

## **M E M O R A N D U M**

**To:** Town Commission  
**From:** Town Manager and Town Attorney  
**Report date:** November 22, 2023  
**Meeting date:** December 4, 2023  
**Subject:** Termination of the Bay Isles Association Agreement for Traffic Control Jurisdiction

### **Recommended Action**

Terminate the existing Bay Isles Association Traffic Control Jurisdiction Agreement by authorizing the issuance of a written 90 days' notice of termination to the HOA with an effective date of February 28, 2024, develop a separate Memorandum of Understanding (MOU) with the HOA for policing of Bay Isles Parkway (outside the gate), and direct staff to work with the HOA on evaluating a possible dedication of the portion of Bay Isles Parkway extending from the HOA's gate to Gulf of Mexico Drive (GMD).

### **Background**

In April 2022, the Town was approached by the Bay Isles Association to explore the development of an agreement with their Homeowners' Association (HOA) that would permit the Town to provide non-criminal traffic enforcement on their private roads. As a private gated community, the Town was not providing that level of traffic enforcement service to the HOA on its private roads. Under Florida Statutes, non-criminal traffic enforcement on private roads requires a formal agreement approved by both a homeowners' association board and the governing body of the local government. This non-criminal type of traffic enforcement is separate from the current level of patrol and criminal enforcement services that the Town otherwise provides and has had continuous jurisdiction over.

The initial term of the agreement was for 5 years with a provision that provides for termination without cause with a 90-day notice by either party. The current agreement would expire on December 5, 2027.

After discussions with the HOA, the Town Manager believes that there are more effective ways for the HOA to achieve desired driving outcomes behind the gates and that those are solutions internal to the HOA. As those solutions are implemented by the HOA, there will be no need for this agreement and it is therefore recommended that the existing agreement be terminated. Town staff will continue to work with the HOA to ensure a smooth transition.

### **Discussion**

Two other items related to this item should be discussed. First, the current Memorandum of Understanding (MOU) with Bay Isles HOA primarily concerned traffic enforcement activities behind the community's gates. However, the HOA actually owns Bay Isles

Parkway all the way from their main gate west to Gulf of Mexico Drive (GMD) which makes it a private road like the others addressed under the agreement. This private road status was established by the Bay Isles Unit No. 2 plat recorded in 1976. Based on information from the Bay Isles HOA, prior traffic studies have been conducted as part of the Publix shopping center redevelopment which they say showed Bay Isles Parkway to be the second busiest street in the Town behind GMD. This would appear to be an accurate statement by general observation. As such, it is recommended that the Town's Attorney and Manager work to develop a separate, new agreement, for non-criminal traffic enforcement with the HOA for policing this section of Bay Isles Parkway.

Second, the HOA has indicated a desire to turn over this section of Bay Isles Parkway (from outside their main gate to GMD) to the Town. The HOA has shared their recollection from a prior traffic study that was completed by Publix as part of their redevelopment, that the roadway is heavily traveled and that the primary users of the road are associated with the commercial, institutional, and recreational uses. The Town has not had the opportunity to verify the exact numbers but again, general observation would appear to support this assertion.

In order for the Town to take over a roadway, there are a number of things that must be considered according to the Town's Code (Sections 97.16-18) which include:

- The benefit to the Town and general public of the dedication.
- The rearrangement of streets, rights-of-way, easements or nonfee interests, which will be required to secure a regular and harmonious system for traffic circulation if the dedication is accepted.
- Whether the street, right-of-way, or easement has been improved or abandoned, and the extent to which it is currently, or in the future will be, utilized by the general public.
- Whether the dedication is proposed in conjunction with an application for development approval for adjacent property.
- Whether the dedication is to create a conservation easement in a form approved by the Town.
- Whether the dedication is to create a general utility easement in a form approved by the Town.

Streets, rights-of-way, or easements offered for dedication to the public shall, prior to acceptance of dedication by the Town Commission, conform to the criteria set forth in Sections 157.46, 157.58, and 157.59 of the Town's Subdivision Code, as amended.

### **Staff Recommendation**

Terminate the existing Bay Isles Association Traffic Control Jurisdiction Agreement by authorizing the issuance of a written 90 days' notice of termination to the HOA with an effective date of February 28, 2024, develop a separate Memorandum of Understanding (MOU) with the HOA for policing of Bay Isles Parkway (outside the gate), and direct staff to work with the HOA on evaluating a possible dedication of the portion of Bay Isles Parkway extending from the HOA's gate to Gulf of Mexico Drive (GMD).

**Attachments** (available in the Town Clerk's Office)

Bay Isles Association Agreement for Traffic Control Jurisdiction dated November 15, 2022  
Map of Bay Isles Parkway

**End of Agenda Item**