

RESOLUTION NO. 245

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, DENYING PETITIONS OF GLORIA BURT AND FREDERICK BURT FOR ABANDONING EASEMENTS, TO ALTER MELODY LANE AND FOR REMOVING OBSTRUCTIONS

WHEREAS, FREDERICK BURT and GLORIA BURT filed a Petition for Abandoning Easement, a Petition to Alter Melody Lane, and a Petition for Removing Obstructions with the Town of Sewall's Point, Florida, on June 10, 1985; and

WHEREAS, the applicants, their attorneys and members of the public were given the opportunity to be heard on the petition at public meetings before the Town Commission on June 12, July 8 and July 10, 1985; and

WHEREAS, the Town Commission has considered the Petitions, the statements of the applicants, their attorneys and the public, and all other documents, papers and information heretofore presented to the Town in connection with the matters addressed in the pending petitions; and

WHEREAS, the Town Commission has made the following findings:

A. That the Town owns two easements, for utilities, public and private, and for egress and ingress, as required by the Town, one easement located along the northerly twelve (12) feet of Lot 4 of MELODY HILL, and the other easement located along the southerly twelve (12) feet of Lot 5 of MELODY HILL, according to the plat thereof recorded in Plat Book 3, Page 135, Martin County, Florida, public records, said easements being adjacent and together having a total width of twenty-four (24) feet, with centerline located along the common boundaries of said Lots 4 and 5 of MELODY HILL, which easements were granted to the Town as a condition for the approval of minor subdivisions of said Lots 4 and 5 of MELODY HILL on February 12, 1975.

B. The continued existence of the Town's easement is necessary for the public health, safety and welfare, and is required under the minor subdivision ordinance of the Town in

effect now and at the time of establishing the minor subdivisions referred to above.

C. That no public right-of-way, roadway, street or thoroughfare was either dedicated or accepted in connection with said minor subdivisions, and no public right-of-way, road, street or thoroughfare now exists over, across or upon the easement of the Town.

D. That the Town has no jurisdiction to require alteration of the location of the existing surface of Melody Lane, which alteration would affect the private property rights of citizens within the Town who are opposed to such alteration.

E. That the plantings, shrubbery and improvements, if any, now lying within the Town's easement and maintained by the present owners of the property adjacent to the easement does not constitute such an obstruction as to warrant its removal at this time.

F. That if such plantings, shrubbery or improvements at any future time should constitute an obstruction as to warrant such removal, in the sole discretion of the Town Commission, removal of the same by the owners of the adjacent properties shall be required at that time.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA:

1. That the Petition for Abandoning Easement, Petition to Alter Melody Lane, and Petition for Removing Obstructions by FREDERICK BURT and GLORIDA BURT filed with the Town of Sewall's Point, Florida, on June 10, 1985, are hereby denied.

2. That the denial of the Petition for Removing Obstructions shall in no way be construed as a grant by the Town for the maintenance of plantings, shrubbery, structures or any other obstructions within the Town's easement, and that the Town shall retain in the future the right to require the owner of the property adjacent to the easement to remove any such shrubbery, plantings or structures as may be deemed to cause an obstruction, in the sole discretion of the Town Commission.

PASSED AND ADOPTED this 14th day of August, 1985.

ATTEST:

Joan H. Barrow
JOAN BARROW, Town Clerk

Approved as to form and
correctness:

M. Lanning Fox
M. LANNING FOX, Town
Attorney

John C. Guenther
JOHN C. GUENTHER, Mayor -
Commissioner

Gilbert C. Strubell
GILBERT C. STRUBELL, Vice-Mayor -
Commissioner

Robert R. Aune
ROBERT R. AUNE, Commissioner

Clyfford B. Drake
CLIFFORD B. DRAKE, Commissioner

Helena B. Towl
HELENA B. TOWL, Commissioner