

RESOLUTION NO. 2737

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ABANDONING THE EXISTING RIGHT OF WAY FOR A PORTION OF WEST NICKLAUS DRIVE, AND APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE QUIT CLAIM DEEDS TO THE ADJACENT PROPERTY OWNERS.

WHEREAS, A.R.S. § 28-7202 provides that a Town may abandon a public roadway or a portion thereof that it determines is not necessary for public use as a roadway; and

WHEREAS, A.R.S. § 28-7205 provides that title to such abandoned roadway or portion thereof shall be vested in the owners of the abutting land; and

WHEREAS, A.R.S. § 28-7208 requires that the Town receive consideration from the owner of the abutting property in an amount deemed by the governing body to be commensurate with the value of the abandoned roadway or portion thereof; and

WHEREAS, the property owners at 804 North Madison Drive and 900 North Madison Drive filed a request (Application A13-002) for the abandonment of approximately 100 feet of West Nicklaus Drive adjacent to their property as depicted in Exhibit A; and

WHEREAS, the property owners at 804 North Madison Drive and 900 North Madison Drive have indicated that if the Right of Way is abandoned, each is willing to purchase one half of the Right of Way; and

WHEREAS, notification of the requested abandonment was sent to all local utility providers, Town department heads, and all property owners within 300 feet of the property; and

WHEREAS, no negative responses or comments were received in response to the notification; and

WHEREAS, on August 12, 2013, the Planning and Zoning Commission held a public hearing on Application A13-002 and following said public hearing voted to recommend approval of such Application; and

WHEREAS, the Mayor and Common Council have determined that the Right of Way is unnecessary for public use as a roadway; and

WHEREAS, the Mayor and Common Council deem the amount of \$1.00 per square foot to be commensurate with the value of the Right of Way; and

WHEREAS, the Town desires to abandon the Right of Way, but to retain a public utility easement over a portion of the Right of Way,

Page 1

SEP 05 2013 A.S.*

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

- Section 1. That the Mayor and Common Council approves abandonment of the Right of Way as requested in Application A13-002.
- Section 2. That upon receipt of consideration of \$1.00 per square foot, the Mayor of the Town of Payson is hereby authorized to execute the quit claim deeds attached hereto marked Exhibit B and Exhibit C in substantially the form attached conveying the Right of Way to the adjacent property owners.
- Section 3. That the Town of Payson is authorized to take such other actions as are necessary to carrying out the purposes of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this ____ day of September, 2013, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk



Timothy M. Wright, Town Attorney

Exhibit A
to
Resolution 2737



300' NOTIFICATION AREA

U.S. FOREST SERVICE

RIGHT OF WAY REQUESTED FOR ABANDONMENT

2908	2907	2906	2905	2904	2903	2902	2901	2809	2808	2807	2805	2803	2801	2711	2709	2708	2707	2705	2703
2906	2905	2904	2903	2902	2901	2900	2809	2808	2807	2805	2803	2801	2711	2709	2708	2707	2705	2703	
2904	2903	2902	2901	2900	2809	2808	2807	2805	2803	2801	2711	2709	2708	2707	2705	2703			
2902	2901	2900	2809	2808	2807	2805	2803	2801	2711	2709	2708	2707	2705	2703					
2900	2809	2808	2807	2805	2803	2801	2711	2709	2708	2707	2705	2703							
2809	2808	2807	2805	2803	2801	2711	2709	2708	2707	2705	2703								
2807	2805	2803	2801	2711	2709	2708	2707	2705	2703										
2805	2803	2801	2711	2709	2708	2707	2705	2703											
2803	2801	2711	2709	2708	2707	2705	2703												
2801	2711	2709	2708	2707	2705	2703													
2711	2709	2708	2707	2705	2703														
2709	2708	2707	2705	2703															
2708	2707	2705	2703																
2707	2705	2703																	
2705	2703																		
2703																			

W. GRAFF

DR.

HUGHES

W.

DR.

W. NICKLAUS

DR.

W. PALMER

DR.

W. BULLA

DR.

MADISON

DR.

Exhibit B
to
Resolution 2737

WHEN RECORDED, RETURN TO:
Silvia Smith, Town Clerk
Town of Payson
303 N. Beeline Highway
Payson, AZ 85541

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

For valuable consideration of \$2,000.00, the undersigned, Town of Payson, an Arizona Municipal Corporation ("Grantor"), hereby quit-claims to Jonathan & Donna Egen, Trustees of the Egen Living Trust ("Grantee"), whose address is 1610 E. Penny Drive, Tempe, AZ 85282, fee title of Grantor, but reserving unto Grantor a Public Utility Easement over and across the south 10 feet of the real property situated in Gila County, Arizona, which is described as follows:

See Attached Legal Description on Page 2

DATED: _____

Town of Payson,
an Arizona Municipal Corporation (Grantor)

By: _____
Kenny J. Evans, Mayor

STATE OF ARIZONA)
)§
County of Gila)

The foregoing quit-claim deed was signed before me on _____, 2013 by Kenny J. Evans, Mayor of the Town of Payson, on behalf of the Town.

Notary Public

My commission expires:

EXEMPT PER A.R.S. § 11-1134(A)(3)

LEGAL DESCRIPTION
OF
THE NORTH ONE-HALF OF
THE ABANDONED PORTION OF
WEST NICKLAUS DRIVE

A Parcel of property located in the SW $\frac{1}{4}$ of Section 31, Township 11 North, Range 10 E, Gila County, Arizona, Gila and Salt River Meridian, located in Gila County, Arizona, more particularly described as follows:

The North One-Half of the following described property:

Beginning at the northeast corner of Lot 129, of the Country Club Vista Unit 2 Subdivision, Subdivision Map No. 261 as recorded in the Gila County Recorder's Office, Gila County, Arizona;

THENCE West, parallel to the centerline of Nicklaus Drive (Originally Vista Drive) a distance of 100.0 feet to the northwest corner of said Lot 129, said point being on the west line of said Country Club Vista Unit 2 Subdivision;

THENCE North along the west line of said Country Club Vista Unit 2 Subdivision a distance of 40.00 feet, said point being on the southwest corner of Lot 250 of said Country Club Vista Unit 2 Subdivision;

THENCE East to the along the south line of said Lot 250, a distance of 100.00 feet to the southeast corner of said Lot 250;

THENCE South a distance of 40.00 feet to the Point of Beginning.

The above described parcel containing 2,000.00 square feet, more or less.

Exhibit C
to
Resolution 2737

WHEN RECORDED, RETURN TO:
Silvia Smith, Town Clerk
Town of Payson
303 N. Beeline Highway
Payson, AZ 85541

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

For valuable consideration of \$2,000.00, the undersigned, Town of Payson, an Arizona Municipal Corporation (“Grantor”), hereby quit-claims to Robert R. & Christine L. Ramirez, Trustees of the R & C Ramirez Trust (“Grantees”), whose address is 2338 N. 53rd Street, Phoenix, AZ 85008, fee title of Grantor, but reserving unto Grantor a Public Utility Easement over and across the north 10 feet of the real property situated in Gila County, Arizona, which is described as follows:

See Attached Legal Description on Page 2

DATED: _____

Town of Payson,
an Arizona Municipal Corporation (Grantor)

By: _____
Kenny J. Evans, Mayor

STATE OF ARIZONA)
)§
County of Gila)

The foregoing quit-claim deed was signed before me on _____, 2013 by Kenny J. Evans, Mayor of the Town of Payson, on behalf of the Town.

Notary Public

My commission expires:

EXEMPT PER A.R.S. § 11-1134(A)(3)

LEGAL DESCRIPTION
OF
THE SOUTH ONE-HALF OF
THE ABANDONED PORTION OF
WEST NICKLAUS DRIVE

A Parcel of property located in the SW $\frac{1}{4}$ of Section 31, Township 11 North, Range 10 E, Gila County, Arizona, Gila and Salt River Meridian, located in Gila County, Arizona, more particularly described as follows:

The South One-Half of the following described property:

Beginning at the northeast corner of Lot 129, of the Country Club Vista Unit 2 Subdivision, Subdivision Map No. 261 as recorded in the Gila County Recorder's Office, Gila County, Arizona;

THENCE West, parallel to the centerline of Nicklaus Drive (Originally Vista Drive) a distance of 100.0 feet to the northwest corner of said Lot 129, said point being on the west line of said Country Club Vista Unit 2 Subdivision;

THENCE North along the west line of said Country Club Vista Unit 2 Subdivision a distance of 40.00 feet, said point being on the southwest corner of Lot 250 of said Country Club Vista Unit 2 Subdivision;

THENCE East to the along the south line of said Lot 250, a distance of 100.00 feet to the southeast corner of said Lot 250;

THENCE South a distance of 40.00 feet to the Point of Beginning.

The above described parcel containing 2,000.00 square feet, more or less.