

***Regular Meeting  
Dixie County Courthouse  
Commission Board Room  
214 NE Hwy 351, Cross City, FL 32628  
November 18, 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  
Mark Hatch, District 3  
Jamie Storey, District 4, Chairman  
James Valentine, District 5

**STAFF**

Duane Cannon, County Manager  
Paul Gainey, Asst. 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 6:00 PM by Commissioner Storey. He then turned the meeting over to the County Manager.

**ANNUAL ORGANIZATIONAL MEETING**

County Manager Duane Cannon called the Organizational Meeting to order and requested the Board chose a Chairman and a Vice-Chairman to officiate over next year's proceedings. He also requested they continue the Board Meetings to be held on the first Thursday of each month at 10:00 AM and the third Thursday of each month at 6:00 PM.

***Commissioner Hatch made the motion to nominate Jamie Storey as Chairman. Commissioner Valentine seconded. Board approved.***

*Commissioner Hatch made the motion to nominate W. C. Mills as Vice-Chairman. Commissioner Stephenson seconded. Board approved.*

*Commissioner Mills made the motion to approve the Board meetings to continue to be held on the first Thursday of each month at 10:00 AM and the third Thursday of each month at 6:00 PM. Commissioner Hatch seconded.*

#### **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 Mills.

#### **APPROVAL OF COMMISSION MINUTES**

*Commissioner Stephenson made the motion to table Minutes from the Final Budget Meeting of September 27, 2021. Commissioner Hatch seconded. Board tabled.*

*Commissioner Stephenson made the motion to table Minutes from the Special Meeting Documents 2020 of October 07, 2021. Commissioner Hatch seconded. Board tabled.*

*Commissioner Stephenson made the motion to table Minutes from the Regular Meeting of October 07, 2021. Commissioner Hatch seconded. Board tabled.*

#### **VOUCHER APPROVAL**

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

#### **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.**

*The motion to go into the Public Hearings was made by Commissioner Mills. Seconded by Commissioner Hatch. Board approved.*

A petition by **Edward Hines** requesting a *Special Exception* to be granted, as provided in Section 4.3.5 Special Exceptions: number (4) Campgrounds of less than 100 campsites of the Dixie County Land Development Regulations ESA zoning district, in accordance with the petition dated 04/21/2021 to be located on the property as described as follows: Dixie County Parcel # 34-08-10-0000-0234-0000 (706 SW 649 St., Steinhatchee FL. 32359; 0). (Commission District 5, James Valentine

Ms. Julie Herring appeared before the Board and read the special exception request made by Edward Hines. She said there was no opposition.

***Commissioner Valentin made the motion to approve the special exception request made by Edward Hines. Commissioner Hatch seconded. Board approved.***

A petition by **Johnny Taylor** 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 (ESA) zoning district, in accordance with the petition dated 08/13/2021 to be located on the property as described as follows: Dixie County Parcel # 06-10-10-0428-0000-0210 (1615 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 Johnny Taylor. She said there was no opposition.

***Commissioner Valentine made the motion to approve the special exception request made by Johnny Taylor. Commissioner Stephenson seconded. Board approved.***

A petition by **Antoinette Rachel Halderbough** 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 (ESA) zoning district, in accordance with the petition dated 09/03/2021 to be located on the property as described as follows: Dixie County Parcel # 24-09-13-4053-0026-0080 (184 NE 433 Ave, Old Town, FL 32680; 0). (Commission District 1, Jody Stephenson)

Ms. Julie Herring appeared before the Board and read the special exception request made by Antoinette Halderbough. She said there was no opposition.

Building Official Leon Wright said this had been previously tabled.

***Commissioner Stephenson made the motion to approve the special exception request made by Antoinette Halderbough. Commissioner Mills seconded. Board approved.***

A petition by **Gary & Cindy Blanton** requesting 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 (RSF/MH) zoning district, in accordance with the petition dated 09/17/2021 to be located on the property as described as follows: Dixie County Parcel # 19-13-12-2952-000C-0060 (245 SE 240th St, 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 Gary & Cindy Blanton.

Commissioner Hatch said he is aware of some opposition.

Mr. Gary Blanton spoke to the Board and said he purchased the property and is making improvements. He said they would like to park his fifth-wheel camper there. He said in three to five years they would like to have a house. He said he has a lot of money tied up in this venture.

James Ward said he bought this property at a tax deed and sold the property. He said several of the neighbors are okay with this.

Commissioner Stephenson asked is this lot vacant.

Mr. Ward replied the property had a dwelling and grinder and power pole.

Commissioner Mills asked why Mr. Sewell opposes this.

Commissioner Stephenson asked how to be fair to everyone. He said another petition was previously denied on this same street.

Mr. Mark Wright spoke to the Board about the issue with the RV. He said the taxes for the RV will be much lower in comparison to a homeowner's taxes.

Commissioner Storey asked him to clarify if he was opposed to the camper or the amount of taxes paid on the property.

Mr. Wright said he opposes the camper.

Ms. Jessica Wright spoke to the Board and said they can camp at a RV campground while they are building. She said there are other places to stay while building their home.

Mr. James Sewell spoke to the Board against the RV. He said he did receive his notification letter from Building and Zoning about the petition. He said this petition is not in character with the LDR.

Commissioner Hatch said there are ten campers in this same neighborhood. He said the other property was denied because it was a company owned property not an individual owned property.

*Commissioner Hatch made the motion to table this the special exception request made by Gary & Cindy Blanton for two weeks until the next Board meeting on December 02, 2021. Commissioner Stephenson seconded. Board tabled.*

Commissioner Mills asked if Mr. Sewell would still oppose the petition if the Blanton's were building a home.

Mr. Sewell replied no.

Ms. Cindy Blanton spoke to the Board and said that she had spoken with Mr. Sewell and he said his family wants to build behind my property.

A petition by **Steven J. Phelps** requesting 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 (RSF/MH) zoning district, in accordance with the petition dated 09/28/2021 to be located on the property as described as follows: Dixie County Parcel # 19-13-12-2994-0000-1080 (19 SE 230 St, 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 Steven Phelps. She said there was no opposition.

***Commissioner Hatch made the motion to approve the special exception request made by Steven Phelps. Commissioner Stephenson seconded. Board approved.***

A petition by **Duane Martin** requesting a *Special Exception* to be granted, as provided in Section 4.4.5 subparagraph (9) of the Dixie County Land Development Regulations to permit one recreational vehicle (A4) zoning district, in accordance with the petition dated 10/07/2021 to be located on the property as described as follows: Dixie County Parcel # 27-09-13-4468-0000-0320 (1329 NE 642 St, Old Town, FL. 32680; 0). (Commission District 2, W.C. Mills)

Ms. Julie Herring appeared before the Board and read the special exception request made by Duane Martin. She said there was no opposition.

***Commissioner Mills made the motion to approve the special exception request made by Duane Martin. Commissioner Hatch seconded. Board approved.***

A petition by **Henry Scheuermann** 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 (ESA) zoning district, in accordance with the petition dated 10/07/2021 to be located on the property as described as follows: Dixie County Parcel # 02-10-13-4513-000E-0140 (566 NE 673rd St, Old Town, FL. 32680; 0). (Commission District 2, W.C. Mills)

Ms. Julie Herring appeared before the Board and read the special exception request made by Henry Scheuermann. She said there was no opposition.

***Commissioner Mills made the motion to approve the special exception request made by Henry Scheuermann. Commissioner Stephenson seconded. Board approved.***

A petition by **Cedric Corl** requesting a *Special Exception* to be granted, as provided in Section 4.4.5 subparagraph (9) of the Dixie County Land Development Regulations to permit one recreational vehicle (A4) zoning district, in accordance with the petition dated 10/18/2021 to be

located on the property as described as follows: Dixie County Parcel # 28-09-13-4474-0000-0090 (1171 NE 575 St, Old Town, FL. 32680; 0).  
(Commission District 4, Jamie Storey)

Ms. Julie Herring appeared before the Board and read the special exception request made by Cedric Corl. She said there was no opposition.

***Commissioner Stephenson made the motion to approve the special exception request made by Cedric Corl. Commissioner Valentine seconded. Board approved.***

A petition by **Geoffrey Eckenberg** 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 (ESA) zoning district, in accordance with the petition dated 10/22/2021 to be located on the property as described as follows: Dixie County Parcel # 12-09-13-4006-0000-0120 (1618 NE 808 Ss , Old Town, Fl 32680; 0).  
(Commission District 1, Jody Stephenson)

***Mr. Geoffrey Eckenberg requested to remove his petition from the Agenda.***

Building Official Leon Wright said that the petitioner has requested to remove this item from the Agenda.

Commissioner Stephenson asked Mr. Eckenberg if he was going to rent this property. Mr. Eckenberg replied no.

Mr. Wright informed the Board that previously, at the second meeting in October, this was discussed. He said this was a camper that burnt down. He said Mr. Eckenberg wanted to get the power back on. He said this was a code enforcement case. He said the Property Appraiser has this listed as a mobile home. He said that Ms. Mary Hurst had requested a permit back in 2003. He said that we cannot find any Resolution to support this RV Special Exception. He said there were previous complaints with code enforcement on this property. He said the Board had agreed to advertised this at no charge to Mr. Eckenberg however, he would not sign the application. He said that Mr. Eckenberg has requested to remove his petition from the docket. Mr. Wright said the Board wants to help him, but he needs supporting documentation.

Mr. Geoffrey Eckenberg spoke to the Board and said he understood this was agreed upon on October 21. He said he then found a document from April 2021 acknowledging the permit. He said he then got a voicemail from Ms. Julie Herring on November 01, 2021 requesting he fill out the application form. He asked that he be removed from the Agenda. He stated he is upset that his name was in the newspaper regarding this permit process.

Commissioner Hatch said that everyone agreed to help you as a hardship and waive fees and readvertise this to help Mr. Eckenberg. He said since Mr. Eckenberg has found the permit. He should pay the renewal fee or lose the permit. He said that Mr. Eckenberg agreed to re do this process.

Mr. Eckenberg said he is still paying for power from the electric company when it is not turned on.

Commissioner Hatch said there is multiple code enforcement violations on this property.

County Attorney Michael Osteen asked Mr. Eckenberg if he wanted to remove his request from the Agenda or have the Board hear his request and make a decision and take a vote.

Mr. Wright asked that they clarify the annual \$300.00 renewal for RV Special Exceptions has been voted on and passed by the Board.

Attorney Osteen asked Mr. Eckenberg if he wants to remove his request from the Agenda. Mr. Eckenberg replied yes.

Attorney Osteen requested that the minutes reflect that this item has been removed from the Agenda at the request of Mr. Eckenberg.

Mr. Wright recommended the Board charge the fees if Mr. Eckenberg wants to do this over again.

***Commissioner Stephenson made the motion to charge the fees if Mr. Eckenberg decides to do this process again. Commissioner Mills seconded. Board approved.***

A petition by **Verizon Wireless** requesting a ***Special Exception*** to be granted, as provided in Section 14.13.5 subparagraph (8) of the Dixie County Land Development Regulations to permit a wireless telecommunications tower in an commercial general "cg" , zoning district, in accordance with the petition dated 10/28/2021 to be located on the property as described as follows: Dixie County Parcel # 10-10-12-0000-2595-0200 (17582 SE US HWY 19, Cross City Fl. ; 0). (Commission District 3, Mark Hatch)

Ms. Julie Herring appeared before the Board and read the special exception request made by Verizon Wireless.

Ms. Linda Brock spoke to the Board in opposition of this tower. She asked why this 8.5-acre property on Hwy 19 location was chosen.

Mr. Wright said this tower was originally designed to be behind the Dixie County Jail. He said the EOC property location is better because of the fiber optics.

Attorney Osteen said this is a mono tower and it is very small compared to other cell towers.

Mr. Wright said the base is eight feet in diameter and it is 155 feet tall.

County Manager Duane Cannon said this is a lease agreement.

Ms. Brock asked if this tower would help anyone else.

Commissioner Hatch replied yes. He asked if she was still opposed.

Mr. Wright said the older towers were 400 feet high. He said they now need more smaller towers to help deliver the 4g and 5g data service.

Ms. Brock said she was still opposed.

***Commissioner Stephenson made the motion to approve the Special Exception requested by Verizon Wireless. Commissioner Hatch seconded.***

Ms. Shimrit Hanes spoke to the Board and asked how many people live near the tower. She said she fears that it causes illness.

Director Brown said this is needed for better service in Cross City. He said this would help the telemedicine program as well.

***Commissioner Stephenson made the motion to approve the Special Exception requested by Verizon Wireless. Commissioner Hatch seconded. Board approved.***

A petition by **Linda Musgrove** located on the property as described as follows: Dixie County Parcel # 16-13-12-2927-0000-1290 (105 SE 851 Ave, Old Town, FL 32680) to request a **variance** for a reduce setback on north side of property (lot 129) from 25 feet to 10 feet by the petition dated 09/27/2021 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 special exception request made by Linda Musgrove. She said there was no opposition.

***Commissioner Hatch made the motion to approve the special exception request made by Linda Musgrove. Commissioner Stephenson seconded. Board approved.***

A petition by **Jarrold Dukes** located on the property as described as follows: Dixie County Parcel # 16-13-12-2927-0000-0070 (100 SE 371 St, Old Town FL 32680) to request a **variance** for a pole barn to cover RV and boat by the petition dated 10/21/2021 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 Jarrold Dukes. She said there was no opposition.

***Commissioner Hatch made the motion to approve the variance request made by Jarrold Dukes. Commissioner Stephenson seconded. Board approved.***

A petition by **Freddie Carroll** located on the property as described as follows: Dixie County Parcel # 19-13-12-2994-0002-1870 (25 SE 241 St, Old Town, FL 32680) to request a **variance** for a reduction of side setbacks to zero for construction of boat house and dock per site plan by



the petition dated 10/25/2021 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 Freddie Carroll. She said there was no opposition.

***Commissioner Hatch made the motion to approve the variance request made by Freddie Carroll. Commissioner Valentine seconded. Board approved.***

A petition by **Mark & Shimrit Hanes** located on the property as described as follows: Dixie County Parcel # 24-10-12-2811-0002-0930 (265 SE 467th St, Old Town, FL 32680) to request a ***variance*** for a reduction of setbacks of 25' to 4' for placement of storage work shop / shed by the petition dated 10/28/2021 which is located within section 4.4.7 agriculture subparagraph (1) 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 Mark & Shimrit Hanes. She said there was no opposition.

***Commissioner Hatch made the motion to approve the variance request made by Mark & Shimrit Hanes. Commissioner Valentine seconded. Board approved.***

A petition by **Lawton Skipper, Jr.** located on the property as described as follows: Dixie County Parcel # 16-13-12-2927-0000-0520 (50 SE 353 St, Old Town, FL 32680) to request a ***variance*** for a 40x60 open pole barn for rv by the petition dated 10/29/2021 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 Lawton Skipper Jr. She said there was no opposition.

***Commissioner Hatch made the motion to approve the variance request made by Lawton Skipper Jr. Commissioner Valentine seconded. Board approved.***

***The motion to go out of Public Hearings and back into the Board Meeting was made by Commissioner Hatch. Seconded by Commissioner Valentine. Board approved.***

#### **RESOLUTION 2021-170**

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 SUBPARAGRAPH (4) OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO PERMIT (4) CAMPGROUNDS OF LESS THAN 100 CAMPSITES IN AN ENVIROMENTALLY SENSITIVE AREA (ESA) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED APRIL 21, 2021. **Edward Hines**

Ms. Julie Herring appeared before the Board and read Resolution 2021-170 by title only in support of Edward Hines.

***Commissioner Hatch made the motion to approve Resolution 2021-170 in support of Edward Hines. Commissioner Mills seconded. Board approved.***

**RESOLUTION 2021-171**

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 SUBPARAGRAPH (4) OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO PERMIT ONE RECREATIONAL VEHICLE IN AN ENVIRONMENTALLY SENSITIVE AREA (ESA) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED AUGUST 13, 2021.

**Johnny Taylor**

Ms. Julie Herring appeared before the Board and read Resolution 2021-171 by title only in support of Johnny Taylor.

***Commissioner Mills made the motion to approve Resolution 2021-171 in support of Johnny Taylor. Commissioner Hatch seconded. Board approved.***

**RESOLUTION 2021-164**

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 SUBPARAGRAPH (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 SEPTEMBER 03, 2021. **Antoinette Halderbough**

Ms. Julie Herring appeared before the Board and read Resolution 2021-164 by title only in support of Antoinette Halderbough.

***Commissioner Mills made the motion to approve Resolution 2021-164 in support of Antoinette Halderbough. Commissioner Stephenson seconded. Board approved.***

**RESOLUTION 2021-172**

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 AN RESIDENTIAL SINGLE FAMILY/MOBILE HOME AREA (RSF/MH) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED SEPTEMBER 17, 2021. **Gary Blanton**

Ms. Julie Herring appeared before the Board and read Resolution 2021-172 by title only in support of Gary Blanton.

*Commissioner Hatch made the motion to table Resolution 2021-172 in support of Gary Blanton. Commissioner Stephenson seconded. Board tabled.*

**RESOLUTION 2021-162**

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 AN RESIDENTIAL SINGLE FAMILY/MOBILE HOME AREA (RSF/MH) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED SEPTEMBER 28, 2021.

**Steven Phelps**

Ms. Julie Herring appeared before the Board and read Resolution 2021-162 by title only in support of Steven Phelps.

*Commissioner Hatch made the motion to approve Resolution 2021-162 in support of Steven Phelps. Commissioner Mills seconded. Board approved.*

**RESOLUTION 2021-173**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, TO APPROVE A SPECIAL EXCEPTION TO BE GRANTED, AS PROVIDED IN SECTION 4.4.5 SUBPARAGRAPH (9) OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO PERMIT ONE RECREATIONAL VEHICLE IN AN AGRICULTURAL (A4) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED OCTOBER 07, 2021. **Duane Martin**

Ms. Julie Herring appeared before the Board and read Resolution 2021-173 by title only in support of Duane Martin.

*Commissioner Mills made the motion to approve Resolution 2021-173 in support of Duane Martin. Commissioner Hatch seconded. Board approved.*

**RESOLUTION 2021-174**

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 SUBPARAGRAPH (4) OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO PERMIT ONE RECREATIONAL VEHICLE IN AN ENVIRONMENTALLY SENSITIVE AREA (ESA) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED OCTOBER 07, 2021.

**Henry Scheuermann**

Ms. Julie Herring appeared before the Board and read Resolution 2021-174 by title only in support of Henry Scheuermann.

*Commissioner Stephenson made the motion to approve Resolution 2021-174 in support of Henry Scheuermann. Commissioner Mills seconded. Board approved.*

**RESOLUTION 2021-175**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, TO APPROVE A SPECIAL EXCEPTION TO BE GRANTED, AS PROVIDED IN SECTION 4.4.5 SUBPARAGRAPH (9) OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO PERMIT ONE RECREATIONAL VEHICLE IN AN AGRICULTURAL AREA (A/4) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED OCTOBER 18, 2021.

**Cedric Corl**

Ms. Julie Herring appeared before the Board and read Resolution 2021-175 by title only in support of Cedric Corl.

*Commissioner Hatch made the motion to approve Resolution 2021-175 in support of Cedric Corl. Commissioner Valentine seconded. Board approved.*

**RESOLUTION 2021-176**

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 SUBPARAGRAPH (4) OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO PERMIT ONE RECREATIONAL VEHICLE IN AN ENVIRONMENTALLY SENSITIVE AREA (ESA) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED OCTOBER 22, 2021.

**Geoffrey Eckenberg**

*Mr. Geoffrey Eckenberg requested to remove his petition from the Agenda. This supporting Resolution was removed from the Agenda.*

**RESOLUTION 2021-177**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DIXIE COUNTY, FLORIDA, TO APPROVE A SPECIAL EXCEPTION TO BE GRANTED, AS PROVIDED IN SECTION 14.13.5 SUBPARAGRAPH (8) OF THE DIXIE COUNTY LAND DEVELOPMENT REGULATIONS TO PERMIT A WIRELESS TELECOMMUNICATIONS TOWER IN A COMMERCIAL GENERAL (CG) ZONING DISTRICT, IN ACCORDANCE WITH THE PETITION DATED OCTOBER 28, 2021.

**Verizon Wireless**

Ms. Julie Herring appeared before the Board and read Resolution 2021-177 by title only in support of Verizon Wireless.

*Commissioner Hatch made the motion to approve Resolution 2021-177 in support of Verizon Wireless. Commissioner Stephenson seconded. Board approved.*

**RESOLUTION 2021-178**

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 REDUCE SETBACK ON NORTH SIDE OF PROPERTY (LOT 129) FROM 25 FEET TO 10 FEET, WHICH IS LOCATED WITHIN SECTION 4.7 A RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME (RSF/MH) ZONING DISTRICT, AS PROVIDED IN THE PETITION DATED SEPTEMBER 27, 2021. **Linda Musgrove**

Ms. Julie Herring appeared before the Board and read Resolution 2021-178 by title only in support of Linda Musgrove.

*Commissioner Mills made the motion to approve Resolution 2021-178 in support of Linda Musgrove. Commissioner Hatch seconded. Board approved.*

**RESOLUTION 2021-179**

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 POLE BARN TO COVER RV AND BOAT, LOCATED WITHIN SECTION 4.7.7 A RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME (RSF/MH-2), ZONING DISTRICT, AS PROVIDED IN THE PETITION DATED OCTOBER 21, 2021. **Jarrold Dukes**

Ms. Julie Herring appeared before the Board and read Resolution 2021-179 by title only in support of Jarrold Dukes.

*Commissioner Hatch made the motion to approve Resolution 2021-179 in support of Jarrold Dukes. Commissioner Mills seconded. Board approved.*

**RESOLUTION 2021-180**

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 REDUCTION OF SIDE SETBACKS TO ZERO FOR CONSTRUCTION OF BOAT HOUSE AND DOCK PER SITE PLAN, WHICH IS LOCATED WITHIN SECTION 4.7 A RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME (RSF/MH) ZONING DISTRICT, AS PROVIDED IN THE PETITION DATED OCTOBER 25, 2021. **Freddie Carroll**

Ms. Julie Herring appeared before the Board and read Resolution 2021-180 by title only in support of Freddie Carroll.

*Commissioner Hatch made the motion to approve Resolution 2021-180 in support of Freddie Carroll. Commissioner Valentine seconded. Board approved.*

**RESOLUTION 2021-181**

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 REDUCTION OF SETBACKS OF 25' TO 4' FOR PLACEMENT OF STORAGE WORK SHOP / SHED, WHICH IS LOCATED WITHIN SECTION 4.4.7 AN AGRICULTURE (AG) ZONING DISTRICT, AS PROVIDED IN THE PETITION DATED OCTOBER 28, 2021. **Mark Hanes**

Ms. Julie Herring appeared before the Board and read Resolution 2021-181 by title only in support of Mark Hanes.

*Commissioner Hatch made the motion to approve Resolution 2021-181 in support of Mark Hanes. Commissioner Valentine seconded. Board approved.*

**RESOLUTION 2021-182**

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 40X60 OPEN POLE BARN FOR RV, WHICH IS LOCATED WITHIN SECTION 4.7 A RESIDENTIAL, (MIXED) SINGLE FAMILY/MOBILE HOME (RSF/MH) ZONING DISTRICT, AS PROVIDED IN THE PETITION DATED OCTOBER 29, 2021. **Lawton Skipper Jr.**

Ms. Julie Herring appeared before the Board and read Resolution 2021-182 in support of Lawton Skipper Jr.

*Commissioner Mills made the motion to approve Resolution 2021-182 in support of Lawton Skipper Jr. Commissioner Hatch seconded. Board approved.*

**ORDINANCE 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; PROVIDING AN EFFECTIVE DATE.

County Attorney Michael Osteen appeared before the Board and read Ordinance 2021-11. He said this is a State mandated Ordinance which is allowing more rights for property owners.

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

Mr. Wright said the state has added four rights for property owners. He said the county must change the LDR in order to meet the minimum state requirements.

Attorney Osteen read the minimum state requirements for property rights goals, objectives and policies.

Sarah Ross spoke to the Board about this issue. She said that the Federal Level has been established and the State is trying to catch up. She informed the Board that they can add additional policies and safeguards to protect owners. She said that other counties require a Super Majority vote, four of the five Commissioners must agree, on issues such as this for comprehensive planning and rezoning. She asked that this Board also require this.

Attorney Osteen said this has already been advertised. He said this can be amended later.

Mr. Wright said the Board had discussed the creation of a Citizen Board to review these items if the Board wanted to do this.

Attorney Osteen recommended the Board pass this tonight and amend it later.

Commissioner Hatch said this can be amended later.

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

Ms. Karen VanAernam spoke to the Board about the Turkey Trot event. She asked for sponsorship for the event to promote health and wellness. She said the event will take place on Thanksgiving morning at 7:00 AM. She said that Brother P. J. Hope and Brother Brooks will pray at 7:15 AM. She said the \$8,000.00 that has been raised thus far will go towards the clean-up of the Town of Cross City along with any additional pledged money.

***Commissioner Hatch made the motion to pledge \$500.00 from the Board expense account to the Turkey Trot event. Commissioner Stephenson seconded. Board approved.***

Commissioner Mills clarified for everyone that the Board Expense Account contributions comes out of their personal check every month.

**Ericka McKibbin, DSI**  
**American Rescue Plan Act (ARPA)**

Manager Cannon introduced her and the purpose of her being here tonight.

Ms. Ericka McKibbin appeared before the Board and said this is a huge opportunity for the county. She said there is 65.1 billion dollars from the US Treasury under this act. She said the county has got ½ of the \$3,268,253.00 million dollars and will get the next installment in August of 2022. She said the funds must be obligated by December 31, 2024 and spent by December 31, 2026.

She said the five projects discussed are:

1. Support public health response
2. Address economic impacts
3. Replace public sector revenue loss
4. Premium pay for essential workers
5. Water, sewer and broadband infrastructure

She said there is a recommended spending plan for the money and the US Treasury guidelines must be followed.

1. She said they recommend \$770,713.85 of the first installment be used to remove canal and culvert debris. She said the work could start in February or March.
2. She recommended that \$700,000.00 be used towards the Ems payroll. She said this would help meet the minimum wage standard for \$10.00 per hour.
3. She recommended that \$163,412.65 be used for Administrative Expenses. She said this would help with consultations on compliance with legal, regulatory and other requirements.

She said the second installment of \$1,634,126.50 would be received in August of 2022.

1. She recommended that \$400,000.00 go towards the Sheriff's Smart Cop Program.
2. The update of Clerk records to a digital format.
3. Storm water infrastructure.
4. Administrative.

Commissioner Stephenson clarified that these projects were started by the prior Board members and they are just now getting to this phase of the projects.

Manager Cannon informed everyone that this was allocated by the US Treasury across the notion to help with the COVID 19 disaster. He said the CARES Act money was received last year. He said the spending plan is being presented tonight and can be amended later.

Ms. Linda Brock asked about the assistance requested from the State for flooding. Commissioner Hatch said they are waiting for approval from the State.

Mr. Burt Buzbee asked the Board about waste management.



Commissioner Stephenson said the Assessment was raised to help with that.

***Commissioner Mills made the motion to move forward with the spending plan recommendations from DSI regarding the ARPA funding. Commissioner Hatch seconded. Board approved.***

**GREG BAILEY, NORTH FLORIDA PROFESSIONAL SERVICES**

Mr. Greg Bailey appeared before the Boards to inform them of the plans for the upgrades for security of the courthouse and said this will be done by the next meeting.

Mr. Bailey informed the Board that the 95 and 97 CDBG grant letter was sent out to the people. He said they have had no reply yet, however they do plan to go door to door.

Mr. Bailey said the NE 362 and 364 FDOT project will be submitted to them for final review in December.

Mr. Bailey said looked at the Cooper/Thompson and 592 Road. He said they were looking into the construction of a ditch along this road to the Greenway and back to the Suwannee River. He said there are many driveways without culverts along the way.

Mr. Bailey said he looked at the drainage issue in Suwannee.

Commissioner Hatch said that Mr. Billy Smith will draw up plans and send this to the County Manager.

Ms. Barbara Cummings asked about the Willow Hole Road.  
Mr. Bailey said they are working on this.

**JERED LIZOTTE, LOCKLEAR AND ASSOCIATES**

Mr. Jered Lizotte was not present for this meeting.

**CINDY BELLOT, LIBRARY DIRECTOR**

Ms. Bellot appeared before the Board and said they have been very busy at library. She said they can also offer help with Medicare questions.

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

Mr. Steve Fremen appeared before the Board and informed the Board of the next Code Enforcement Hearing to be held on December 08, 2021 at 1:30 PM. He said that ten cases will be heard by the Magistrate.

Commissioner Stephenson said he saw an old camper being hauled into a subdivision and called code enforcement about this. He apologized to Mr. Fremen for calling prematurely.

Mr. Fremmen said people are storing campers on their vacant property. He said this becomes living off the grid campers and camps of campers. He said an Ordinance needs to be adopted to address this issue.

**STEVE HUTCHISON, COUNTY ROAD SUPERINTENDENT**

Mr. Steve Hutchison was not present for this meeting.

**DWAYNE CHAUNCEY, MOSQUITO CONTROL DIRECTOR**

Manager Cannon said they are continuing spraying and will possibly shut the program down November or December for the Winter.

Commissioner Hatch asked them to check around the guardrails and culverts and signs to make sure they are spraying for weeds.

**MICHAEL LATSON, SOLID WASTE DIRECTOR**

Mr. Michael Latson appeared before the Board and discussed the usual practice of allowing the Roll Off Site Attendants to open the site and then go home for lunch with their family and then come back. He said they do this for the Thanksgiving, Christmas and New Year's Holiday.

***Commissioner Hatch made the motion to approve this for the Thanksgiving, Christmas and New Year's Holiday. Commissioner Stephenson seconded. Board approved.***

Mr. Latson presented the Board with a new schedule for the Roll Off Site hours. He said they have changed the hours to the coastal sites of Suwannee, Horseshoe and Jena beginning the first of the year 2022.

Commissioner Mills asked when the Pole Gap is open.  
Mr. Latson replied every day.

***Commissioner Hatch made the motion to accept the list with the changes to Roll Off Site hours for the new year of 2022. Commissioner Stephenson seconded.***

Commissioner Stephenson asked if the schedule can be amended. He said both the Rock Pit and the site near Stephenson Septic Office is closed on Sunday. He would like the Rock Pit site to be open on Sunday.

***Commissioner Hatch repealed his prior motion, and then made the motion to accept the list with the changes made to allow the Rock Pit Site to be open from 1:00-6:00 PM on Sunday. Commissioner Stephenson seconded. Board approved.***

Mr. Latson informed the Board that the Dump Stickers will be available for distribution at every Roll Off site by Thanksgiving. He said that some folks don't want to place the sticker on their car.

Ms. Diane Vanhook spoke to the Board and said this sticker is not required by state law to be on windshield. She said she does not want to place one on her vehicle. She said the county is creating a problem and limiting people. She said she opposes this sticker for the dump.

Commissioner Storey said you can show the attendant the sticker.

Mr. Latson said the sticker number will be registered to the person and the vehicle. He said the attendants will verify this with him on the computer. He said that two stickers per household is the limit.

Manager Cannon said the Dump Stickers and the new Roll Off Site hours will be advertised in the newspaper.

Commissioner Mills asked about the Mom and Pop dumpsters.  
Mr. Latson said he is short handed and can do this after Thanksgiving.

Mr. Burt Buzbee spoke to the Board and said he has had no trouble from residents. He said he has been able to get the decals and the paperwork and the tag numbers to verify. He said the percentage of people to oppose this will be small.

Commissioner Hatch said he wants some numbers to compare the tonnage of garbage from before and after this new sticker process has been implemented.

Mr. Latson informed the Board about the D6 Caterpillar. He said that he wants to get a new one. He said he has an estimate for all the repairs to the Bulldozer of \$76,660.28 from Ring Power.

Manager Cannon instructed him to get some more quotes on the Bulldozer. He asked for a status update on the Red truck.

Mr. Latson informed the Board about the Red Mac truck. He said it should be fully road worthy in one week.

Manager Cannon said the Board wanted this to be operational and on the road working.

Ms. Linda Brock spoke to the Board and asked if they bought this Red Mac truck last year. She asked if this truck has ever been on the road.

Mr. Latson replied yes.

Commissioner Stephenson said someone had said the truck was not road worthy after it was bought, and it sat at the county yard until recently.

Commissioner Mills said that DOT came and inspected the Red Mac.

Commissioner Stephenson said DOT said it was good to use.

Ms. Brock asked why these repairs are being done.

Commissioner Mills said that someone did not want to drive the truck unless all this other work was done.

Ms. Brock said she was told that this truck needed \$31,000.00 in repairs to be up to DOT code.

Manager Cannon said he understood that when this came out of the shop it would be up to standards.

Mr. Latson said that FDOT inspected the frame and said this could be fixed and be legal. He said they made the repair. He said the driver did not want to drive this.

Commissioner Mills said the employees refuse to drive the truck because it is not a new truck. He said that he inspected the truck and DOT inspected the truck. He said all these repairs were extra costs after the inspection.

Ms. Brock asked why they did not have another person check it out and get another opinion.

Commissioner Storey said that DOT passed the truck inspection.  
Manager Cannon said the Board said to get this truck on the road.

Mr. Latson said he took the truck to be realigned at Nextran. He said they called him and said these other things need to be fixed. He said he made the decision to fix the truck.

Ms. Brock said this should have gotten a second opinion.

Commissioner Mills said that Mr. Latson did what he thought he should do. He said that he was appointed by the Board to inspect the equipment due to his years of experience and knowledge of equipment and he wonders why his opinion is no longer valid.

***Commissioner Mills left the meeting.***

Mr. Latson said he made the decision to fix the items that Nextran said needed to be fixed on the truck.

Commissioner Stephenson said DOT passed the inspection of the truck. He asked Mr. Latson what is the dollar limit that he can approve for repairs without coming back to the Board.

Mr. Latson said \$5,000.00.

Commissioner Stephenson said this was supposed to have a realignment and a wet kit done.

Ms. Brock said the employee didn't follow procedure.

Manager Cannon said with all these repairs this should last many years to come. He said this was approved already by the Board to get this truck road worthy.

Mr. Latson informed the Board about the live bottom trailer. He said that he needs two but will purchase only one for now and hold off on the others for a later purchase.

Commissioner asked for him to look at steel versus aluminum.

Mr. Latson said the weight difference is the issue.

Manager Cannon said they will purchase a walking floor trailer.

**LEON WRIGHT, BUILDING AND ZONING OFFICIAL**

Mr. Leon Wright appeared before the Board and clarified that if someone pulls a permit for a house or mobile home then they can live in a camper while the house is being built. He said the permit is open for 180 days and it is inspected every 180 days.

Mr. Wright said the RV mail outs will go out the first of the week. He thanked Ms. Dixie Wright for her help with this.

Mr. Wright said that Mr. Jimmy Lamb from Suwannee would be a good candidate to fill Commissioner Stephenson spot on the Construction Licensing Board at the county level.

***Commissioner Hatch made the motion to appoint Mr. Jimmy Lamb to the Construction Licensing Board. Commissioner Stephenson seconded. Board approved.***

Mr. Wright said that Mr. Bobby Lindsy has served as Chairman of this Board for many years and will soon be termed out. He said this position will need to be filled as well. He said he would like to show their appreciation in some way.

Mr. Wright said that two people have asked about opening a gambling arcade room at the Suwannee Gables Building. He said they have spoken about this before. He said there is nothing in the current LDR about this.

County Attorney Michael Osteen said he will recommend the Board issue a moratorium on this. He said he has spoken to other Attorneys about this and Dixie County Sheriff Darby Butler and other County Sheriffs as well. He said the Sheriff has requested these not be allowed in the county due to a possible increase in crime rates. He said there is no provision in the LDR for this.

Mr. Wright said he is working with Attorney Osteen and Greg Bailey on the Culvert Ordinance.

Mr. Wright said the Special Assessment are at the County Manager's office to be processed after Thanksgiving.

Mr. Wright informed the Board that he had received a Letter from Attorney Dale Scott about the Extreme Broadband issue. He presented the letter to the County Attorney for interpretation.

Attorney Osteen said that Extreme Broadband is being represented by Attorney Chana Watson. He said the cable company and the electric company have an ongoing dispute. He said that he has a conflict of interest in the matter, so Attorney Dale Scott is the Attorney of record for the county in this matter. He said that Dixie County is not involved in a lawsuit at this time regarding this matter. He said that a colocation Ordinance was passed by the Board in April of 2021. He said that, per the letter from Attorney Scott, that no more permits can be issued for new poles or colocation. He said the Ordinance must be followed.

Mr. Wright said that Extreme Broadband has requested 10 permits to correct their violations. He said that 15 have been approved and now 20 more permits have been requested. He said that he has 20 that need approval now.

Attorney Osteen informed the Board that per the letter their Attorney has advised them not to issue any more permits after tonight.

***Commissioner Hatch made the motion to allow them to issue 35 permits to Extreme Broadband and then after tonight they must follow the Ordinance.***

Attorney Chana Watson spoke to the Board and said they are trying to get in compliance. She said that Central Florida Electric and Extreme Broadband have had some issues with collocating. She said that a fee must be paid to do this, and these fees can change. She said this is a small cable company from Suwannee since 1980. She asked that they be able to keep this permit application window open until the end of the year. She said this should allow them enough time to resolve the issue.

***Commissioner Hatch made the motion to allow Extreme Broadband to get permits through the end of the month and then they must follow the Ordinance. Commissioner Valentine seconded. Board approved.***

Commissioner Stephenson said we went to court and the county lost around \$81,000.00 on this lawsuit.

Mr. Wright asked the Board to look at the zoning map. He said there is 2200 acres near Jena that is not zoned correctly. He said this was divided into 10-acre parcels. He said the zoning map was not changed for the density level. He said if you don't create any roads it's not considered a sub-division. He said this will have to be addressed by the Board later. He said the planning council is also working on this.

A lady asked why the flood maps and others are not on the website.

Mr. Wright replied they are posted on the North Central Florida Planning Council website due to ADA compliance.

Mr. Wright said Mr. Guy Richardson wanted the engineer documents for the road system. He said he gave him everything that he had.

Manager Cannon asked if this was a recorded or unrecorded subdivision. He said some of this information is not on these maps.

Mr. Wright said the first study was done in 1983 and some of these subdivisions were established prior to that year. He said the flood maps are done by FEMA and are triggered by claims on insurance.

**DARIAN BROWN, DIRECTOR OF EMERGENCY SERVICES**

Director Brown had nothing to discuss at this time.

**GAIL CARTER, INDIGENT CARE**

Ms. Carter was not present for this meeting.

**HOLLY HOUGHTON, COUNTY EXTENSION AGENT**

Ms. Houghton was not present for this meeting.

**ANGIE CROWLEY, HUMAN RESOURCES ADMINISTRATOR**

Ms. Crowley had nothing to discuss at this time.

**DUANE CANNON, COUNTY MANAGER**

County Manager Duane Cannon appeared before the Board to request their approval approval to accept the county contracts with the professional engineering companies contracted at this time.

Manager Cannon requested the Board approve the county contract with Darabi & Associates.

***Commissioner Hatch made the motion to approve the county contract with Darabi & Associates. Commissioner Valentine seconded. Board approved.***

Manager Cannon requested the Board approve the county contract with Larson Consulting.

***Commissioner Hatch made the motion to approve the county contract with Larson Consulting. Commissioner Stephenson seconded. Board approved.***

Manager Cannon requested the Board approve the county contract with Locklear & Associates.

***Commissioner Hatch made the motion to approve the county contract with Locklear & Associates. Commissioner Stephenson seconded. Board approved.***

Manager Cannon requested the Board approve the county contract with North Florida Professional Services (NFPS.)

***Commissioner Stephenson made the motion to approve the county contract with North Florida Professional Services (NFPS.) Commissioner Hatch seconded. Board approved.***

Manager Cannon requested the Board approve the county contract with Passero.

***Commissioner Stephenson made the motion to approve the county contract with Passero. Commissioner Valentine seconded. Board approved.***

Manager Cannon requested the Board approve the two-year period county contract with the county attorney, Michael Osteen.

***Commissioner Stephenson made the motion to approve the two-year period county contract with the county attorney, Michael Osteen. Commissioner Hatch seconded. Board approved.***

Ms. Brock said Attorney Osteen has some hearing coming up for indictments and she asked the Board if he were to go to jail would any of his work for the county be questioned.

Commissioner Stephenson said everyone is innocent until proven guilty. He said he is still licensed to practice law.

Ms. Brock said she doesn't think this looks good and he should have stepped down as the County Attorney.

Manager Cannon requested the Commissioner Committee Assignment be accepted as presented.

***Commissioner Stephenson made the motion to accept the Commissioner Committee Assignments as presented. Commissioner Hatch seconded. Board approved.***

Manager Cannon requested the Board approve to exempt Solid Waste Special Assessment charges on all 501C3 properties and Institutional properties.

***Commissioner Hatch made the motion to exempt Solid Waste Special Assessment charges on all 501C3 properties and Institutional properties. Commissioner Stephenson seconded. Board approved.***

Manager Cannon requested the Board to approve or deny the Driveway Repair List as presented. He presented a list of 25 driveways needing repairs to the Board. He said theses have been assessed by the Road Department and the Emergency Services Department.



Commissioner Storey said he would like to save some trouble for all and explained that sometimes you can't help everyone. He said a driveway had been fixed without the Board voting. He said that EMS passed the word down to the Road Department that the ambulance had got stuck. He said the Road Department put in two loads of dirt. He said if the EMS staff can't get to a person in need it would potentially cause more harm to staff and the person needing medical attention. He said we may need to stop this completely if it's not lawful.

Commissioner Stephenson said he would like to help everyone, but they need to follow the law.

County Attorney Michael Osteen said historically the Board has, in the past, delivered a load of dirt here or there. He said he spoke with Attorney Duke Lane from Gilchrist County and Attorney Conrad Bishop from Taylor County about this issue. He said that Attorney Joel Foreman from Columbia County wrote an opinion on this subject matter. He read the Advisory Memorandum, which also included Attorney General Opinion 2012-33 and AGO 1998-22, aloud to everyone.

**(See attached: Advisory Memorandum, AGO 2012-33, AGO 1998-22)**

Attorney Osteen went over the correct process to follow. He said the Board must declare a state of emergency to be in effect and hold an emergency meeting and evaluate the public benefit of the emergency repairs and have legislative findings of fact documented in the meeting minutes. He said the Road Department and Emergency Services cannot make this determination.

Ms. Robin Rouse commented that two loads were put on one driveway.

Ms. Linda Brock asked the Board how many driveways have been done and how many more are left to do.

Attorney Osteen stated that at a previous meeting the Board voted to follow the correct process. He said they are still not following the procedure. He said that he has given his legal opinion to the Board on the matter. He said they must have an emergency meeting for the emergency need to fix a road for EMS access.

Commissioner Storey said this must be legal.

Commissioner Hatch said some of these driveways were done prior to the procedure being implemented. He then asked about county funds being used for sandbags to protect person and property.

***Commissioner Stephenson made the motion to follow the law. Commissioner Hatch seconded to keep up with discussion.***

Ms. Robin Rouse commented on the lime rock driveway that was put in by the county.

Commissioner Hatch said he did not do that. He said this was turned over to the correct departments and told them to keep it legal.

Commissioner Stephenson said the procedure must be followed to be legal.

Ms. Mary Goodrich asked if the Board could use the dirt from the ditches that were dug to fix driveways.

Manager Cannon said no.

Attorney Osteen said the Board has been given the legal process.

Manager Cannon said he would prefer they meet in person and not over the phone and not on individual roads. He said they should put together a list to go over. He said they will need the Clerk to be available and have access to their equipment to take the minutes.

Commissioner Storey said this subject matter has been taking extra time away from everyone's regular job duties.

Commissioner Storey and Commissioner Valentine agreed.

Attorney Osteen added the Board must follow procedure for an emergency meeting and have a finding of fact and this must be recorded in the meeting minutes.

Director of Emergency Service Darian Brown appeared before the Board and said that he and his staff have spent a lot of time evaluating roads and driveways. He said they are not trained to evaluate roads and driveways. He said he does not want the Emergency Services to be involved in this process.

***Commissioner Stephenson made the motion that if there is a need for emergency services, they can call and then they will assess the road and then it will go before the Board and then the Board will vote to have it fixed. Commissioner Hatch seconded. Board approved.***

Manager Cannon asked what the Board wants to do with the driveways on the list.

Attorney Osteen said the citizen should contact the Commissioner or County Manager and then the Road Department will go out and assess the site. Then the Board must meet.

Manager Cannon said a lot of these driveways cannot be evaluated until the water goes down.

***Commissioner Hatch made the motion to fix four driveways that were chosen from the list that need emergency access. Commissioner Valentine seconded. Board approved.***

Manager Cannon said the Road Department will do the driveway evaluations.

Manager Cannon announced that all County offices will be closed for the Thanksgiving Holidays on Thursday, November 25, 2021 and Friday, November 26, 2021.

Manager Cannon announced Mr. Paul Gainey as his new Assistant County Manager.

**MICHAEL OSTEEN, COUNTY ATTORNEY**

Attorney Osteen thanked the Board for allowing him to serve.

**BARBIE HIGGINBOTHAM, CLERK OF COURT**

Clerk Higginbotham appeared before the Board and informed them that Ms. Jacki Johnson had to leave the meeting. She gave the Board members a copy of the Financial Report. She informed the Board that Ms. Johnson will need to step down from her position due to family illness. She said the Board had previously approved for the Clerk to advertise for a salary of \$52,000.00 for her position in the finance office. She said they have advertised in several different newspapers and towns and on the internet. She said they have no responses to the ad. She said that Ms. Johnson and the Citrus County Clerk has suggested they increase the salary by \$10,000.00.

Manager Cannon said this position is employed by the Clerk as the Clerk is the Comptroller for the County and the CFO is over all the finances for the Clerk and the County.

*Commissioner Stephenson made the motion to increase the advertised salary range from \$52,000.00 up to \$62,000.00 for the Chief Financial Officer position. Commissioner Valentine seconded. Board approved.*

**COUNTY COMMISSION ITEMS**

Commissioner Stephenson requested that anyone who needs to contact him, do so by telephone and not social media. He said he does not have Facebook, but his family does and some of these posts are causing his family distress.

Commissioner Valentine had nothing further to discuss.

Commissioner Hatch welcomed Mr. Paul Gainey to the team. He announced that his church will hold a Thanksgiving Dinner and invited everyone.

Commissioner Storey thanked everyone for staying late for this meeting.

**PUBLIC COMMENTS AND CONCERNS**

Mr. David Bowen spoke to the Board about the assessment letter. He asked if this will increase again in the future and when to possible cover unanticipated costs.

Manager Cannon said this was done on a three to five-year study and should cover that if the county operates and provides the same level of services.

Commissioner Stephenson said other counties charge more than Dixie County.

Ms. Brock asked the Board about the Gradeall that is being fixed. She asked the price of purchase.

Manager Cannon replied \$27,500.00.

Ms. Rouse spoke to the Board and asked about the incident reports and records in the past on Steve Hutchison. She commented that he does not need to work for the county.

Commissioner Storey said this current incident is still under investigation and pending.

Commissioner Stephenson left the meeting.

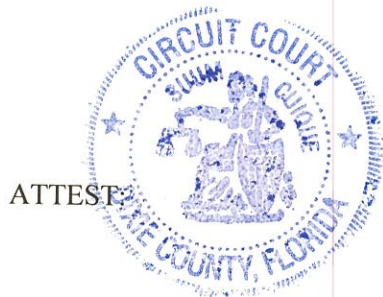
Attorney Osteen said the information that was requested has or will be provided to Ms. Rouse.

Ms. Rouse said she is not against dirt in driveway, but it needs to be done the right way.

Commissioner Hatch said this Board has not done anything intentionally illegal. He said that everyone's interpretation of the law is different.

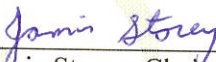
**ADJOURN**


Commissioner Stephenson made the motion to adjourn at 10:30 AM. Commissioner Hatch seconded. Board approved.



ATTEST:

BOARD OF COUNTY COMMISSIONERS  
DIXIE COUNTY, FLORIDA

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

  
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.***



## Florida Attorney General Advisory Legal Opinion

Number: AGO 2012-33

Date: September 19, 2012

Subject: Public Funds, use on private roadway

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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).

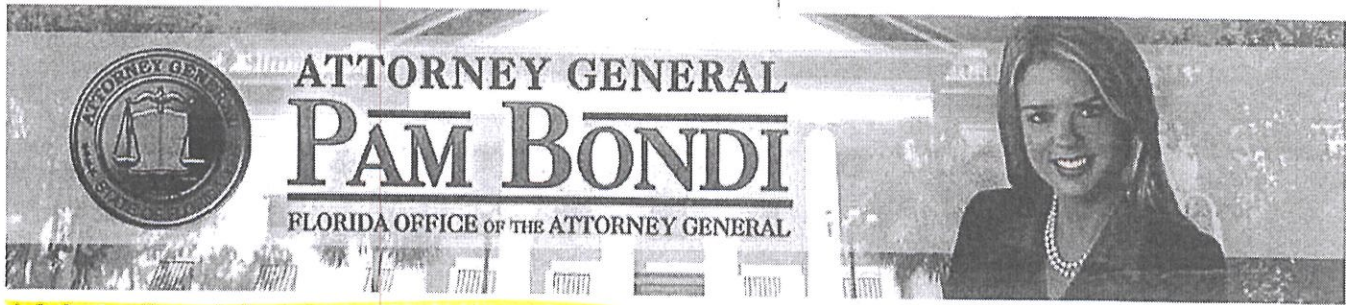
[13] *Okaloosa County Gas District v. Enzor*, 101 So. 2d 406 (Fla. 1st DCA 1958).

[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).

**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--EMERGENCIES--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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