


AT A PRIVATE ROADWAYS WORKSHOP OF THE
BOARD OF COUNTY COMMISSIONERS HELD IN
AND FOR GADSDEN COUNTY, FLORIDA ON
FEBRUARY 20, 2020 at 4:00 P.M., THE
FOLLOWING PROCEEDING WAS HAD, VIZ:

Present: Dr. Anthony "Dr. V" Viegbesie, Chairman, District 2
Brenda Holt, District 4
Wesley Hall, Interim County Administrator*
David Weiss, County Attorney
Beth Gjemse, Clerk's Office
Marcella Blocker, Deputy Clerk
Lisa Robinson, Interim Public Works Director*


Absent: Sherrie Taylor, Vice Chair, District 5
Eric Hinson, District 1
Gene Morgan, District 3


1. Welcome

(Anthony Viegbesie, Ph. D., Chairman)

 Chairman Viegbesie stated a quorum was not needed for a Workshop. He welcomed everyone and called the Workshop to order at 4:03 P.M.

2. Introduction and Discussion of Current Ordinance 2019-008

 (Justin Ford, P.E., Senior Associate, Dewberry/Lisa Robinson, Public Works Director)

 Justin stated he met with Lisa Robinson and she had asked him to give a general overview of the ordinance and asked for anyone with a different understanding to feel free to stop him. He stated it was a 4-step process and the purpose was to accept roads that were currently private maintained into the county-maintained road system.

1) Every land owner associated with the roadway that has property that abuts that roadway signs the petition and brings it to the County Administrator.

2) A first public hearing is scheduled and it goes to the Board for consideration and tentative approval.

3) Property owner(s) have a series of steps to ensure the road meets certain criteria, at their own expense, such as Surveys, Legal descriptions, title searches, environmental or engineering feasibility studies if necessary, most importantly improvements. It must meet minimum standards for the County to accept it.

4) When that is done, they come back to the County Administrator for final acceptance. County Administrator, Public Works Director, and the County Engineer all look at it and if in agreement, a second public hearing is scheduled and put in newspaper stating this roadway is being considered to be accepted into the County's maintenance system and is then presented back to the BOCC with recommendation from the Administrator and then the BOCC votes on it.

Mr. Ford wanted to make a point that just because it is accepted into the County's Road maintenance did not mean it was getting paved or improved in any way, it just meant it will be maintained moving forward. They may just grade the road for the next 10 years. Some

people think if the County accepts the road it will get paved and the ordinance clearly states that is not the case.


Chairman Viegbesie stated 100% of property owners must sign the petition and to make sure the person who signed petition is the person the property was deeded to for the petition to be valid. (not a renter)


3. **Proposed Revisions**


(Justin Ford, P.E., Senior Associate, Dewberry/Lisa Robinson, Public Works Director)

Suggestions were made throughout this meeting for proposed revisions to the ordinance.

4. **Citizens requesting to be Heard on Non-Agenda Items (3-minute limit)**

 **Mike Dorian 145 Alligator Run**, appeared before the Board and stated he was on Bill McGill Better Roads Committee and Larry Ganus was Chair and is also President of Frank Smith Road Home Owners Association and was Postmaster of Quincy and knows the roads and he would give Mr. Ganus the rest of his time.


 **Larry Ganus 2174 Frank Smith Road Quincy**, appeared before the Board and said the first mile of Frank Smith Road was paved and the next 1 ½ is not paved. There is a Property Owners Association that was implemented by Restricted Covenants that were developed by the developers, Ed Wasdin and Billy Hatcher back in 1988. Since then, they have been trying to maintain the road on less than adequate funding. The funding was set up for the Association and had a fixed amount to start with, with an escalator built in of 5% each year. It was set low at \$72 year, 37 members/property owners in the development and that was not enough money to adequately maintain 2 ½ miles of roadway. He said the Association was looking to do what the ordinance wants them to do but it had been 30 years since the roadway was made and due to lack of proper maintenance, it has deteriorated. The last 15 years the Association has done better than the first 10 years but still did not come up to County Code/standards for roads. He stated it had no ditch or culverts. It is a useable road, was graded periodically but would cost \$10,000 plus to get it up to County standards and that was one of the problems. He further stated the residents there were not wanting to spend 2-3 thousand dollars each. The other part was a voluntary conveyance of the roadway that is deeded to each property owner that faces the road. It is a 60' right of way and 30' to center on each side is deeded and titled to the property owner and the way the ordinance is set up, 100% of owners along that roadway have to agree to all stipulations in the ordinance. Some would not agree to do anything. One person can stop anything from happening under the ordinance. He stated Leon County has 2/3 majority acceptance. He did not know what happens to the 1/3 that do not agree on transferring the roadway property right of way over to the County and asked if anyone had any idea of what would happen.


 Commissioner Holt stated in the past if the owner said they would not sign off; you could not skip one and go the next so it was not allowed.


Mr. Ganus asked If 2/3 was had you still could not do it and one property owner could hold it up or stop it entirely.

Ms. Holt said no, it is not legal to take the property.

Mr. Ganus said with 37 people involved there will always be someone who does not agree to spend some money and give away the property to the County and that was where he was locked up.

 Mr. Ganus said there is maximum 1 road per district per fiscal year. He had 4 roads in the subdivision. The main road going in was Frank Smith Road and there are 3 that branch off of it. He asked if Frank Smith Road was approved 1 year, what to do about the other 3. He stated he does not know what would happen to the Association. A majority of people would be on the main road and would be getting County service and the 3 side roads would not. Some people would not pay dues if road is maintained already. So, the smaller group would have to take care of the side roads.

 Chairman Viegbesie said he is aware of the road. There are 3 roads on the side and the other 2 roads are paved already. The only side-road in that area that was not paved was Alligator Run. Frank Smith is paved to a point and then is unpaved so the other 2 County roads are already paved.

 Mr. Ganus said all the County part was paved with exception to Alligator Run. He said they are not part of the County Road system. He further stated that in 1987 the BOCC voted not to take on any new dirt roads from developers so in 1988, when they came along, there had to be an Association to maintain roads. Now the developer is gone and they are left to fend for themselves with inadequate funding and people not paying dues. He said it pits people against each other. They almost had to take 2-3 to court with a foreclosure case to get their attention and get them to pay dues. The last 6-8 years there was 100% paying but only with threats of liens and Court if they did not pay.


Chairman Viegbesie said when the BOCC had a bond to pave roads he was advised not to pave Alligator Run because 2-3 residents on that road did not want it paved or it would have been.


Mr. Ganus said he was not talking about paving; he just wanted the County to take it over for maintenance.


Chairman Viegbesie asked If Alligator Run was a County road.


Mr. Ganus said the County part of Frank Smith Road was already paved and he thought one side road, but they were not in the County Road System so they get no benefit. He stated what would work (but he did not know if it would under the ordinance and hoped the ordinance could be restructured) was if they could just get a regular grading. They are currently making it fine with the structure of the road having a crown up to the middle and having a shallow ditch along the side of the road for people to drive over into their driveway without a culvert. The culverts had just filled with dirt and become a problem to maintain. He stated if there was some way the County could work with them and take the road over without it being up to County standards. He asked for someone to go look at it and see what it looked like and decide, or if the Public Works Director could look and let him explain what the Association had been doing for the past 30 years.

He stated he noticed in the Leon County Code they were doing a special assessment when they improve on roads, they had taken over but it was depending on how much improvement needed to be done to the road and how much it will cost.


 Commissioner Holt said she did a research years ago on Special Assessment Districts and the way they did it then was to set up an account, went through the Tax Collectors' Office and the Property Appraiser, all of them working together and once the citizens petitioned and everyone signed off, then they pay more property tax every year until they were paid. It could be \$400-\$500 extra per year spread out for a number of years. In that case, the owners just decided to split the bill and paid it, but that was a way to do it. There could be a lien on the property if the tax was not paid.

 Mr. Ganus said his problem was getting everyone to agree and he does not see the ordinance useful as it exists. He stated there were at least 5 subdivisions done by Billy Hatcher and Ed Wasdin back in the 80's, and this Association was the only Association that is still in business, the rest have gone defunct over the years and their roads are not getting any maintenance, unless somebody wants to pay to have the grader go in and go over it. As the ordinance exists right now, he said he did not see how it would be useful to them. He asked the attorney their roadway has a separate legal description on the books and it says that 30' on either side of the center-line of the road is dedicated road right-of-way and according to their restricted covenants, which the legal description is a part of, it puts the Association in charge of maintaining that road right-of-way. Does that give the Association any particular advantage in trying to fit it in to this ordinance where they would not have to get the permission of each and every property owner along that road?

 Mr. Weiss said he would have to look at title work, he did not know from what Mr. Ganus said. It sounded to Mr. Weiss that there was a legal description and a survey, which is good jump start, but in terms of ownership of the roadbed, you would have to look at the title work and see who actually owns it. If the association owns it, the association would be able to dedicate it to the County, if not, the property owners still had to agree.


 Mr. Ford said the ordinance said executed warranty deeds, easements, and other conveyances. He wondered if they had an easement for the roadway, could they not convey that easement to the County and the County would still have a roadway easement regardless of the ownership.

Mr. Weiss said maybe, it would take some research get some title works and that out.

 Chairman Viegbesie stated the County had new legal representation and this was the last meeting for Mr. Weiss. The new County Attorney is Clayton Knowles and is in the audience. Chairman suggested Mr. Knowles should explore to see if there was an alternative to getting all the signatures of the property owners and if was do-able there was approach for Mr. Ganus and could be a revision to the County ordinance. He further stated the BOCC and all involved were working on revising and improving the ordinance and that was why this workshop was necessary.

Mr. Ganus had one last suggestion that 1 total miles per private road per district per fiscal year could be changed if one road exceeds 1 mile.

Chairman Viegbesie asked if the other roads were already in the maintenance of the County, the other roads in the Frank Smith Road neighborhood. Mr. Ganus said they were connected to Frank Smith. Chairman asked if they were all maintained by the County. He further stated if he drives the roads and sees potholes, he asks the County staff to go fix them. He asked if the roads were being maintained.


 Mr. Dorian came back before the Board and stated there were 6 different residents connected to Alligator Run and his family owned 3. He was told if they paved Alligator Run the County Head of Road and Bridge said he would not go across the culvert. The County has tried to desert the lower part of Alligator Run 4 times. The last time they tried to was this last January. They said they were going to pave but not go past the culvert and Mr. Dorian stated he was not okay with that. If the road is getting paved, pave the entire right of way. He was concerned if the top part was paved, they would desert the bottom part. Right now, they have scraped the bottom part down so far, about 1' above the culvert. He asked to have it built up above the culvert and he would be fine. He thinks the County would save money if they just paved Alligator Run but he does not want the bottom part deserted just to get the top part paved. He stated he had a lot of problems with the County about it.


Chairman Viegbesie said the Director of Public Works was at the meeting and that was something they will look at and he advised the County Administrator to look at it. If it was County tended already and it needed to be done.

Mr. Dorian said it did not matter because County Staff did not recognize it. He further stated that Me. McNealy went out and apologized to Mr. Dorian, paved road, brought little bit over the culvert and said it was County road and should be maintained. He said he was only asking for maintenance.


Chairman Viegbesie stated this workshop was only for Private Roads and the Attorney will look into a way to circumvent all property owners having to sign, in review of the ordinance.

Mr. Dorian stated he was the one who said if the whole road was not getting paved, just keep maintaining it.


 Commissioner Holt said it was very important to look at how the easement was written. Just because you have an easement across a property, the person who owns property may have granted an easement, but did not give up the right to the property and would still have a say-so as to how the easement is conveyed to anyone else. They did not give up their property rights just by giving easement.

 **Linda Barkley 530 Dusty House Rd. Quincy** appeared before the board. She said herself and other homeowners on the road in question had gone through the petition process and completed that part. There are 2 homeowners and one was a church. The petition was given to the Road and Bridge Director (2 directors ago) and they have not gotten anything back. Looking at what the ordinance was stating, once that was turned in it was supposed to be brought before the Board so they could agree as to whether or not the road would be


accepted. Her request for this workshop was to know what was being required. Everyone on her road agreed and signed to give over the property and there was no fight but other requirements of what the owners have to do without a guarantee that the County will accept the road. She said that was a lot of work and money having to be paid out for something you do not even know will be accepted. She thought the purpose of this workshop was to actually go in and take a look at when the ordinance was put in place and the things required. She asked the BOCC to have the County look at the road and see if was something the County would take over and tell the homeowners what would have to be done first instead of spend the money first without even knowing for sure if the County would accept it. She wants the ordinance to say it would be paved when the money was available. The homeowners have the road graded and it gets expensive. She stated there were 4 homes and a church on the road. With the church, the road is used a lot. Ms. Barkley stated she has a Grandson with a disability and the bus has to pick him up in front of the house and it is a great need. She stated she would like to petition the County to reconsider what they are asking that owners must do and then it may not even be approved.


 Commissioner Holt said where Ms. Barkley was at now in the process, if all petitions were in, Road and Bridge would need to look at the road, and then that information needed to be brought back and set up for an agenda item.

Ms. Barkley stated it was her understanding that Ms. Rosa, prior to leaving, told Ms. Barkley someone from Road and Bridge had already been there but she had never received anything to officially say that had happened.

 Commissioner Holt said, say it had been done, now it is an agenda item, an Engineer could not look at it without costs. (Mr. Ford said he had already looked at it)

Mr. Ford appeared again and said ideally no money should be spent before the first public hearing because that was where the Board would tentatively accept. The concern was the ordinance says even after all work is done by owners the ordinance says the County does not have to take it.

 Commissioner Holt said if the petition is done, R&B and an Engineer had looked at it, now it has a cost estimate and if board says yes, tentatively the County will take it at a certain price but it ended up more, there had to be a focus on how to get there.


 Mr. Ford said the issue with that was the County had no involvement in cost, it is owner's responsibility. The ultimate goal, it seemed to him, was by the time it came to the County it was done and met all minimum standards and then all the County had to do was maintain those standards.

Commissioner Holt said there were things holding people back like the water system under road and no money to drill new wells and can stop the whole project. She said they cannot solve some problems because it was not the County's land.


Mr. Ford said as the ordinance is written the owner has all financial responsibility and it must meet standards with no definition for standards.

Commissioner Holt stated the County had that in place before and the reason it was put in place was because the County gets funding from FDOT. If the County had to get funding for that road the State would not fund that road because it did not meet their standards. If it is accepted, the County had to have money to bring it to standards so FDOT gives the County money.

Mr. Ford said there may be a reference to something else but just to review the ordinance he could not find anything saying what the standards were.

 Mr. Weiss said the way County Road Standard is defined, it references LDC (Land Development Code) (62-71) Some of the standards apply to all roads, some are just subdivisions but it does incorporate those minimum standards. It had been talked about in the past. Subdivisions are more explicit. There was leeway in the green book if you take a road make sure it was minimum FDOT standards.

Mr. Ford said none of the dirt roads would meet green book standards.


 Commissioner Holt said this is why you do not see other Counties doing it. Leon County has private road repair and they charge fees and they are high. Wakulla County has an adopt-a-road for beautification/clean up, Jackson County gives FDOT application, Jefferson County has adopt-a-road beautification. Hamilton County has no program and that is because to try to get money brought in to do this, they are told by FDOT if you can take those private roads, then you don't need SCOP and SCRAP. We get money because this is a low-income County. She stated it is a felony to go on private property and do work with County Equipment. If you do for one you have to do for all. Is it in the budget, no.

Ms. Barkley asked how the ordinance truly helped the citizens. Most citizens in this low-income County do not have money to pay to get to County/FDOT standards.

Commissioner Holt said again a Taxing District takes over road and you pay extra in taxes until its paid. But you could also get a lien against your property if those taxes were not paid.


Chairman Viegbesie asked what if the property is tax exempt?


Commissioner Holt said it was still an agreement between owner and County.

 Mr. Ford said he had not been out there in 4-5 months but thought the major thing would be storm water in roadside swells. He said it was a regular unpaved road and not a whole lot to see. He stated it was wide enough to accommodate whatever was needed. He had not looked at the LDC and the requirements set forth there. He did not think they were defined and they were. He stated he would have to look at it through a new lens to give a solid answer but did not see it taking a lot to get that road to where it would need to be. He also stated he thought they should clarify that the homeowner has to make improvements before the County takes it over. Cost estimate is different by who looks at it.


Commissioner Holt stated once someone looked at the road and they tell you what you need, you can talk to a contractor or Road and Bridge because you need a ditch dug and a crown in the road.

Mr. Ford stated that if he can be of assistance, he will be happy to help to keep ambiguity and there were no surprises.


 Chairman Viegbesie said this was a work in progress. It was not a decision on what would be done it was just a conversation here, no policy was made it was just a discussion. He stated he liked the Jackson and Leon County model and they will be working on it and it might take a while. He stated County standard was also FDOT standard on the LDC.

 Commissioner Holt stated that as far as the LDC goes, the citizens need to see it and they want to know all information possible. She said it had been a long time on this one. She had started seeing this in 1999 and was not solved yet because no one has the money and neither does the County. She stated in 2005 the County Bonded \$10 million and paved as much as possible.

5. Commissioners Comments

 Chairman Viegbesie said if you have suggestions how to revise the ordinance and make it workable, let the County Administrator know, he will bring it to the attention of the Commissioners and maybe the next workshop could be revising and updating the ordinance. He heard that the County needs to make the LDC readable to all and then add them into the ordinance.

6. Motion to Adjourn

 WITH NO OTHER BUSINESS OR CITIZENS TO SPEAK, CHAIRMAN VIEGBESIE DECLARED THE WORKSHOP ADJOURNED AT 5:19 P.M.



ATTEST:

NICHOLAS THOMAS, Clerk

ANTHONY O. VIEGBESIE, PH. D., Chairman