintenance of road that are neither dedicated to St. Johns County, nor are owned by St. Johns County; and

WHEREAS, **Hannah Street**, as described in attached and incorporated **Exhibit A**, which is the **Survey Map**, and which is a road that County staff has documented as warranting continued County maintenance; and

WHEREAS, Section 95.361, Florida Statutes details the procedure for a local government to claim a vested interest in a road not constructed by the local government; and

WHEREAS, the procedure set forth in Section 95.361, Florida Statutes, is as follows:

- 1) the road has been constructed by a non-governmental entity, or not constructed by the entity currently maintaining or repairing the road;
- 2) the road has been maintained and/or repaired for the immediate past seven (7) years by the County; and

WHEREAS, under the criteria set forth in Section 95.361, Florida Statutes, such road shall be deemed dedicated to the County, to the extent of the width of the road that actually has been maintained or repaired for the proscribed period, whether or not such road has been formally established as a public highway; and

WHEREAS, the filing of the **Survey Map** with the Clerk of the Courts of St. Johns County, pursuant to Section 95.361, Florida Statutes, by St. Johns County serves as prima facie evidence of ownership of **Hannah Street**; and

*For Rec - BCC Sec'y
Dagrande*

WHEREAS, in Downing v. Bird, 100 So.2d 57 (Fla. 1958), the Florida Supreme Court set forth separate criteria in which a public entity (such as the County), may establish, claim, and maintain a prescriptive easement on certain property; and

WHEREAS, the criteria set forth in Downing v. Bird, supra, is as follows:

- 1) actual, continuous, uninterrupted use by the public entity for the full prescriptive period of twenty (20) years;
- 2) that the use be adverse under a claim of right, and either be with the actual knowledge of the owner, or so open, notorious, and visible that knowledge of the use is imputed to the owner;
- 3) that such use be inconsistent with the owner's use and enjoyment of his land, and must not be a permissive use; and
- 4) that such use be related to a certain limited and defined area of land, or if for a right-of-way, the use be of a definite route with a reasonably certain line, width, and termini; and

WHEREAS, St. Johns County can demonstrate that **Hannah Street**, meets each of the criteria, set forth in Downing v. Bird, supra; and

WHEREAS, the public entity has been continuously using **Hannah Street**, without permission of the underlying land owners for in excess of twenty (20) years; and

WHEREAS, County Road and Bridge Supervisor, **Frankie Hitchcock**, has state in an affidavit (attached and incorporated as **Exhibit B**) that the County has been responsible for maintaining **Hannah Street**, for the last twenty (20) years; and

WHEREAS, St. Johns County can demonstrate that St. Johns County's actions meet the criteria set forth in both/either Section 95.361, Florida Statutes, and/or Downing v. Bird, 100 So.2d 57 (Fla. 1958), with respect to establishing either statutory dedication, or a prescriptive easement over the above-noted, and described **Hannah Street**; and

WHEREAS, it is in the best interest of St. Johns County to acquire ownership of **Hannah Street**, under either statutory dedication or prescriptive easement, and that such acquisition will benefit the citizens of St. Johns County.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

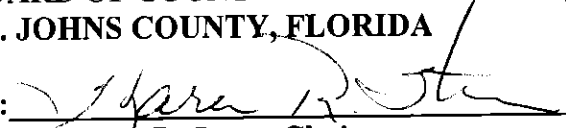
Section 1. The above recitals are incorporated by reference into the body of this Resolution, an such Recitals are adopted as Findings of Fact.

Section 2. The Chairman of the Board of County Commissioners, and Clerk of the Courts are hereby authorized to file the attached **Survey Map of Hannah Street**, in the Public Records of St. Johns County, Florida.

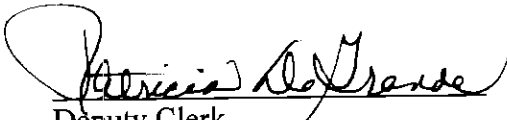
Section 3. The Clerk is instructed to record this Resolution in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED, this 6th day of Oct, 2004.

**BOARD OF COUNTY COMMISSIONERS,
ST. JOHNS COUNTY, FLORIDA**

By: 
Karen R. Stern, Chair

ATTEST: Cheryl Strickland, Clerk


Deputy Clerk

RENDITION DATE 10-7-04



EXHIBIT "A" TO RESOLUTION

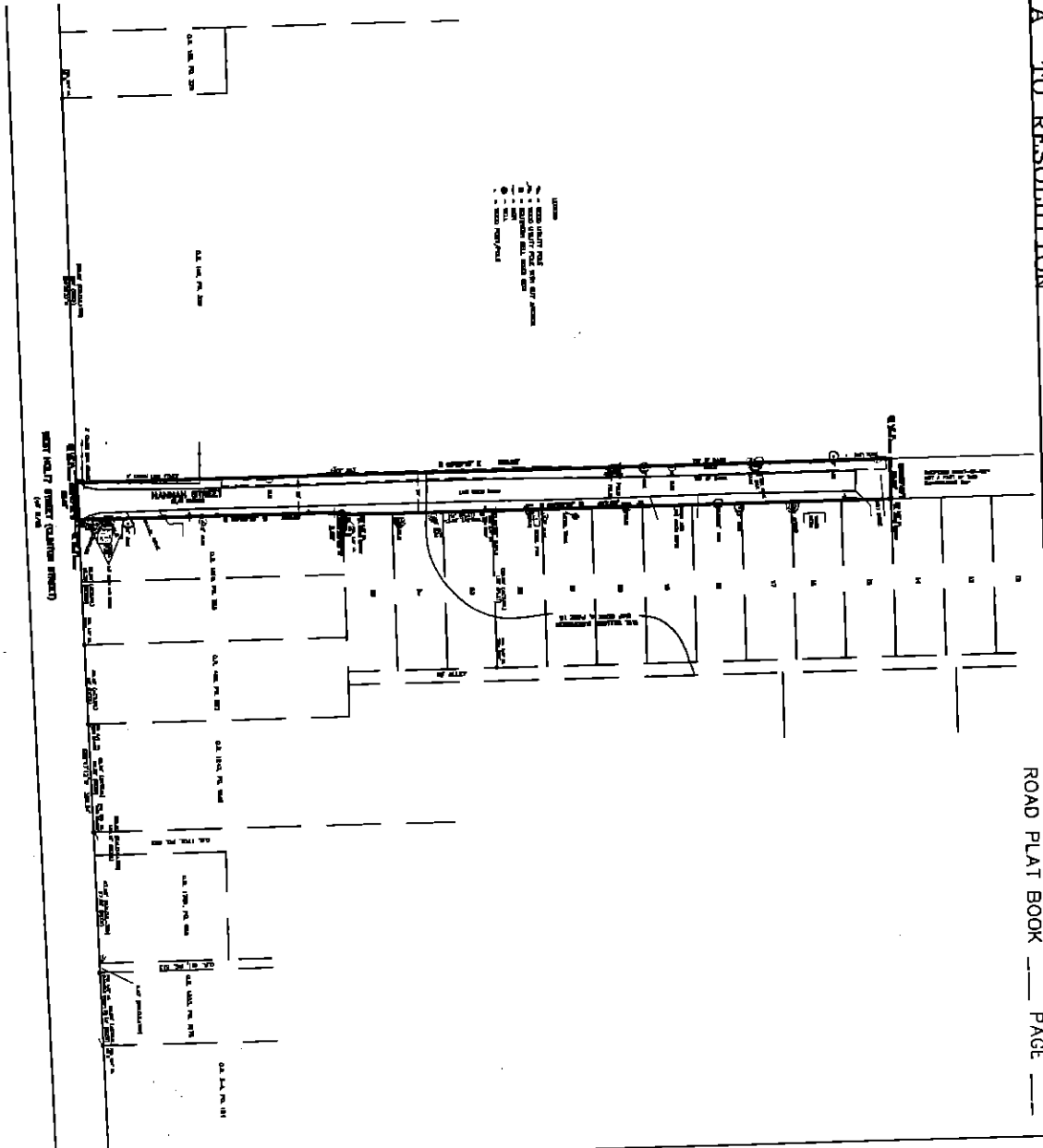
ROAD PLAT BOOK PAGE

MAP SHOWING A SPECIFIC PURPOSE SURVEY OF A PART OF HANNAH STREET LYING IN W.W. WILLIAMS SUBDIVISION AS RECORDED IN MAP BOOK 4, PAGE 18 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA. FOR: THE ST. JOHNS COUNTY REAL ESTATE DIVISION

IT IS HEREBY CERTIFIED THAT THE RIGHT-OF-WAY SHOWN HEREON IS ACCORDING TO ST. JOHNS COUNTY A POLITICAL SUBDIVISION OF THE STATES AND OF FLORIDA, THE RIGHTS OF THE PUBLIC DOWNWARD BY BOOK 56, 24 & 27 (T.A. DIST. CT. APP. 3RD DIST. 1929) ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

CHAIR ST. JOHNS COUNTY CLERK OF COURT

CLERK



SECTION 17, T. 28 N., R. 20 W., S. 17 E., DIST. 17, 1ST. DIST. FLORIDA. ...

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SECTION 17, T. 28 N., R. 20 W., S. 17 E., DIST. 17, 1ST. DIST. FLORIDA. ...

AFFIDAVIT

**STATE OF FLORIDA
COUNTY OF ST. JOHNS**

On this day before me, the undersigned authority, personally appeared Frankie Hitchcock, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County has been maintaining Hannah Street for the last 20 years and the public has continuously used the road during this time. This maintenance includes digging ditches, road grading, stabilization and patching.

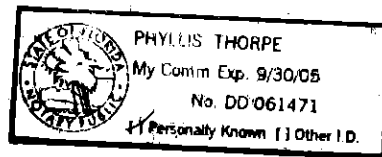
FURTHER AFFIANT SAYETH NAUGHT.

Frankie Hitchcock

**STATE OF FLORIDA
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me this 10th day of February ~~2003~~²⁰⁰⁴, by Frankie Hitchcock, Road and Bridge Supervisor, who is personally known to me.

Phyllis Thorpe
Notary



A

B

C

D

PUTNAM COUNTY
ST. JOHNS COUNTY

Cracker Branch

County Line Rd

Federal Point Rd

Matterson St

W Harris St

Hannay St

N Main St

W Holz St

Chase St

E Harris St

E Carter St

E Holt St

Green End Ln

Lodge St

Branch St

Hatten Ln

Reno St

Ware Ln

Lee Farms Cemetery

WEST RUN

Masonic Cemetery

Hastings-Palake Rd

W Church St

SOUTH
13

Barrel Factory Rd

