

**Regular Meeting**  
*School Board Meeting Room*  
**328 SE Hwy 349, Old Town, FL 32680**  
**September 16, 2021 – 6:00 PM**

*While adhering to the CDC Guidelines and following State of Florida Executive Orders: 20-51 Establishing Response Protocol, 20-52 declaring a Public Health Emergency, 20-69 regarding Local Government Public Meetings and the Dixie County Emergency Declaration 2020-27. The Board will meet and limit access by staff and the public to the meeting room. The Board meetings are audio recorded. The public can hear and participate in the meeting via conference call by dialing 1(917)900-1022 and enter code 32628.*

**COMMISSIONERS**

Jody Stephenson, District 1  
W. C. Mills, District 2, Vice Chairman, via telephone  
Mark Hatch, District 3  
Jamie Storey, District 4, Chairman  
James Valentine, District 5

**STAFF**

Duane Cannon, County Manager  
Martha McCaskill, Administrative Asst/Grant Coordinator  
Michael Osteen, County Attorney  
Barbie Higginbotham, Clerk of Court  
Verna Wilson, Chief Deputy Clerk  
Della Rhymes, Asst. Chief Deputy Clerk  
Jacki Johnson, Chief Financial Officer

**CALL TO ORDER**

The Board meeting was called to order at 6:08 PM by Commissioner Storey.

**INVOCATION AND PLEDGE TO THE AMERICAN FLAG**

The Invocation was led by Commissioner Valentine and the Pledge to the American Flag was led by Commissioner Hatch.

**APPROVAL OF COMMISSION MINUTES**

*There were no minutes presented for approval at this meeting.*

**CONSTITUTIONAL OFFICERS**

There was nothing discussed at this time.

***PUBLIC HEARING: THE PUBLIC HEARING MAY BE CONTINUED TO ONE OR MORE FUTURE DATES. ANY INTERESTED PARTY IS ADVISED THAT THE DATE, TIME, AND PLACE OF ANY CONTINUATION OF THE PUBLIC HEARING SHALL BE ANNOUNCED DURING THE PUBLIC HEARING AND THAT NO FURTHER NOTICE CONCERNING THE MATTERS WILL BE PUBLISHED.***

***Commissioner Hatch made the motion to go into the Public Hearings. Commissioner Valentine seconded. Board approved.***

A petition by ***Jeffory Anderson*** requesting a ***Special Exception*** to be granted, as provided in Section 4.3.5 subparagraph (4) of the Dixie County Land Development Regulations to permit one recreational vehicle (ESA4) zoning district, in accordance with the petition dated 07/29/2021 to be located on the property as described as follows: Dixie County Parcel # 07-10-10-0000-0430-0208 2605 SW Hwy 361, Steinhatchee, Fl. 32359; 0). **(Commission District 5, James Valentine)**

Ms. Julie Herring appeared before the Board and read the special exception request made by Jeffory Anderson.

***Commissioner Valentine made the motion to approve the special exception requested by Jeffory Anderson. Commissioner Stephenson seconded. Board approved.***

A petition by ***Gregory S. & Lisa H. Waltrip*** requesting a ***Special Exception*** to be granted, as provided in Section 4.7 RSF/MH of the Dixie County Land Development Regulations zoning district, in accordance with the petition dated 06/02/2021 to be located on the property as described as follows: Dixie County Parcel # 30-13-12-3479-0000-0030 64 SE 195 Street, Old Town, Fl 32680; 0). **(Commission District 3, Mark Hatch)**

Ms. Julie Herring appeared before the Board and read the special exception request made by Gregory and Lisa Waltrip.

***Commissioner Hatch made the motion to table the special exception requested by Gregory and Lisa Waltrip. Commissioner Stephenson seconded. Board tabled.***

A petition by ***George & Margaret Robinson*** located on the property as described as follows: dixie county parcel # 16-13-12-2927-0000-0770 (80 se 352 street. Old Town, Fl. 32680) to request a ***variance*** for a carport by the petition dated 08/23/2021 which is located within section 4.7 rsf/mh of the dixie county land development regulations. **(Commission District 3, Mark Hatch)**

Ms. Julie Herring appeared before the Board and read the variance request made by George and Margaret Robinson.

***Commissioner Hatch made the motion to approve the variance requested by George and Margaret Robinson. Commissioner Stephenson seconded. Board approved.***

A petition by *Christina Williams* located on the property as described as follows: Dixie County Parcel # 30-13-12-3596-0001-0220 (273 SE 218 ST. Suwannee, FL. 32692) to request a *variance* for a setback encroachment of 3 feet on east and west sides by the petition dated 08/25/2021 which is located within section 4.7.7 RSF/MH-2 subparagraph (2) of the Dixie County Land Development Regulations in Accordance with section 12.3.1.1 procedures. **(Commission District 3, Mark Hatch)**

Ms. Julie Herring appeared before the Board and read the variance request made by Christina Williams.

*Commissioner Hatch made the motion to approve the variance requested by Christina Williams. Commissioner Stephenson seconded. Board approved.*

A petition by *William and Dianne Henry Jr.* Located on the property as described as follows: Dixie County Parcel # 24-10-09-0000-0179-0000 (430 SW 470 Ave. Steinhatchee, FL. 32359) to request a *variance* for a 6' setback from east property line – adjacent to parcel #24-10-09-0000-0179-0100 by the petition dated 07/29/2021 which is located within Section 4.3.7 ESA subparagraph (1) of the Dixie County Land Development Regulations in accordance with section 12.3.1.1 procedures.

**(Commission District 5, James Valentine)**

Ms. Julie Herring appeared before the Board and read the variance request made by William and Dianne Henry Jr.

*Commissioner Valentine made the motion to approve the variance requested by William and Dianne Henry Jr. Commissioner Hatch seconded. Board approved.*

*Commissioner Hatch made the motion to go out of the Public Hearings. Commissioner Stephenson seconded. Board approved.*

*Commissioner Stephenson made the motion to go back into public hearing at the direction of County Attorney Michael Osteen. Commissioner Hatch seconded. Board approved.*

County Attorney Michael Osteen recommended the Board give explanations and have discussion of Ordinance 2021 11 at this time.

#### **ORDINANCE NO. 2021-11**

AN ORDINANCE OF DIXIE COUNTY, FLORIDA, AMENDING THE DIXIE COUNTY COMPREHENSIVE PLAN, RELATING TO AN AMENDMENT TO THE TEXT OF THE DIXIE COUNTY COMPREHENSIVE PLAN, PURSUANT TO AN APPLICATION, CPA 21-03, BY THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, UNDER THE AMENDMENT PROCEDURES ESTABLISHED IN SECTIONS 163.3161 THROUGH 163.3248, FLORIDA STATUTES, AS AMENDED; PROVIDING FOR ADDING A PROPERTY RIGHTS ELEMENT TO THE COMPREHENSIVE PLAN PER SECTION 163.3161(10), FLORIDA STATUTES, AS AMENDED AND SECTION 187.101(3), FLORIDA STATUTES, AS AMENDED; PROVIDING

SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE. **(First Reading)**

Building Official Leon Wright appeared before the Board and informed them that this is required by the state of Florida per the last legislative meeting. He said that the property rights section must be added to the LDR. He said it will be presented for the first reading and then it will go to the state and it will come back before the Board around November for a second reading and final approval.

Attorney Osteen recommended the Board discuss this before it is sent to Tallahassee.

Commissioner Hatch asked what is this.

Mr. Wright said this is adding a section to the LDR called property rights. He said that property rights that are currently in the LDR are under different titles and headings.

Attorney Osteen said this is new language required by the state to give the Board power to do more things than they can currently do. He said he spoke with Mr. Scott Koons, Director of the North Central Florida Regional Planning Council (NCFRPC) today and it is required for every county.

Mr. Wright said it is adding property rights language to the LDR. He said that he also spoke with Mr. Koons and there was not much more of an explanation given.

Commissioner Stephenson said that basically the state is telling us we must do this.

Attorney Osteen read for the Board an attachment explaining the objective for rural areas outside of the Designated Urban Development Area (DUDA) in order to develop areas shown on the Future Land Use Plan Map. He said this would allow the County to maintain the rural character by limiting development. He said this would give the Board more power to change the Comp Plan.

Commissioner Storey said they will get some more information for the public on this.

*Commissioner Hatch made the motion to go out of the Public Hearing. Commissioner Valentine seconded. Board approved.*

**RESOLUTION 2021-135**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, TO APPROVE A SPECIAL EXCEPTION TO BE GRANTED, AS PROVIDED IN SECTION 4.3.5 SUBPARAGRAPHS (4) OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO PERMIT ONE RECREATIONAL VEHICLE IN AN ENVIRONMENTALLY SENSITIVE AREA (ESA/4) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED JULY 29, 2021.

**Jeffory Anderson**

Ms. Julie Herring appeared before the Board and read Resolution 2021-135 in support of Jeffory Anderson.

*Commissioner Hatch made the motion to approve Resolution 2021-135 in support of Jeffery Anderson. Commissioner Stephenson seconded. Board approved.*

**RESOLUTION 2021-136**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, TO APPROVE A SPECIAL EXCEPTION TO BE GRANTED, AS PROVIDED IN SECTION 4.7.5 SUBPARAGRAPH (13) OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO PERMIT ONE RECREATIONAL VEHICLE IN A RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME (RSF/MH-1) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED JUNE 02, 2021.

**Gregory and Lisa Waltrip**

*The special exception supported by this Resolution was previously tabled by the Board.*

**RESOLUTION 2021-137**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, TO APPROVE A VARIANCE TO BE GRANTED, AS PROVIDED IN SECTION 12.3.1 OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO GRANT A VARIANCE FOR A CARPORT, LOCATED WITHIN AN RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME (RSF/MH-2) ZONING DISTRICT, AS PROVIDED IN THE PETITION DATED AUGUST 23, 2021. **George and Margaret Robinson**

Ms. Julie Herring appeared before the Board and read Resolution 2021-137 in support of George and Margaret Robinson.

*Commissioner Hatch made the motion to approve Resolution 2021-137 in support of George and Margaret Robinson. Commissioner Stephenson seconded. Board approved.*

**RESOLUTION 2021-138**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, TO APPROVE A VARIANCE TO BE GRANTED, AS PROVIDED IN SECTION 12.3.1 OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO GRANT A VARIANCE FOR A SETBACK ENCROACHMENT OF 3 FEET ON EAST AND WEST SIDES, LOCATED WITHIN AN RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME (RSF/MH-2) ZONING DISTRICT, AS PROVIDED IN THE PETITION DATED AUGUST 25, 2021.

**Christina Williams**

Ms. Julie Herring appeared before the Board and read Resolution 2021-138 in support of Christina Williams.

*Commissioner Stephenson made the motion to approve resolution 2021-138 in support of Christina Williams. Commissioner Hatch seconded. Board approved.*

**RESOLUTION 2021-139**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, TO APPROVE A VARIANCE TO BE GRANTED, AS PROVIDED IN SECTION 12.3.1 OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS, TO GRANT A VARIANCE FOR A 6' SETBACK FROM EAST PROPERTY LINE, WHICH IS LOCATED WITHIN AN ENVIRONMENTALLY SENSITIVE (ESA-1) ZONING DISTRICT, AS PROVIDED IN THE PETITION DATED JULY 29, 2021. **William and Dianne Henry Jr.**

Ms. Julie Herring appeared before the Board and read Resolution 2021-139 in support of William and Dianne Henry Jr.

*Commissioner Stephenson made the motion to approve Resolution 2021-139 in support of William and Dianne Henry Jr. Commissioner Hatch seconded. Board approved.*

**RESOLUTION 2021-140**

PZ/LPA CPA 21-03

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, SERVING AS THE PLANNING AND ZONING BOARD OF DIXIE COUNTY, FLORIDA AND ALSO AS THE LOCAL PLANNING AGENCY OF DIXIE COUNTY, FLORIDA; RECOMMENDING TO THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, APPROVAL OF AN AMENDMENT TO THE TEXT OF THE DIXIE COUNTY COMPREHENSIVE PLAN, PURSUANT TO AN APPLICATION CPA 21-03, BY THE BOARD OF COUNTY COMMISSIONERS, UNDER THE AMENDMENT PROCEDURES ESTABLISHED IN SECTION 163.3161 THROUGH 163.3248, FLORIDA STATUTES, AS AMENDED; PROVIDING FOR ADDING A PROPERTY RIGHTS ELEMENT TO THE COMPREHENSIVE PLAN PER SECTION 163.3161(10), FLORIDA STATUTES, AS AMENDED AND SECTION 187.101(3), FLORIDA STATUTES, AS AMENDED; REPEALING ALL RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

Attorney Osteen appeared before the Board and read Resolution 2021-140.

Commissioner Stephenson asked how much notice was given on this item.

Asst. Chief Deputy Della Rhymes replied that the North Central Florida Regional Planning Council (NCFRPC) usually sends over the items a couple weeks in advance to be placed on the Agenda. She said that no explanations are given, just the item itself is submitted.

Attorney Osteen read aloud an email from Scott Koons of the NCFRPC. He said this text amendment to the Comprehensive Plan is required by the state and needs two public hearings and two advertisements and two readings. He said the Board will vote to pass the Ordinance on the first reading and authorize transmittal to Tallahassee. After they have reviewed it will need to have the second advertisement and public hearing scheduled and be adopted on the second reading.

The Board expressed more confusion on this subject.

Sarah Ross spoke to the Board and said there are free webinars about this topic. She said the Board can give additional protection for the residents of the county by conducting more townhall meetings, pre application meetings, etc. so the community can be more involved before permits are issued and the development occurs.

Mr. Scott Koons spoke to the Board via telephone. He said the state legislature requires all counties in the state to add this property rights element to the Comprehensive Plan.

Mr. Wright clarified Mr. Koon's explanation to everyone. He said they must add this property rights element to the Comprehensive Plan with the minimum standard set by the state. He said the Board can add more property rights to this if they chose. He said this will be back before the Board in November for a second review.

Commissioner Stephenson asked if this is mandated by the state then why is the Board having to vote on this.

Mr. Koons replied that state law says you must amend your own Comprehensive Plan.

Attorney Osteen asked what happens if they don't.

Mr. Koons replied no more text amendments or map amendments will be made to the plan.

Commissioner Hatch asked who makes up the Comp Plan.

Mr. Wright said it is mandated by the state, but you are the Board.

Mr. Koons said it requires public hearings so that is why it comes before the Board.

Mr. Wright asked what happens if the Board disagrees with this in November.

Mr. Koons replied then there will be no changes to the Comp Plan.

Commissioner Hatch asked for a better explanation of property rights. He asked if this Resolution and Ordinance protects the property owner or the county.

Ed Becker spoke to the Board and said he does not understand this legal language and feels that the people should have more input on the subject.

Mr. Scott Koons spoke to the Board via telephone. He explained the four property owners' rights by law.

1. Right to physically possess and control easements, leases or mineral right.
2. Right to use, maintain, develop for personal use.
3. Right to privacy and exclude other to the property.
4. Right to dispose of the property through sale or gift.

Commissioner Hatch said this sounds like it's more for the property owner.

Mr. Koons agreed this is to protect the private property owners.

***Commissioner Hatch made the motion to approve Resolution 2021-140. Commissioner Stephenson seconded. Board approved.***

**ORDINANCE NO. 2021-11**

AN ORDINANCE OF DIXIE COUNTY, FLORIDA, AMENDING THE DIXIE COUNTY COMPREHENSIVE PLAN, RELATING TO AN AMENDMENT TO THE TEXT OF THE DIXIE COUNTY COMPREHENSIVE PLAN, PURSUANT TO AN APPLICATION, CPA 21-03, BY THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, UNDER THE AMENDMENT PROCEDURES ESTABLISHED IN SECTIONS 163.3161 THROUGH 163.3248, FLORIDA STATUTES, AS AMENDED; PROVIDING FOR ADDING A PROPERTY RIGHTS ELEMENT TO THE COMPREHENSIVE PLAN PER SECTION 163.3161(10), FLORIDA STATUTES, AS AMENDED AND SECTION 187.101(3), FLORIDA STATUTES, AS AMENDED; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE. **(First Reading)**

Attorney Osteen read Ordinance 2021-11 to the Board.

***Commissioner Hatch made the motion to approve Ordinance 2021-11. Commissioner Stephenson seconded. Board approved.***

**RESOLUTION 2021-141**

PZ/LPA LDR 21-04

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, SERVING AS THE PLANNING AND ZONING BOARD OF DIXIE COUNTY, FLORIDA, AND THE LOCAL PLANNING AGENCY OF DIXIE COUNTY, FLORIDA, RECOMMENDING TO THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, APPROVAL OF AN AMENDMENT TO THE TEXT OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS, PURSUANT TO AN APPLICATION BY THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR AMENDING SECTIONS 4.5.1, 4.6.1, 4.7.1, 4.8.1, 4.9.1, ENTITLED DISTRICTS AND INTENT BY DELETING THE REFERENCE TO THE DESIGNATED URBAN DEVELOPMENT AREA WITHIN THE RESIDENTIAL "RR" ZONING DISTRICT, THE RESIDENTIAL, (CONVENTIONAL) SINGLE FAMILY "RSF" ZONING DISTRICT, THE RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME "RSF/MH" ZONING DISTRICT, THE RESIDENTIAL, MOBILE HOME "RMH" ZONING DISTRICT AND THE RESIDENTIAL, MOBILE HOME PARK "RMH-P" ZONING DISTRICT; PROVIDING FOR AMENDING SECTION 4.6.2, ENTITLED



PERMITTED PRINCIPAL USES AND STRUCTURES BY ADDING DUPLEX DWELLINGS AS A PERMITTED PRINCIPAL USE AND STRUCTURE WITHIN THE RESIDENTIAL, (CONVENTIONAL) SINGLE FAMILY "RSF" ZONING DISTRICT; PROVIDING FOR AMENDING SECTION 4.7.2, ENTITLED PERMITTED PRINCIPAL USES AND STRUCTURES BY ADDING DUPLEX DWELLINGS AS A PERMITTED PRINCIPAL USE AND STRUCTURE WITHIN THE RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME "RSF/MH" ZONING DISTRICT; REPEALING ALL RESOLUTIONS IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

*Attorney Osteen informed the Board that Resolution 2021-141 will be pulled from the Agenda as well as Ordinance 2021-12 which supports the Resolution.*

**ORDINANCE NO. 2021-12**

AN ORDINANCE OF DIXIE COUNTY, FLORIDA, AMENDING THE TEXT OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS, AS AMENDED, PURSUANT TO AN APPLICATION, LDR 21-04, BY THE BOARD OF COUNTY COMMISSIONERS, PROVIDING FOR AMENDING SECTIONS 4.5.1, 4.6.1, 4.7.1, 4.8.1, 4.9.1, ENTITLED DISTRICTS AND INTENT BY DELETING THE REFERENCE TO THE DESIGNATED URBAN DEVELOPMENT AREA WITHIN THE RESIDENTIAL "RR" ZONING DISTRICT, THE RESIDENTIAL, (CONVENTIONAL) SINGLE FAMILY "RSF" ZONING DISTRICT, THE RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME "RSF/MH", THE RESIDENTIAL, MOBILE HOME "RMH" ZONING DISTRICT AND THE RESIDENTIAL, MOBILE HOME PARK "RMH-P" ZONING DISTRICT, PROVIDING FOR AMENDING SECTION 4.6.2, ENTITLED PERMITTED PRINCIPAL USES AND STRUCTURES BY ADDING DUPLEX DWELLINGS AS A PERMITTED PRINCIPAL USE AND STRUCTURE WITHIN THE RESIDENTIAL, (CONVENTIONAL) SINGLE FAMILY "RSF" ZONING DISTRICT; PROVIDING FOR AMENDING SECTION 4.7.2, ENTITLED PERMITTED PRINCIPAL USES AND STRUCTURES BY ADDING DUPLEX DWELLINGS AS A PERMITTED PRINCIPAL USE AND STRUCTURE WITHIN THE RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME "RSF/MH" ZONING DISTRICT; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE. **(First Reading)**

Mr. Koons said the Board must authorize the transmittal of the proposed Ordinance 2021-11 to Tallahassee for review.

*Commissioner Hatch made the motion to transmit the proposed Ordinance 2021-11 to Tallahassee for review. Commissioner Valentine seconded.*

**JODY GRIFFIS, GUY HARVEY OCEAN FOUNDATION  
EDUCATION PROGRAM COMMUNITY OPPORTUNITY**

Mr. Jody Griffis appeared before the Board to discuss the Guy Harvey Oceanic Education Program. He said this is an interactive educational program for youth, K-12 and they have scholarships to offer. He said they would like to bring this to Taylor and Dixie County. He said that everyone has been receptive.

*Commissioner Hatch made the motion to support this program. Commissioner Stephenson seconded. Board approved.*

**KEITH SEGAR, SUWANNEE WATER AND SEWER MANAGER**

Mr. Keith Segar had nothing to present to the Board at this time.

**GREG BAILEY, NORTH FLORIDA PROFESSIONAL SERVICES**

Mr. Greg Bailey appeared before the Board to discuss some county projects. He informed the Board that 362 and 364 are about 30 percent done with plans on this. He said the MIT Grants for the seawall and fire station will be submitted tomorrow.

Mr. Bailey requested the Board go back into public hearings for the CDBG Grants to be discussed. *Commissioner Hatch made the motion to go into public hearings. Commissioner Stephenson seconded. Board approved.*

Mr. Bailey informed the Board that the CATF had met previously and the meeting went well. He said the committee recommend a Transportation Project for 95 and 97 and 89. He said these roads are off 351A Hwy. he said the grant may not be enough for all three and the Board may have to eliminate one of these roads. He said that income verification of the residents on these roads in the neighborhood will be needed.

Commissioner Storey clarified the location of the roads. He said there were originally in the plan to be done, but there was not enough money at that time. He said the Board is trying to address these again.

Patricia Hayes spoke to the Board and asked about capital outlay funding. She asked where the federal money and state money goes to within the county.

Commissioner Hatch said that is submitted on a five-year plan. He said that roads are submitted annually to the FDOT. He said the county evaluates the volume of traffic and safety concerns throughout the districts. He said this is submitted by the County Manager's office.

Mr. Bailey clarified that FDOT handles transportation stuff. He said this grant is a low to moderate income areas. He clarified that SCRAP and SCOP is state funds. He clarified that CDBG is federal money through the Department of Economic Opportunity. He said the Board is always proactive in applying for grants.

*Commissioner Hatch made the motion to go out of public hearings. Commissioner Stephenson seconded. Board approved.*

*Commissioner Hatch made the motion to allow Mr. Greg Bailey to proceed with the CDBG grant. Commissioner Stephenson seconded. Board approved.*

**JERED LIZOTTE, LOCKLEAR AND ASSOCIATES**

Mr. Jered Lizotte was not present for this meeting.

**CINDY BELLOT, LIBRARY DIRECTOR**

Ms. Cindy Bellot was not present for this meeting.

**STEVE FREMEN, CODE ENFORCEMENT & VETERANS SERVICE OFFICER**

Mr. Steve Fremem had nothing to discuss with the Board at this time.

**STEVE HUTCHISON, COUNTY ROAD SUPERINTENDENT**

Road Superintendent Steve Hutchison appeared before the Board to discuss the utilization of a five-acre tract of land, belonging to Mr. Laster Fowler, for the possible use of a rock pit. He said the landowner would like to have the land back after the Board has extracted the rock. He said there is already a rock pit on this property. He said the next step would be to get some core samples.

*Commissioner Hatch made the motion to proceed with the core samples and then do the legal work. Commissioner Valentine seconded. Board approved.*

Attorney Osteen recommended the Board see if there is any rock there first and then they can draft the Deed with a "revert back to Grantor" clause.

Mr. Hutchison informed the Board that their rock pit is flooded, and they can't crush any rock. He said there is no rock in reserve.

Mr. Hutchison informed the Board that they need to purchase some equipment. He said the tractor is broke down and will cost \$55,000.00 is the repair quote. He said he would like to get a new one or a good used one. He said the boom is busted and the pin holes need to be fixed which may cost \$25,000.00 to fix. He said there is a grind in the turntable which may cost another \$25,000.00 to fix.

Mr. Hutchison requested that Commissioner Mills help him evaluate and pick out some equipment. *Commissioner Hatch made the motion for Mr. Hutchison and Commissioner Mills to work on this together. Commissioner Valentine seconded. Board approved.*

Commissioner Stephenson requested they get two proposals and look into some lease options.

Mr. Hutchison informed the Board that they have three graders that are broke down. He said the tractors are 20 years old and it is hard to get parts.

Commissioner Stephenson said we need to know more about the county finances.

Commissioner Mills said he does agree with Commissioner Stephenson about possible lease options. He said this is the way they should handle the equipment.

Commissioner Stephenson said he wanted to clarify some issues from last week. He said when he raised the question about the driveway that no names were mentioned nor was the load count mentioned. He said he now wants to know how many loads were used for this driveway.

Mr. Hutchison replied that 38 loads were hauled to SE 147 Avenue.

Commissioner Stephenson asked how many hours the county equipment and employees was used.

Mr. Hutchison replied about four full days.

Commissioner Stephenson asked how many county roads are under water and need material now. Mr. Hutchison replied a lot.

Commissioner Stephenson asked if this road was flooded with water.

Mr. Hutchison replied it was flooded, but was not a road at that time.

Commissioner Stephenson clarified that it was not a road, but they were putting down material in the water. He then asked Attorney Osteen if this is legal.

Commissioner Hatch said the Board voted for a state of emergency.  
(*see attached Resolution 2021-88*)

Commissioner Stephenson requested Attorney Osteen to read the statute.

Attorney Osteen said he has read the statute on the State of Emergency and the Attorney General Opinion on the same. He read legal opinion 2012-33. He said the question was can the county use public funds to repair private property washed away from water runoff from a public road. Can the county enter and remove materials washed from the public road onto the private property. The Attorney General issued opinion 1998-22 that county resources may be utilized to repair private property related to a state of emergency. Provided that the county makes legislative findings first. He said that his interpretation is this should be brought before the Board, included in the Meeting Minutes and voted on by the Board. He said this would be the procedure to follow. (*see attached AGO 2012-33, AGO 1998-22*)

Commissioner Stephenson asked for clarification of the legal language for the washed-out repair to an existing road.

Attorney Osteen replied it is drainage from county property onto private property. He said if this benefits the public and the Board makes these findings public record at a meeting then they can do the work on private property.

Commissioner Stephenson said it was stated that this was done for the necessary access by law enforcement to this property. He asked when the work was completed was the road accessible.

Mr. Hutchison said they got equipment stuck while doing the work and when they left it was still not accessible.

Patricia Hayes spoke to the Board and asked if the County will be reimbursed for this work and materials.

Commissioner Hatch asked the same of Commissioner Stephenson.

Commissioner Stephenson said he met a lady on the same street who needed some help and was told that she couldn't get any dirt.

Commissioner Hatch said this occurred during Hurricane Elsa. He said this was done before the flooding started.

Attorney Osteen asked what was the public benefit.

Commissioner Hatch said the public benefit was so that law enforcement or emergency fire and ems staff could have access to the property.

Commissioner Stephenson said when the work stopped on the driveway it was still not accessible.

Mr. Hutchison said the reason they stopped the work was that they didn't have any money and he didn't want to tear up the dump trucks.

Commissioner Hatch said when the lady called him for help, he spoke with Mikel Gainey and said help the people if possible. He also spoke with the County Manager. He said this decision was run through two other agencies.

Commissioner Stephenson said that when he brought this up, he wanted to know who the determining body was to decide where and when this goes on private property. He said his understanding is that the Board must vote as a whole on the findings.

County Manager Duane Cannon asked what the general practice is moving forward.

Attorney Osteen said in a state of emergency, findings of fact must be made of record, in an emergency meeting, for the benefit of the public, to spend county money on private property and all this must be documented.

Commissioner Storey clarified that if a person has, for example, mud in their yard and they can't access their property, the situation must first be assessed and then brought before the Board to vote on and then it can be fixed.

Attorney Osteen said yes.

Commissioner Hatch said this changes the way they have always done this. He said this has always been run through the County Manager office, the Road Department and the EMS Department.

***Commissioner Stephenson made the motion from this day forward, if work is needed on private property, someone from the county manager office or chose someone to go out to the location and access the situation and then the Board can discuss material and money and then the Board will decide.***

Manager Cannon said they did the assessment and got the right of entry from the property owner minus the total Board approval.

Commissioner Storey said this did not come back before the Board.

Manager Cannon said we have about 75 locations that need assistance. He said he doesn't want to call 75 different meetings.

Commissioner Stephenson said these can be brought before the Board at one time.

Commissioner Hatch said he doesn't have an issue with bringing everything before the Board. He said the way they have done this in the past also works.

Commissioner Mills said this is the way it has always been done in the past, however in light of the County Attorney interpretation of the law, it is not be the proper way to do this. He said they should gather the information and bring it before the Board to vote on. He said if they don't have the materials to

do the work then the work will have to wait until they can get the materials. He said he wants to help the people and do it the proper way to be in compliance.

Commissioner Hatch said he wants to do the right thing too, but time is what they don't have.

Commissioner Mills said he has listened to the law being read to them and he wants to follow the law.

Commissioner Hatch said that's opinion and the Governor has laws too. He said the Governor says you do whatever you need to suspend whatever may prevent, hinder or delay providing assistance with this emergency. He asked if they are breaking the law by having a meeting to decide if to help someone.

Commissioner Stephenson asked Mr. Hutchison, if he were not on vacation at the time, what would he have done in this situation.

Mr. Hutchison replied he would have followed Commissioner Hatch instructions.

***Commissioner Mills seconded the motion made by Commissioner Stephenson earlier. Board approved.***

Commissioner Hatch asked if the Board is breaking the law by not following the Governor's Executive Order. *(see attached State of Florida Executive Order 2021-150 and Executive Order 2021-151)*

Attorney Osteen said the Attorney General's opinion and several others that back this up. He said the Board must make legislative findings that benefit the county, to spend public money on private property, and the findings must be documented in the meeting minutes and voted on by the Board.

Commissioner Hatch asked what about what the Governor says.

Attorney Osteen read the Attorney General issued opinion 1998-22 to the public for clarification.

Commissioner Hatch asked how they will address the requests for assistance.

Manager Cannon clarified that in a State of Emergency the Road Department will assess the location and the information will be discussed at a meeting.

Commissioner Stephenson asked Mr. Hutchison how many private roads have been fixed before.

Mr. Hutchison replied none. He said that County Roads should have priority over private work.

Manager Cannon said they have approximately 15 signed right of entry forms from the public.

Commissioner Hatch how would they like the procedure to be in the future.

***Commissioner Stephenson made the motion to get the right of entrys signed and then evaluate the location and then see if we have the materials needed and it must be a benefit for the county.***

Commissioner Hatch said the only benefit to the County will be not getting stuck.

Commissioner Storey questioned that if there is no benefit to the county then the driveway can't be fixed.

Attorney Osteen read to the public, an example of this same situation which was addressed for Citrus County. Afterwards, he said the conclusion is the same. He said there must be a valid public purpose and the findings must be documented in the minutes and during the meeting then the Board must vote.

Commissioner Storey said he understands that this must go through the proper procedure, as explained tonight, for any work to be done in the future.

***Commissioner Mills seconded the motion made by Commissioner Stephenson. Board approved.***

Manager Cannon asked for clarity on who will evaluate the need. He said the Road Department has got the right of entries in the past.

Commissioner Hatch said if they change the process it will delay the help. He said they usually have the materials to do the jobs.

Commissioner Stephenson said it must be fair for everyone.

Mr. Hutchison said the County Roads need to be fixed first.

**DWAYNE CHAUNCEY, MOSQUITO CONTROL DIRECTOR**

Mr. Chauncey was not present for this meeting.

**MICHAEL LATSON, SOLID WASTE DIRECTOR**

Mr. Michael Latson appeared before the Board and informed them that there is a lady who is flooded in the Hammock and they can't get to her rental dumpster to pick up garbage. He said she does not want to pay for the service due to flooding.

***Commissioner Stephenson made the motion to waive the rental fee for this lady because the county cannot get to the dumpster due to flooding. Commissioner Hatch seconded. Board approved.***

Mr. Latson informed the Board that he doesn't have a tractor. He said that DEP says he must always have a tractor and a bulldozer at the transfer station.

He said it will cost \$7,000.00 to fix the CAT Loader. The 544 also needs repair and he does not have a quote for the repair yet.

Commissioner Stephenson asked if there is money in the Budget for new equipment.

Manager Cannon replied there is some.

Commissioner Stephenson recommended they get some bids together and get some buy back to keep the machines in rotation.

***Commissioner Hatch made the motion to make the \$7,000.00 repair to the CAT Loader.***

***Commissioner Stephenson seconded. Board approved.***

***Commissioner Hatch made the motion to get the front-end alignment for the Red Mack Truck.***

***Commissioner Stephenson seconded. Board approved.***

Mr. Latson informed the Board that they have been helping the public during the flood by allowing flood waste and debris at the transfer station. He said there has been public request for a C & D dumpster at the Pole Gap. He would like to put a C & D dumpster at the Pole Gap location.

*Commissioner Hatch made the motion to allow a C & D dumpster to be placed temporarily at the Pole Gap and that Mr. Latson may determine how long that is. Commissioner Mills seconded. Board approved.*

Commissioner Mills instructed Mr. Latson to use a can that is already on site as the C & D can. He then inquired about the new cans that have been ordered.

Mr. Latson replied it will be 12 weeks out.

Mr. Latson informed the Board that he will need to take two weeks of time off from work.

Commissioner Mills directed Mr. Latson to speak with the roll off site attendants about leaving early. He said they need to remain open for the hours posted at the site.

### **LEON WRIGHT, BUILDING AND ZONING OFFICIAL**

Commissioner Stephenson suggested that, due to continued flooding, they get a backhoe instead of an excavator.

Mr. Hutchison agreed that would be a better choice.

Commissioner Stephenson asked if the Crusher was running again and could they use some of the larger rocks for wet locations.

Mr. Hutchison said they cannot separate the sizes of rocks.

Commissioner Stephenson said they need to have materials on hand for this kind of event to be used on the roads.

Town of Cross City Council Member Javonte Teague informed the Board that they may use whatever equipment the city may have to help at any time.

Building Official Leon Wright appeared before the Board to inform them that on Tuesday he was contacted by DEP that they would be doing some site visits based on citizen complaints regarding flooding and blockages of the water flow made by other people. He said the location is known as Bear Well Slew, he said this is a natural flow area. He said the subdivision was created prior to FEMA and Flood Plain Management rules and regulations being implemented. He said no wrongdoing was found and an email will be sent to the residents confirming that finding.

Mr. Wright said the FEMA map is not accurate. He said the population of that area was too low to warrant a in depth study. He said some of these are old very maps. He said that FEMA will be making map amendments and updates in the future. He said this may affect some people in the future.

Mr. Wright said the Board could set up a Planning Advisory Board made up of only five citizens, one from each District with members serving two terms consecutive with the Commissioner from that



District. He said they can approve or deny an item, but the Board would still have the final vote. He said the issue may be that the appointed members may not attend the meetings and a quorum is necessary.

Commissioner Hatch asked if they would still have public hearings in the Board meetings like they currently do.

Mr. Wright said the Advisory Board would hold the public hearings, but the Board would still have the final vote on all the same items on their Agenda.

Mr. Wright informed the Board that there is a citizen, appointed by the Governor, for this Board living in Dixie County. He said they will talk more about this next week. He said that he would also have to attend these Citizen Advisory Board meetings.

Commissioner Stephenson said that the Board had already voted to do this Advisory Board.

Commissioner Hatch said the Board voted to explore the options.

Mr. Wright informed the Board that the planning council would have to draft the legal language for the Advisory Board. He clarified this is not a paid position. He said there is a lot of work that goes into the Agenda and these meetings and advertisements before the public sees the end result.

Mr. Wright asked for direction to proceed with the draft language.  
Commissioner Hatch said to proceed.

Mr. Wright said he will be bringing back some items before the Board to allow residential zoning in rural areas. He said they will discuss more at the next meeting. He said he did tell the planning council the Board was not in favor of this.

Mr. Wright informed the Board that the Holt's are here with issue regarding the Extreme Broadband Cable Company. He said that he may be named in another lawsuit and he would like to retain his own attorney, rather than be represented by Dale Scott.

Commissioner Hatch agreed that he should find another attorney.

***Commissioner Hatch made a motion for Mr. Leon Wright to find another Attorney to represent him.***

Mr. Wright informed the Board that he spoke with Mr. Chrisley from DEPR about the situation. He then did a site visit with the County Attorney and a Central Florida Electric representative to locate violations. He then met with the County Manager and a cable company representative, on a different day, to look at the violations too. He said that some of these violations are on private property and not in the county right of way. He said the Holt's said they have a permit from 1983. He said they do have permit cards from that time period to compare at the Building Department and it is not the same documents. He said the paperwork the Holt's presented came from a board meeting. He said if you need a permit then a Zoning Compliance Letter must be presented. He said the cable company doesn't have authority to stand utility poles. He said that the Holt's offer other services that are exempt from permitting through the Building Department. He said the Building Department doesn't address OSHA requirements or violations. He said this is a cable and electric company dispute. He said that a Flood Plain Ordinance requires approval and authorization. He said this also allows for legal reimbursement.

He said that a Stop Work Order issued on utility company due to a statement from an Engineer notifying the Building Department of violations. He said the Holt's submitted paperwork that say there are very few violations. He said to be in compliance, the violations must be addressed, and some can be fixed. He said the current Ordinance in place requires compliance and he requested direction from the Board.

Commissioner Stephenson questioned the Ordinance and said they can't get permits with this in place.

Mr. Wright said the Stop Work Order that was issued was appropriate because of the letter from an engineer that was submitted. He said there was an existing legal suit between the cable company and the electric company. He said the legal expense to the county is huge and this could have been resolved sooner. He said the current Ordinance requires permission and authorization. He said the Holt's have documentation that they were ordered to get off the electric company poles. He said the county should not have been involved in this lawsuit.

Commissioner Stephenson agreed the county should not have been involved in this lawsuit.

Mr. Wright said the current Ordinance governs the county right of way. He said the prior lack of county Ordinances allowed this to happen.

Commissioner Stephenson said the main concern is safety and liability to the county.

Mr. Wright said this is up to any company to have insurance and licenses to operate.

Mr. Wright said if the Board chooses to allow corrections to be made by the cable company, they will have to follow procedures to be in compliance.

Commissioner Hatch asked how many poles are in question.

Mr. Wright said that Central Florida Electric has said seven poles are in violation. He said the cable company says there are more. He said the majority of these are on Hwy 349.

***Commissioner Hatch stated that he had made a motion earlier to allow Mr. Wright to get his own Attorney.***

Commissioner Hatch asked who makes sure that the violations have been fixed.

Mr. Wright said the Stop Work Order was issued during construction because the electric company sent us the letter from their engineer stating violations. He said they now have a site plan of every pole belonging to both companies. He asked the Board for direction if they wanted him to grant approval to fix the remaining locations in question. He informed the Board that they can recoup some money for legal cost through the Flood Plain Ordinance. He said this issue originated with Central Florida Electric. He said he was not around in 2017.

He informed the Board that this lawsuit has taken a lot of time from him and his department.

***Commissioner Hatch made an earlier motion to allow Mr. Wright to choose his own Attorney if needed. Commissioner Mills seconded. Board approved.***

*Commissioner Mills made the motion for the Board terminate themselves from future involvement with this ordeal. He said they should lift the Stop Work Order to allow them to get in compliance and let them deal with Central Florida Electric.*

Mr. Wright clarified that they should be allowed to finish making the corrections.

Commissioner Hatch asked what the legal ramifications are of lifting the Stop Work Order.

*Commissioner Hatch seconded the motion made by Commissioner Mills. Board approved.*

Mr. Wright clarified that he has been directed to lift the Stop Work Order and if in the future then need to add more poles, they will need to follow procedure.

Commissioner Stephenson said that is correct.

Mr. Wright informed the Board that there will be more issues that come up.

Commissioner Mills requested to move on to something productive for the citizens and the county.

Commissioner Storey thanked Mr. Wright and said he hopes they can bless him with some more money.

**DARIAN BROWN, DIRECTOR OF EMERGENCY SERVICES**

Director Brown publicly thanked Mr. Hutchison for assisting his staff with a cardiac patient.

Director Brown informed the Board that Chief Ferguson will be in Paramedicine training next week. He said they have a grant that will pay for most of the cost.

Director Brown informed the Board that their maintenance man is retiring as of October 28, and they will need to advertise for that position.

*Commissioner Hatch made the motion to allow the advertisement for the maintenance position for the Emergency Services Department. Commissioner Valentine seconded. Board approved.*

Director Brown reminded the Board that the previously passed Fire Assessment would allow him to hire six more people and he would like to advertise for these positions plus re advertise four more positions.

*Commissioner Stephenson made the motion to allow the advertisements for the positions.*

*Commissioner Hatch seconded. Board approved.*

Director Brown informed the Board he will be out of town tomorrow.

Division Chief Scott Garner spoke to the Board about moving the cell tower from the Jail to the Emergency Operations Center. The contract has been reviewed by the County Manager and the County Attorney. He requested the Chairman to sign the documents.

*Commissioner Hatch made the motion to allow the Contract for the cell tower to be signed.*

*Commissioner Valentine seconded. Board approved.*

Commissioner Hatch asked if they have heard from FEMA on the information that has been submitted.

Chief Garner said the State has requested flood insurance information from homeowners.

Director Brown informed the Board that they have returned the equipment that was on loan from Bronson. He said they compared a program they have in place where you can put forms on the website for the public. He said this would eliminate mail and email.

Chief Garner said this can be tailored for specific events. He said photos can be submitted and a pdf format is created which the State and Government approve of.

Commissioner Hatch asked about electronic signature and right of entry forms.

Commissioner Stephenson asked how many homes flooded within the county.

Chief Garner replied approximately 200 affected that have been reported.

**GAIL CARTER, INDIGENT CARE**

Ms. Gail Carter was not present for this meeting.

**HOLLY HOUGHTON, COUNTY EXTENSION AGENT**

Ms. Holly Houghton was not present for this meeting.

**ANGIE CROWLEY, HUMAN RESOURCES ADMINISTRATOR**

Ms. Angie Crowley appeared before the Board to say that Mr. Brad Hoard has said that some Sheriff staff and Commissioners haven't completed their insurance yet.

Commissioner Mills said he has spoken with Mr. Hoard today and is looking at the options. I have issue with changing the family coverage.

**DUANE CANNON, COUNTY MANAGER**

County Manager Duane Cannon appeared before the Board to request their approval of several items.

Manager Cannon requested the Board's approval to execute the contract between the State of Florida, Department of Health and the Dixie County Board of County Commissioners (BOCC).

*Commissioner Valentine made the motion to approve the contract between the State of Florida, Department of Health and the BOCC. Commissioner Hatch seconded. Board approved.*

Manager Cannon requested the Board's approval to execute the contract with North Central Florida Regional Planning Council (NCFRPC) for the annual monitoring of hazardous waste generators and the Dixie County BOCC for FY 2021-2022 in the amount of \$2,717.00.

*Commissioner Valentine made the motion to approve contract with North Central Florida Regional Planning Council (NCFRPC) for the annual monitoring of hazardous waste generators for FY 2021-2022. Commissioner Hatch seconded. Board approved.*

Manager Cannon requested the Board's approval to execute the contract with North Central Florida Regional Planning Council (NCFRPC) for the local government comprehensive planning services and Dixie County BOCC for FY 2021-2022 in the amount of \$13,000.00.

***Commissioner Stephenson made the motion to approve the contract with North Central Florida Regional Planning Council (NCFRPC) for the local government comprehensive planning services for FY 2021-2022. Commissioner Valentine seconded.***

Commissioner Hatch asked for discussion. He said they have not been very happy with the services provided.

Mr. Wright said you must be a member but can use other agencies for help. He said that he has spoken to them about this and they have agreed to provide more training to his staff for entry level zoning. He said after informing them that the Board can chose to go elsewhere for assistance, he was then assured of getting a better level of service.

***Board approved the contract with North Central Florida Regional Planning Council (NCFRPC) for the local government comprehensive planning services for FY 2021-2022.***

Manager Cannon requested the Board's approval for North Florida Professional Services (NFPS) Task Order for the engineering services of the courthouse security in the amount of \$14,500.00. ***Commissioner Hatch made the motion to approve North Florida Professional Services Task Order for the engineering services of the courthouse security. Commissioner Stephenson seconded. Board approved.***

Manager Cannon requested the Board's approval for CR 55A Change Order to extend the contract time between Dixie County and the contractor, Anderson Columbia for 60 days due to material shortages beyond the contractor's control. This will be non-compensable days. The contract end date is September 19, 2021.

Commissioner Hatch asked for an explanation.

Manager Cannon said the material is a shortage of oxygen to mix with the paint. He said the oxygen shortage is due to a mandate across Florida requiring all oxygen to be sent to hospitals as a priority.

***Commissioner Hatch made the motion to approve CR 55A Change Order to extend the contract time between Dixie County and the contractor, Anderson Columbia for 60 days. Commissioner Stephenson seconded. Board approved.***

Manager Cannon requested the Board's approval to appoint Duane Cannon to serve as the liaison for the Dixie County BOCC to the Gulf Consortium Board of Directors and Martha McCaskill to serve as the alternate.

***Commissioner Hatch made the motion to approve Duane Cannon to serve as the liaison for the Dixie County BOCC to the Gulf Consortium Board of Directors and Martha McCaskill to serve as the alternate. Commissioner Valentine seconded. Board approved.***

Manager Cannon asked if the Board would like to approve the re-opening of the boat ramps.

***Commissioner Stephenson made the motion to re-open the boat ramps. Commissioner Hatch seconded. Board approved.***

Commissioner Stephenson asked if the Board needs to vote on giving permission to the Canal Committee to move forward.

Commissioner Hatch said that he and the County Manager attended a meeting of the Dixie County Storm Water Task Force on September 13, 2021 at 3:00 PM. He read the list of attendees. He said there was discussion on funding. He said the project has started in the Hudson 19 and Road 30 area to relieve the Airport Canal. He said they installed 15 to 20 culverts. He said that Track Hoes were used in the Airport Canal and back around the Cross City Correctional facility. He said there was 38 inches of water on the North end of the runway on Thursday and within 24 hours it had dropped to 12 inches. He said they now need permission to cut a road.

*Commissioner Mills made the motion to give the Task Force permission to move forward. Commissioner Stephenson seconded. Board approved.*

#### **MICHAEL OSTEEN, COUNTY ATTORNEY**

County Attorney Michael Osteen appeared before the Board and informed them that the Deeds for the two properties, Lot 9 and 46, sold by the county in River Shores of Jena have been paid for. He said these need to be executed by the Chairman and recorded by the Clerk.

*Commissioner Hatch made the motion to approve the Chairman to sign the Deed and the Clerk to record the Deed. Commissioner Stephenson seconded. Board approved.*

Commissioner Stephenson asked what the money from the sale of these properties will be used for. He requested they use the \$30,000.00 from the sale to purchase a Backhoe.

*Commissioner Stephenson made the motion to use the money from the sale of the two properties in River Shores of Jena to purchase a Backhoe for the county. Commissioner Hatch seconded. Board approved.*

#### **BARBIE HIGGINBOTHAM, CLERK OF COURT**

Clerk Higginbotham appeared before the Board and requested that all departments follow the Friday at 4:00 PM deadline for placing items on the Board Agenda. She said all the last-minute changes are making it difficult on Clerk staff.

#### **COUNTY COMMISSION ITEMS**

There was no more discussion at this time.

#### **PUBLIC COMMENTS AND CONCERNS**

A concerned citizen spoke to the Board about trees on property leaning over the road and in the county easement as well as the weeds are high. He asked about a code enforcement issue.

Code Enforcement Officer Steve Fremen said they have been sent a letter and have not responded. He said the legal process must be followed.

Mr. Wright agreed this is a major violation.

Patricia Hayes spoke to the Board about needing flood water relief on 353. She asked if a culvert could be put in that area. She said she had a large Alligator in her yard. She asked about the county getting reimbursed for the 38 loads of dirt placed on the private driveway.

Diane Vanhook spoke to the Board and said her husband needed an ambulance. She thanked the Board for approving getting driveways fixed. She thanked the EMS and Fire staff and said they need to hire more.

Janet McClarn spoke to the Board said she lives in the hammock and retired in 2015 and moved here to Dixie County. She said they have been using a port-a-potty due to flooding. She said there is huge holes in Thompson Road. She said they may move out of the county.

Barbara Byrd spoke to the Board said she was warned about water coming to her property and was told to prepare. She said she has lived there for three years and the water is dammed up on her property.

Commissioner Stephenson told everyone that the Board is working on the issue.

Mary Goodrich spoke to the Board and said she is flooded too. She questioned the 38 loads of dirt going to a private driveway. She said that she asked for help and was told nothing could be done. She said it is not fair that some people get dirt and others don't.

Commissioner Hatch said that everything has been done legally.

Mr. Hutchison said Ms. Goodrich called about a ditch. He said he sent a crew to work on that. He said that Suwannee River water Management said they were in compliance with the ditch.

Mary Goodrich spoke to the Board and said she maintains her culvert and ditch and has fixed her driveway three times. She said that drinking water is needed.

Chief Garner said that people can go to the Fire Stations and get water.

Mary Goodrich said that people need ice too.

Brian Bentley spoke to the Board and said that his home is underwater too. He thanked Commissioner Mills and Commissioner Stephenson for help. He asked if there was any Federal help coming or from the Army Corp of Engineers.

Commissioner Stephenson said they have spoken with Chuck Clemons and he is looking for funding.

Shelly Sinclair spoke to the Board and said she attended the Budget Meeting this morning. She said that the Task Force was present and that she is amazed at how hard everyone has been working. She said more people should attend these meetings. She said the community needs to be helping each other and get more involved with community affairs.

Cindy Wallace spoke to the Board and told them her road is closed and that she is flooded on 12 acres.

Ms. Johnson spoke to the Board and informed the Board that they have been filling holes in the roads themselves.

**VOUCHER APPROVAL**

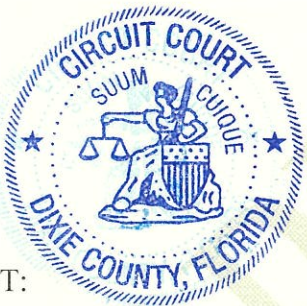
*Commissioner Hatch made the motion to approve the vouchers. Commissioner Stephenson seconded. Board approved.*

**PUBLIC COMMENTS AND CONCERNS**

There were no comments or concerns expressed at this time.

**ADJOURN**

Commissioner Stephenson made the motion to adjourn at 9:50 PM. Commissioner Hatch seconded. Board approved.



BOARD OF COUNTY COMMISSIONERS  
DIXIE COUNTY, FLORIDA

ATTEST:

*Jamie Storey*  
\_\_\_\_\_  
Jamie Storey, Chairman

*Barbie Higginbotham*  
\_\_\_\_\_  
Barbie Higginbotham, Clerk-Auditor

**PLEASE BE ADVISED** that if a person decided to appeal any decision made by the Board with respect to any matter considered at such meeting or hearings, he/ she will need a record of the proceedings, and for such purpose, he/ she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

*“Persons with disabilities requesting reasonable accommodations to participate in this proceeding should contact (352) 486-4931 (Voice & TDD) or via Florida Relay Service at (800) 955-8771.”*

*The Board meets the first Thursday of each month at 10:00 AM and the third Thursday of each month at 6:00 PM. Individuals that would like to be placed on the agenda should call Barbie Higginbotham, Clerk of Court, by 4:00 PM on the Friday Preceding the Board meeting, at (352) 498-1200.*



RESOLUTION NUMBER 2021-88

EMERGENCY DECLARATION

**WHEREAS**, Dixie County is subject to Damages caused by Tropical Storm/Hurricane conditions including heavy rains and storm surge in some areas of the County;

**WHEREAS**, the State of Emergency was declared at 4:00 PM on Friday, July 02, 2021;

**WHEREAS**, heavy rainfall caused severe problems, including flooding and damaged roadways;

**WHEREAS**, these conditions are expected to continue through the weekend;

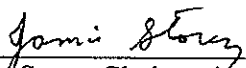
**WHEREAS**, the Dixie County Board of County Commissioners has authorized their Emergency Services Director to enter into contracts and incur obligations necessary to combat such emergency and to protect health and safety of persons and property and to provide emergency assistance to the victims of such and the department is authorized to exercise the powers of this resolution in the light of the existence of an extreme emergency situation without regard to time consuming procedures and formalities.

**WHEREAS**, these conditions created a need to declare the State of Emergency for a period of seven (7) days; from July 02, 2021 until July 09, 2021.

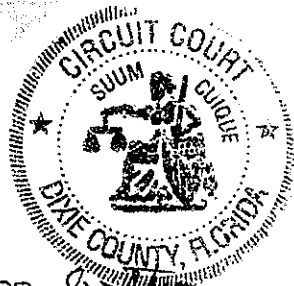
**BE IT THEREFORE RESOLVED**, that pursuant to Chapter 252, Florida Statutes, the Dixie County Board of County Commissioners hereby declared a State of Emergency exists in Dixie County and that all County Agencies are authorized and requested to provide any assistance necessary to save and preserve lives and property under authority of Chapter 252, Florida Statutes, the Dixie County Comprehensive Emergency Management Plan. Moreover, for the next 168 hours, the Board of County Commissioners and its designees shall have all authority to set forth under Chapter 252.38, Florida Statutes.

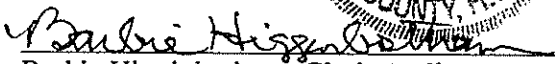
**RESOLVED**, this 2nd day of July, 2021, in an Emergency Meeting of the Board of County Commissioners and held at the Dixie County Emergency Operations Center, Cross City, Florida.

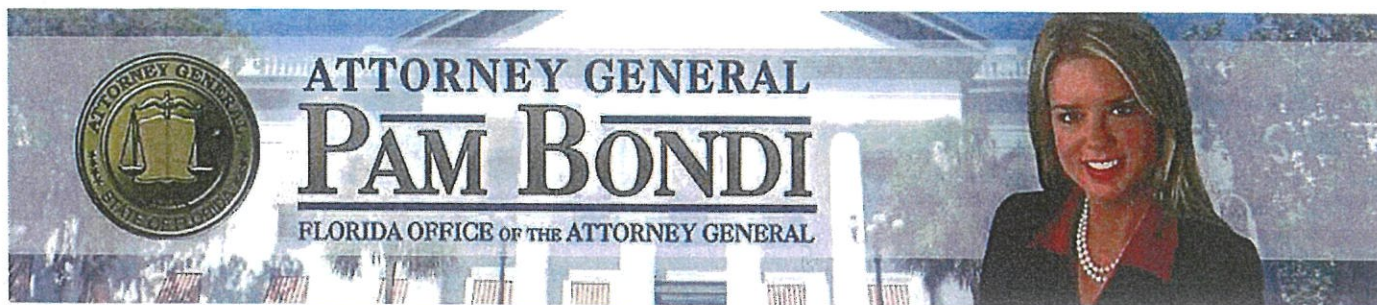
BOARD OF COUNTY COMMISSIONERS  
DIXIE COUNTY, FLORIDA

  
\_\_\_\_\_  
Jami Story, Chairman

ATTEST:



  
Barbie Higginbotham, Clerk-Auditor



## Advisory Legal Opinion - AGO 2012-33

[Print Version](#)

Number: AGO 2012-33

Date: September 19, 2012

Subject: Public Funds, use on private roadway

Mr. Hal A. Airth  
 Attorney at Law  
 Post Office Box 448  
 Live Oak, Florida 32064

RE: PUBLIC FUNDS--PRIVATE PROPERTY--DECLARATION OF EMERGENCY--use of public funds; entry onto private property. s. 252.38, Fla. Stat.; Part I, Ch. 252, Fla. Stat.

Dear Mr. Airth:

On behalf of the Suwannee County Board of County Commissioners, you have asked for my opinion on substantially the following questions:

1. May the County use public funds to repair washouts on private non-roadway property created by water run-off from a public road? Similarly, may the County enter private property and remove materials that were washed from the public roads onto the private property? May the County act in either case with or without a declared local state of emergency?
2. If a sink hole opens on private property then impacts public property, may the County enter the private property to seal the sink hole while repairing the public property? Similarly, if a sink hole opens on public property then runs on to private property, may the County enter and repair the damage to the private property? Is the response different if the work performed on private property is necessary to protect the public property? May the County act in either case with or without a declared local state of emergency?

In sum:

1. In light of the broad language contained in the State Emergency Management Act authorizing local governments to act to protect county

citizens and their property, it is my opinion that county resources may be utilized in this effort and that Suwannee County may dedicate county funds to the repair of washouts on private non-roadway property that have been caused by water run-off from a public roadway. Likewise, public funds could be dedicated to the repair of sinkholes on private property that impact public property. This conclusion is based on the extensive powers delegated to local governments under the State Emergency Management Act and such authority would not extend to the county in the absence of a declared local state of emergency. Further, the Suwannee County Commission must still independently determine that these emergency repairs accomplish a valid public purpose as is required in the State Emergency Management Act.

2. In light of potential for charges of violations of section 810.09, Florida Statutes, this office would suggest, should the Suwannee County Commission determine to commit county manpower to the repair of sinkholes and non-roadway property which affect public property, that the county secure consents from the landowners of such private property to enter and remain on the property while performing emergency repairs.

While you have asked a number of questions relating to washouts and sinkholes, I understand all of these questions to involve two central issues: 1) whether the county is authorized to use public funds to repair private property damaged during an emergency and 2) whether the county may enter onto private property to effect these repairs. Therefore, this discussion is directed to these issues.

#### Question One - Use of Public Funds

According to your letter, Tropical Storm Debby dumped massive amounts of rain in Suwannee County in a short period of time. As a result of that intense rainfall, water flowing off county roads has caused severe washouts on private property. You have drawn my attention to a previously issued opinion of this office, Attorney General Opinion 98-22, in which it was concluded that Citrus County could use county funds to keep private roads passable during a declared state of emergency under section 252.38, Florida Statutes, if the county commission determines that such an expenditure satisfied a county purpose. You have asked whether section 252.38, Florida Statutes, would authorize the county to make the proposed expenditures of public funds when the damage was caused by runoff from public roads. You also ask whether this statutory language would authorize the dedication of public funds to the repair of sinkholes that may have appeared on private property and that impact public property.

It is a basic proposition of Florida law that the expenditure of public funds must be used primarily for a public purpose.[1] Thus, the expenditure of county funds must meet a county purpose, rather than a private purpose.[2] The issue has most frequently occurred in relation to the repair of public roadways and the courts of this state and this office have concluded that public funds may only be spent for the

construction, maintenance, or repair of public roads. [3]

The situation in Attorney General Opinion 98-22, like the situation you have described in Suwannee County, involved a local declaration of emergency pursuant to section 252.38, Florida Statutes, and the county's duties to protect lives and property under such a declaration. The situation presented to this office in Attorney General Opinion 98-22 was a case of first impression and involved Citrus County's attempt to keep private roads passable by supplying assistance to subdivision residents who had requested county assistance in the form of culverts, fill dirt, equipment, and manpower to keep these roads and streets open. In light of the local declaration of emergency and the specific terms of section 252.38, Florida Statutes, this office concluded that Citrus County was statutorily authorized to use county funds to keep private roads passable during a declared state of emergency.

Part I of Chapter 252, Florida Statutes, is the "State Emergency Management Act." [4] The Legislature expressed its intent for the adoption of the act in part as follows:

"It is the intent of the Legislature to reduce the vulnerability of the people and property of this state; to prepare for efficient evacuation and shelter of threatened or affected persons; to provide for the rapid and orderly provision of relief to persons and for the restoration of services and property; and to provide for the coordination of activities relating to emergency preparedness, response, recovery, and mitigation among and between agencies and officials of this state, with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with the private sector."

Pursuant to section 252.34(4)(c), Florida Statutes, specific emergency management responsibilities include "[r]esponse to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency." More specifically, section 252.38(3)(a)1., Florida Statutes, authorizes political subdivisions such as counties "[t]o appropriate and expend funds [and to] provide for the health and safety of persons and property . . . ." Further, a political subdivision, in carrying out its emergency management powers, may "assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment thereof relating to . . . transportation, construction, and similar items or services for emergency operation purposes . . . ." [5] Again, all of these powers are tied to a declared state of emergency under Part I, Chapter 252, Florida Statutes.

In exercising its emergency management powers, a county "has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to . . . [p]erformance of public work and taking whatever prudent action is

necessary to ensure the health, safety, and welfare of the community;" [6] and the "[a]cquisition and distribution, with or without compensation of supplies, materials, and facilities." [7] The county is also authorized to suspend the usual procedures and formalities required for the "[a]ppropriation and expenditure of public funds." [8]

The "State Emergency Management Act" recognizes that "[s]afeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state." [9] Thus, the Legislature has made a determination that, under these extreme conditions, the safeguarding of private property and the expenditure of public funds to do so does satisfy a public purpose.

In light of the broad language contained in the State Emergency Management Act authorizing local governments to act to protect county citizens and their property, it is my opinion that county resources may be utilized in this effort and that Suwannee County may dedicate county funds to the repair of washouts on private non-roadway property that has been caused by water run-off related to a storm emergency. Further, this statutory language would also appear to authorize the dedication of public funds to the repair of sinkholes that may have appeared on private property and impact public property. As my conclusion is based on the extensive powers delegated to local governments under the State Emergency Management Act, this authority would not extend to the county in the absence of a declared local state of emergency. In addition, the Suwannee County Commission must still independently determine that these emergency repairs accomplish a valid public purpose as is required in the State Emergency Management Act. [10] As this office noted in Attorney General Opinion 98-22, county funds may be expended to repair private roads during an emergency declared pursuant to section 252.38, Florida Statutes, "provided that the county first makes appropriate legislative findings as to the purpose of the expenditure and the benefits which would accrue to the county."

#### Question Two - Entry onto Private Property

Both your first and second questions require consideration of whether section 252.38, Florida Statutes, provides authorization for local governmental agents to enter onto private property in order to make emergency repairs. As you have provided me with no specifics regarding the location of the property in question or the ownership of any such property, my comments must be general in nature.

Section 252.38, Florida Statutes, provides for the emergency management powers of political subdivisions. Section 252.38(3), Florida Statutes, states that each political subdivision, in carrying out the provisions of sections 252.31 - 252.90, Florida Statutes, has the power and authority:

"To request state assistance or invoke emergency-related mutual-aid assistance by declaring a state of local emergency in the event of an

emergency affecting only one political subdivision. The duration of each state of emergency declared locally is limited to 7 days; it may be extended, as necessary, in 7-day increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

- a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
- b. Entering into contracts.
- c. Incurring obligations.
- d. Employment of permanent and temporary workers.
- e. Utilization of volunteer workers.
- f. Rental of equipment.
- g. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
- h. Appropriation and expenditure of public funds."

Thus, the Legislature has granted local governments broad powers to deal with declared states of emergency by utilizing public resources. However, despite the broad powers granted, the entry onto private property by governmental agents presents several potential problems for governmental entities and agents.

Under common law theory, every man's land is deemed to be enclosed so that every entry thereon is, except by consent, a trespass.[11] The basis of the wrong lies in the disturbance of possession. This disturbance of possession may result from such acts as the unauthorized cutting and removal of trees[12] or the digging of a trench to carry utility pipes without having a right-of-way.[13]

As described in Florida's statutes relating to burglary and trespass, section 810.09, Florida Statutes, a person who enters upon or remains in any property other than a structure or conveyance[14] without authorization may commit the offence of trespass on property other than a structure or conveyance. Trespass on property other than a structure or conveyance is a first degree misdemeanor. Thus, a local government might well be concerned that its agent's unauthorized entry onto private property either to retrieve public property or to perform repairs could subject both the agency and the agent to liability and criminal prosecution.

In light of possible trespass concerns, this office would suggest, should the Suwannee County Commission determine to commit county manpower to the repair of sinkholes and non-roadway property which affect public property, that the county secure consents[15] from the landowners of such private property to enter and remain on the property while performing such emergency repairs or retrieving county property.

Sincerely,

Pam Bondi  
Attorney General

PB/tgh

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[1] See Art. VII, s. 1, Fla. Const., which by implication limits the imposition of taxes and the expenditure of tax revenue to public purposes.

[2] See Op. Att'y Gen. Fla. 73-222 (1973) and *Collins v. Jackson County*, 156 So. 2d 24 (Fla. 1st DCA 1963) (county not authorized to expend funds to maintain municipal roads which have not been designated as county roads).

[3] See *Padgett v. Bay County*, 187 So. 2d 410 (Fla. 1st DCA 1966); *Collins v. Jackson County*, *supra*; Ops. Att'y Gen. Fla. 75-309 (1975) and 73-222 (1973).

[4] Section 252.31, Fla. Stat., contains the short title.

[5] Section 252.38(3)(a)4., Fla. Stat.

[6] Section 252.38(3)(a)5.a., Fla. Stat.

[7] *Id.* at 5.g.

[8] Section 252.38(3)(a)5.h., Fla. Stat.

[9] Section 252.38, Fla. Stat.

[10] See Ops. Att'y Gen. Fla. 98-22 (1998) and 88-52 (1988) (upon making the appropriate findings that an expenditure of county funds for lobbying serves a county purpose and is in the public interest, the board of county commissioners may expend county funds for lobbying); 86-87 (1987) and 74-227 (1974) (municipal funds may be used to support position on annexation).

[11] See *Harris v. Baden*, 17 So. 2d 608 (Fla. 1944), *Leonard v. Nat Harrison Associates, Inc.*, 122 So. 2d 432 (Fla. 2d DCA 1960).

[12] *National Rating Bureau, Inc. v. Florida Power Corp.*, 94 So. 2d 809 (Fla. 1956).

[13] *Okaloosa County Gas District v. Enzor*, 101 So. 2d 406 (Fla. 1st DCA 1958).

[14] The statute provides that it applies to a structure or conveyance:

"1. As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or

cultivation as described in s. 810.011; or

2. If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass, commits the offense of trespass on property other than a structure or conveyance."

[15] Consent is an absolute defense to an action for trespass provided the consent is given by the possessor of the land or one competent and authorized to give such consent and provided further that the acts of the party accused of the trespass do not exceed, or are not in conflict with, the purposes for which such consent was given. See 55 Fla. Jur. 2d *Trespass* s. 9; *Florida Publishing Co. v. Fletcher*, 340 So. 2d 914 (Fla. 1976), cert. denied, 431 US 930, 53 L.Ed.2d 245, 97 S.Ct. 2634 (U.S. 1977); *Florida Power Corporation v. Parker*, 370 So. 2d 45 (Fla. 1st DCA 1979), cert. denied, 381 So. 2d 766 (Fla. 1980).

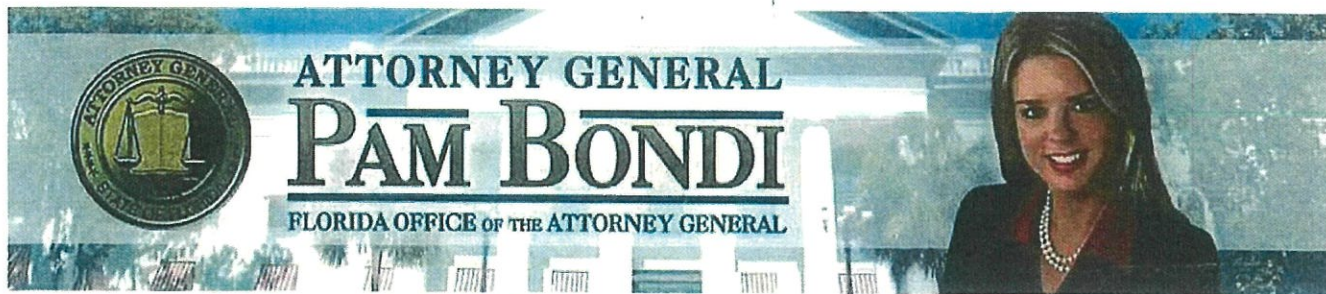
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**Advisory Legal Opinion - AGO 98-22**[Print Version](#)

Number: AGO 98-22

Date: March 19, 1998

Subject: County funds to repair private roads during emergency

Mr. Larry M. Haag  
Citrus County Attorney  
3600 West Sovereign Path  
Room 270  
Lecanto, Florida 34461

RE: COUNTIES--EMERGENCIIES--PUBLIC FUNDS--PRIVATE PROPERTY--use of public funds to repair private roads when county has declared emergency. Part 1, Ch. 252, Fla. Stat.

Dear Mr. Haag:

You have asked for my opinion on substantially the following question:

Is Citrus County authorized to expend county funds to repair private roads during a local emergency declared pursuant to section 252.38, Florida Statutes?

In sum:

Citrus County may use county funds to keep private roads passable during a declared state of emergency under section 252.38, Florida Statutes, if the county commission determines that such an expenditure satisfies a county purpose.

According to your letter, the Withlacoochee River has exceeded flood stage and inundated homes and access roads within a private subdivision in Citrus County. The county has declared a local emergency pursuant to section 252.38, Florida Statutes, and has supplied the residents with remote garbage service, sandbags, and other disaster relief such as having county inmates assist residents in filling and placing sandbags around homes within the subdivision.

Water has covered most access roads in this subdivision and these roads

have gradually become impassable. Subdivision residents have come to the county requesting assistance in the form of culverts, fill dirt, equipment and manpower to keep these roads and streets open. You have asked for assistance in determining whether the county may dedicate county funds to keep these private roads passable during this emergency.

It is a basic tenet of Florida law that the expenditure of public funds must be used primarily for a public purpose.[1] Thus, the expenditure of county funds must meet a county purpose, rather than a private purpose.[2] The courts of this state and this office have concluded that public funds may only be spent for the construction, maintenance, or repair of public roads.[3]

In Attorney General Opinion 79-14, this office concluded that a municipality could not lawfully spend public funds to repair or maintain privately owned roads. Similarly, in Attorney General Opinion 85-101, it was concluded that public money could not be used to maintain and operate a private bridge. In order for a county or other governmental unit to use public funds for the construction, maintenance, or repair of a road, the road must be a "public" road. A "public" road is one open to and set apart for the public, as contrasted to a private road which by its nature is not available to the public and upon which the public has no right to travel.[4]

This office, in Attorney General Opinion 85-90, considered whether special assessments could be levied by a county for making road and drainage improvements in a subdivision in which access to all or portions of the lots was by roads or easements not owned by or dedicated to the public or to the county. It was determined that the improvements would only benefit the private landowners, since the roads and easements were not dedicated to or owned by the public or the county. Considering that Article VII, section 1, Florida Constitution, limits the imposition of taxes and the spending of tax revenues to public purposes, it was concluded that such expenditures would not, therefore, be authorized.[5]

In Attorney General Opinion 92-42, this office determined that a county was not authorized to expend county funds to repair and maintain private roads, regardless of an agreement allowing school buses to travel on the roads to transport the children of the landowners. As noted in that opinion:

"The existence of a contract to provide road maintenance and repair to roads used by the county school system would not operate to allow maintenance and repair on otherwise private roads. While the nature of a road as "private" or "public" is ultimately a mixed question of fact and law which must be resolved by a court of competent jurisdiction, it does not appear that the agreements between the landowners and the school board allow the public to freely travel on the subject driveways, nor are the roadways or easements dedicated or deeded to the

County, such that the roadways would be 'public.'" [6]

Thus, the opinion concludes that private driveways upon which the public did not have a right to travel were not public roadways or easements which could be maintained or repaired by the county using county funds.

While it is clear that this office has traditionally taken a conservative approach to the expenditure of public funds for private road repair, the situation in Citrus County involves a declaration of emergency pursuant to section 252.38, Florida Statutes, and the county's duties to protect lives and property under such a declaration. This factual situation is one which this office has not previously considered.

Part I of Chapter 252, Florida Statutes, is the "State Emergency Management Act" (hereafter, the act). The legislative intent and purpose for adoption of the act was "to ensure that preparations of this state will be adequate to deal with, reduce vulnerability to, and recover from such emergencies and disasters; to provide for the common defense and to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state." [7]

Pursuant to section 252.34(4)(c), Florida Statutes, specific emergency management responsibilities include "[r]esponse to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency." More specifically, section 252.38(3)(a)1., Florida Statutes, authorizes political subdivisions such as counties "[t]o appropriate and expend funds [and to] provide for the health and safety of persons and property . . . ." Further, a political subdivision, in carrying out its emergency management powers may "assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment thereof relating to . . . transportation, construction, and similar items or services for emergency operation purposes . . . ." [8]

Finally, in exercising its emergency management powers a county "has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to . . . [p]erformance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community." [9] The county is also authorized to suspend the usual procedures and formalities required for the "[a]ppropriation and expenditure of public funds." [10]

The "State Emergency Management Act" recognizes that "[s]afeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state." [11] Thus, the Legislature has made a determination that, under these extreme conditions, the safeguarding of private property does satisfy a

public purpose. [12]

In light of the broad language contained in the act authorizing local governments to act swiftly to protect county citizens and their property, it is my conclusion that county resources may be utilized in this effort and that Citrus County may dedicate county funds to keeping private roads passable during this declared state of emergency. However, this power to act with expediency during an emergency should not be understood as an adoption of these roads as county roads or to authorize the ongoing repair or maintenance of private roads. Further, the county commission must still independently determine that the emergency repair of these private roads accomplishes a valid public purpose as described in the State Emergency Management Act. [13]

Therefore, it is my opinion that Citrus County may expend county funds to repair private roads during a local emergency declared pursuant to section 252.38, Florida Statutes, provided that the county first makes appropriate legislative findings as to the purpose of the expenditure and the benefits which would accrue to the county.

Sincerely,

Robert A. Butterworth  
Attorney General

RAB/tgh

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[1] See Art. VII, s. 1, Fla. Const., which by implication limits the imposition of taxes and the expenditure of tax revenue to public purposes.

[2] See Op. Att'y Gen. Fla. 73-222 (1973) and *Collins v. Jackson County*, 156 So. 2d 24 (Fla. 1st DCA 1963) (county not authorized to expend funds to maintain municipal roads which have not been designated as county roads).

[3] See *Padgett v. Bay County*, 187 So. 2d 410 (Fla. 1st DCA 1966); *Collins v. Jackson County*, *supra*; Ops. Att'y Gen. Fla. 75-309 (1975) and 73-222 (1973).

[4] See Op. Att'y Gen. Fla. 78-88 (1978) (where county has formally or informally or by public user accepted an offer of public dedication of subdivision roads which have been designated as public roads on a recorded plat, the county may expend public funds on such roads which are in fact used or to be used as county roads).

[5] See also *Atlantic Coast Line R. Co. v. City of Lakeland*, 115 So. 669, 676 (Fla. 1927), in which the court concluded there is no provision in the State Constitution which authorizes a municipality to

tax a citizen to make improvements for his own benefit; it must be for a public purpose or it is not a legitimate exercise of the taxing power; and *Brumby v. City of Clearwater*, 149 So. 203 (Fla. 1933) (no authority for the expenditure of public money to dredge a canal leading to an individual's place of business).

[6] See *Brumby*, *supra* at 204, in which the Court found that the municipality did not possess the authority to enter into a contract to provide the dredging services to benefit the private landowner. See, e.g., Ops. Att'y Gen. Fla. 78-63 (1978), 75-309 (1975), and 74-176 (1974). Cf. Op. Att'y Gen. Fla. 83-84 (1983) (when access to and common use of roads on private property is not generally available to the public, but is legally limited by recorded restrictive covenants to those having express or implied permission from the owner, uniform traffic laws in Ch. 316, Fla. Stat., may not be enforced by a municipal police department on such "private" roads).

[7] Section 252.32(1), Fla. Stat.

[8] Section 252.38(3)(a)4., Fla. Stat.

[9] Section 252.38(3)(a)5.a., Fla. Stat.

[10] Section 252.38(3)(a)5.h., Fla. Stat.

[11] Section 252.38, Fla. Stat.

[12] Cf. Op. Att'y Gen. Fla. 96-50 (1996) in which this office noted that the Legislature, by creating the Technology Development Board and granting it the authority to invest its funds in private entities in order to advance technological business in the state and make the state more technologically competitive, has determined that such expenditures fulfill a public purpose; and *State v. Florida Development Finance Corporation*, 650 So. 2d 14 (Fla. 1995).

[13] See, e.g., Ops. Att'y Gen. Fla. 88-52 (1988) (upon making the appropriate findings that an expenditure of county funds for lobbying serves a county purpose and is in the public interest, the board of county commissioners may expend county funds for lobbying); 86-87 (1986) and 74-227 (1974) (municipal funds may be used to support position on annexation).

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# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 21-150 (Emergency Management – Tropical Storm Elsa)

**WHEREAS**, as of 8:30 AM EDT on July 2, 2021, the National Hurricane Center reported that Tropical Storm Elsa had strengthened into a Category 1 Hurricane; and

**WHEREAS**, as of 8:00 AM EDT on July 3, 2021, Hurricane Elsa was located 110 miles southeast of Isla Beata, Dominican Republic; and

**WHEREAS**, as of 11:30 AM EDT on July 3, 2021, Elsa slightly decreased in strength and was redesignated to a Tropical Storm.

**WHEREAS**, the National Hurricane Center reported Elsa has maximum sustained winds of almost 75 miles per hour and could restrengthen once in the Gulf of Mexico to return to hurricane strength; and

**WHEREAS**, the National Hurricane Center predicts Elsa could affect the Florida Keys and portions of the South Florida Peninsula as early as Monday; and

**WHEREAS**, there is a risk of dangerous storm surge, heavy rainfall, flash flooding, strong winds, hazardous seas, and the potential for isolated tornadic activity for the Florida Keys and much of Florida's Peninsula; and

**WHEREAS**, Miami-Dade County is currently under a state of emergency for the structural collapse of a residential condominium located at 8777 Collins Avenue in Surfside, Florida which has resulted in multiple fatalities and approximately 126 people unaccounted for; and

**WHEREAS**, the threat posed by Elsa requires that timely precautions are taken to protect the communities, critical infrastructure, and general welfare of Florida; and

**WHEREAS**, as Governor, I am responsible to meet the dangers presented to Florida and its people by this emergency.

**NOW, THEREFORE, I, RON DESANTIS**, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, I declare that a state of emergency exists in Charlotte, Citrus, Collier, DeSoto, Hardee, Hernando, Hillsborough, Lee, Levy, Manatee, Miami-Dade, Monroe, Pasco, Pinellas, and Sarasota Counties.

Section 2. I designate the Director of the Division of Emergency Management (“Director”) as the State Coordinating Officer for the duration of this emergency and direct him to execute the State’s Comprehensive Emergency Management Plan and other response, recovery, and mitigation plans necessary to cope with the emergency. Pursuant to section 252.36(1)(a), Florida Statutes, I delegate to the State Coordinating Officer the authority to exercise those powers delineated in sections 252.36(5)-(10), Florida Statutes, which he shall exercise as needed to meet this emergency, subject to the limitations of section 252.33, Florida Statutes. In exercising the powers delegated by this Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. The State Coordinating Officer shall also have the authority to:

A. Invoke and administer the Emergency Management Assistance Compact (“EMAC”) (sections 252.921-252.9335, Florida Statutes) and other compacts and agreements existing between the State of Florida and other states, and the further authority to coordinate the allocation of resources from such other states that are made available to Florida under such compacts and agreements so as best to meet this emergency.

B. Seek direct assistance and enter into agreements with any and all agencies of the United States Government as may be needed to meet the emergency.

C. Direct all state, regional and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the response, recovery, and mitigation needs created by this emergency, and to place all such personnel under the direct command and coordination of the State Coordinating Officer to meet this emergency.

D. Direct the actions of any state agency as necessary to implement the Federal Emergency Management Agency's National Disaster Recovery Framework.

E. Designate additional Deputy State Coordinating Officers and Deputy State Disaster Recovery Coordinators, as necessary.

F. Suspend the effect of any statute, rule, or order that would in any way prevent, hinder, or delay any mitigation, response, or recovery action necessary to cope with this emergency.

G. Enter orders as may be needed to implement any of the foregoing powers; however, the requirements of sections 252.46 and 120.54(4), Florida Statutes, do not apply to any such orders issued by the State Coordinating Officer. No such order shall remain in effect beyond the expiration of this Executive Order, to include any extension.

Section 3. I order the Adjutant General to activate the Florida National Guard, as needed, to deal with this emergency.

Section 4. I find that the special duties and responsibilities resting upon some State, regional, and local agencies and other governmental bodies in responding to the emergency may require them to suspend the application of the statutes, rules, ordinances, and orders they administer. Therefore, I issue the following authorizations:



A. Pursuant to section 252.36(5)(a), Florida Statutes, the Executive Office of the Governor may suspend all statutes and rules affecting budgeting to the extent necessary to provide budget authority for state agencies to cope with this emergency. The requirements of sections 252.46 and 120.54(4), Florida Statutes, do not apply to any such suspension issued by the Executive Office of the Governor; however, no such suspension shall remain in effect beyond the expiration of this Executive Order, to include any extension.

B. Each State agency may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of that agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency. This includes, but is not limited to, the authority to suspend any and all statutes, rules, ordinances, or orders which affect leasing, printing, purchasing, travel, and the condition of employment and the compensation of employees. For the purposes of this Executive Order, "necessary action in coping with the emergency" means any emergency mitigation, response, or recovery action: (1) prescribed in the State Comprehensive Emergency Management Plan ("CEMP"); or (2) ordered by the State Coordinating Officer or designee. The requirements of sections 252.46 and 120.54(4), Florida Statutes, shall not apply to any such suspension issued by a State agency; however, no such suspension shall remain in effect beyond the expiration of this Executive Order, to include any extension.

C. In accordance with section 252.38, Florida Statutes, each political subdivision within the State of Florida may waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;

2) Following local procurement and contracting policies;

3) Entering into contracts; however, political subdivisions are cautioned against entering into time and materials contracts without a ceiling as defined by 2 CFR 200.318(j) or cost plus percentage contracts as defined by 2 CFR 200.323(d);

4) Incurring obligations;

5) Employment of permanent and temporary workers;

6) Utilization of volunteer workers;

7) Rental of equipment;

8) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and

9) Appropriation and expenditure of public funds.

D. All agencies whose employees are certified as disaster service volunteers within the meaning of section 110.120(3), Florida Statutes, may release any such employees for such service as requested by the employee to meet this emergency.

E. The Secretary of the Florida Department of Transportation (DOT) may:

1) Waive the collection of tolls and other fees and charges for the use of the Turnpike and other public highways, to the extent such waiver may be needed to provide emergency assistance or facilitate the evacuation of the affected counties;

2) Reverse the flow of traffic or close any and all roads, highways, and portions of highways as may be needed for the safe and efficient transportation of evacuees to those counties that the State Coordinating Officer may designate as destination counties for evacuees in this emergency;

3) Suspend enforcement of the registration requirements pursuant to sections 316.545(4) and 320.0715, Florida Statutes, for commercial motor vehicles that enter Florida to

provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida;

4) Waive the hours of service requirements for such vehicles;

5) Waive by special permit the warning signal requirements in the Utility Accommodations Manual to accommodate public utility companies from other jurisdictions which render assistance in restoring vital services; and

6) Waive the size and weight restrictions for divisible loads on any vehicles transporting emergency equipment, services, supplies, and agricultural commodities and citrus as recommended by the Commissioner of Agriculture, allowing the establishment of alternate size and weight restrictions for all such vehicles for the duration of the emergency. The DOT shall issue permits and such vehicles shall be subject to such special conditions as the DOT may endorse on any such permits.

Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, or relieve any vehicle or the carrier, owner, or driver of any vehicle from compliance with any restrictions other than those specified in this Executive Order, or from any statute, rule, order, or other legal requirement not specifically waived or suspended herein or by supplemental order by the State Coordinating Officer.

F. The Executive Director of the Department of Highway Safety and Motor Vehicles (DHSMV) may:

1) Suspend enforcement of the registration requirements pursuant to sections 316.545(4) and 320.0715, Florida Statutes, for commercial motor vehicles that enter Florida to provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida;

2) Waive the hours of service requirements for such vehicles;

3) Suspend the enforcement of the licensing and registration requirements under the International Fuel Tax Agreement (IFTA) pursuant to chapter 207, Florida Statutes, and the International Registration Plan (IRP) pursuant to section 320.0715, Florida Statutes, for motor carriers or drivers operating commercial motor vehicles that are properly registered in other jurisdictions and that are participating in emergency relief efforts through the transportation of equipment and supplies or providing other assistance in the form of emergency services;

4) Waive fees for duplicate or replacement vessel registration certificates, vessel title certificates, vehicle license plates, vehicle registration certificates, vehicle tag certificates, vehicle title certificates, handicapped parking permits, replacement drivers' licenses, and replacement identification cards and to waive the additional fees for the late renewal of or application for such licenses, certificates, and documents due to the effects of adverse weather conditions; and

5) Defer administrative actions and waive fees imposed by law for the late renewal or application for the above licenses, certificates, and documents, which were delayed due to the effects of adverse weather conditions, including in counties wherein the DHSMV has closed offices, or any office of the County Tax Collector that acts on behalf of the DHSMV to process renewals has closed offices due to adverse weather conditions.

Recordkeeping and other applicable requirements for existing IFTA and IRP licensees and registrants are not affected by this Executive Order. The DHSMV shall promptly notify the State Coordinating Officer when the waiver is no longer necessary.

G. In accordance with section 465.0275, Florida Statutes, pharmacists may dispense up to a 30-day emergency prescription refill of maintenance medication to persons who reside in an area or county covered under this Executive Order and to emergency personnel who

have been activated by their state or local agency but who do not reside in an area or county covered by this Executive Order.

H. All State agencies responsible for the use of State buildings and facilities may close such buildings and facilities in those portions of the State affected by this emergency, to the extent to meet this emergency. I direct each State agency to report the closure of any State building or facility to the Secretary of the Department of Management Services. Under the authority contained in section 252.36, Florida Statutes, I direct each county to report the closure of any building or facility operated or maintained by the county or any political subdivision therein to the Secretary of the Department of Management Services. Furthermore, I direct the Secretary of the Department of Management Services to:

- 1) Maintain an accurate and up-to-date list of all such closures; and
- 2) Provide that list daily to the State Coordinating Officer.

I. All State agencies may abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such application are deemed to be approved unless disapproved in writing by specified deadlines, and all such time requirements that have not yet expired as of the date of this Executive Order are suspended and tolled to the extent needed to meet this emergency.

J. All agencies shall implement Select Exempt Services (SES) Extraordinary Payment Plans and Career Service Regular Compensatory Leave Payment Plans for:

- 1) All essential agency personnel who are required to work extraordinary hours when state-owned or state-operated facilities are closed in response to an emergency condition;

2) All agency personnel who are assigned to the State Emergency Operations Center and are required to work extraordinary hours; and

3) All agency personnel who are deployed throughout the state in response to an emergency condition and are required to work extraordinary hours.

K. All State agencies may waive the forty-day time limit to issue a warrant pursuant to section 215.422 (3)(b), Florida Statutes. This waiver applies to invoices and reimbursement requests that were received, inspected, and approved by the agency within forty days of the issuance of this Executive Order. This waiver applies to all invoices and reimbursements arising from the state of emergency. This waiver of section 215.422(3)(b), Florida Statutes, and all waivers based upon this waiver shall expire sixty days following the issuance of this Executive Order.

L. Section 934.50, Florida Statutes, is waived for state and local agencies conducting emergency operations arising from the state of emergency for the limited purpose of capturing aerial evidence concerning the amount of damage sustained to private and public property; to assist in search, rescue, and recovery activities; and prevent imminent danger to life or serious damage to property. This waiver of section 215.422 (3)(b), Florida Statutes, and all waivers based upon this waiver shall expire thirty days following the issuance of this Executive Order with no extension.

Section 5. All public facilities, including elementary and secondary schools, community colleges, state universities, and other facilities owned or leased by the state, regional or local governments that are suitable for use as public shelters shall be made available at the request of the local emergency management agencies to ensure the proper reception and care of all evacuees. Under the authority contained in section 252.36, Florida Statutes, I direct the Superintendent of each public school district in the State of Florida to report the closure of any school within its

district to the Commissioner of the Florida Department of Education. Furthermore, I direct the Commissioner of the Department of Education to:

- A. Maintain an accurate and up-to-date list of all such closures; and
- B. Provide that list daily to the State Coordinating Officer.

Section 6. I find that the demands placed upon the funds appropriated to the agencies of the State of Florida and to local agencies are unreasonably great and may be inadequate to pay the costs of coping with this disaster. In accordance with section 252.37(2), Florida Statutes, I direct that sufficient funds be made available, as needed, by transferring and expending moneys appropriated for other purposes, moneys from unappropriated surplus funds, or from the Budget Stabilization Fund.

Section 7. All state agencies entering emergency final orders or other final actions in response to this emergency shall advise the State Coordinating Officer contemporaneously or as soon as practicable.

Section 8. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by states other than the State of Florida may render such services in Florida during this emergency for persons affected by this emergency with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross or the Florida Department of Health.

Section 9. Pursuant to section 501.160, Florida Statutes, it is unlawful and a violation of section 501.204, Florida Statutes, for a person to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency.

Section 10. Under the authority contained in sections 252.36(5)(a), (g), and (m), Florida Statutes, I direct that, for the purposes of this emergency, the term “essentials”, as defined by section 252.359(2), Florida Statutes, shall be the same as and no more expansive than the term “commodity”, as defined by section 501.160(1)(a), Florida Statutes (hereinafter referred to collectively or alternatively as “essential commodities”). Accordingly, any person who delivers essential commodities to a location in the area(s) declared to be under a state of emergency by this Executive Order, and when necessary to ensure that those commodities are made available to the public, may travel within evacuated areas and exceed curfews, provided the State Coordinating Officer determines, after consultation with the appropriate Emergency Support Function(s), that:

A. Law enforcement officials in the declared area(s) can provide adequate security to protect the essential commodities from theft;

B. The weight of a delivery vehicle will not jeopardize the structural integrity of any roadway or bridge located within the declared area;

C. Delivery vehicles will not negatively impact evacuation activities in the declared area(s); and

D. Delivery vehicles will not negatively impact any response or recovery activities occurring within the declared area(s).

After consulting with the appropriate Emergency Support Function(s), and after consulting with local officials, the State Coordinating Officer may dictate the routes of ingress, egress, and movement within the declared area(s) that drivers must follow when delivering essential commodities.

Provided he or she is actually delivering medications, any person authorized to deliver medications under chapter 893, Florida Statutes, qualifies as a person delivering essential commodities.



In order to qualify as a person delivering essential commodities under this section, a person must be in the process of delivering essential commodities only. If an individual is transporting both essential and non-essential commodities, then this section shall not provide any authorization for that individual to enter into or move within the declared area(s).

Section 11. Consistent with Executive Order 80-29, nothing in this Executive Order shall prevent local jurisdictions in any area not declared to be under a state of emergency by this Executive Order from taking prompt and necessary action to save lives and protect the property of their citizens, including the authority to compel and direct timely evacuation when necessary.

Section 12. I authorize the Florida Housing Finance Corporation to distribute funds pursuant to section 420.9073, Florida Statutes, to any county, municipality, or other political subdivision located within the area(s) declared to be under a state of emergency by this Executive Order. The authority of the Florida Housing Finance Corporation to distribute funds under this state of emergency shall expire six months from the expiration of this Executive Order, to include any extension.

Section 13. All actions taken by the Director of the Division of Emergency Management with respect to this emergency before the issuance of this Executive Order are ratified. This Executive Order shall expire sixty days from this date unless extended.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 3<sup>rd</sup> day of July, 2021.

GOVERNOR

ATTEST:

*Laurel M. Lee*

SECRETARY OF STATE

DEPARTMENT OF STATE  
TALLAHASSEE, FL  
JUL -3 PM 12:16

RECEIVED

# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR

### EXECUTIVE ORDER NUMBER 21-151

(Amending Executive Order 21-150, Emergency Management – Tropical Storm Elsa)

**WHEREAS**, on July 3, 2021, I issued Executive Order No. 21-150 and declared a state of emergency exists for several counties on the West and South coast of Florida due to Tropical Storm Elsa; and

**WHEREAS**, as 11:00 AM EST, Tropical Storm Elsa is approximately 215 miles south of Key West, Florida and moving northwest, altering the forecasted counties that will be impacted within the State of Florida; and

**WHEREAS**, there is an increasing threat to the Florida Big Bend and inland counties in North Florida; and

**WHEREAS**, the Florida Division of Emergency Management, working together with the National Hurricane Center to evaluate weather predictions, has determined there is a risk of dangerous storm surge, heavy rainfall, flash flooding, strong winds, hazardous seas, and the potential for isolated tornadic activity for the Florida Keys, western portions of the Florida's Peninsula and portions of the Florida Big Bend; and

**WHEREAS**, the threat posed by Tropical Storm Elsa requires that timely precautions are taken to protect the communities, critical infrastructure, and general welfare of Florida; and

**WHEREAS**, as Governor, I am responsible to meet the dangers presented to Florida and its people by this emergency.

**NOW, THEREFORE, I, RON DESANTIS**, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida

Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. Section 1 of Executive Order 21-150 is amended to include the following counties in the state of emergency: Alachua, Columbia, Dixie, Franklin, Hamilton, Gilchrist, Jefferson, Lake, Lafayette, Madison, Marion, Sumter, Suwannee, Taylor and Wakulla. Section 1 of Executive Order 21-150 is amended to remove the following counties from the state of emergency: DeSoto, Hardee and Miami-Dade.

Section 2. Except as amended herein, Executive Order 21-150 is ratified and reaffirmed.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 5<sup>th</sup> day of July, 2021.

GOVERNOR

ATTEST:

SECRETARY OF STATE

2021 JUL -5 PM 1:55  
DEPARTMENT OF STATE  
TALLAHASSEE, FL

FILED