

*The Law Offices of Thomas M. Shuler, P.A.
Apalachicola, Florida 32320*

Phone: 850-653-1757
Fax: 850-653-8627
Email: mshuler@shulerlawfl.com

Mailing Address:
34-4th Street
Apalachicola, FL 32320

April 16, 2021

To: Franklin County Board of County Commissioners

From: Thomas M. Shuler, County Attorney

Re: April 20, 2021 Meeting

Action Item

1. Ordinance Providing for Limited Maintenance and Repair of Private Roads

Attached is a redline draft of a possible ordinance providing for limited maintenance and repair of private roads; together with a rate sheet showing costs of materials, labor and equipment.

Board Action: Board Discussion.

Informational Items

2. Traffic Ordinance

The newspaper failed to publish the ad for the traffic ordinance scheduled for April 20, 2021.

I have already sent another notice for publication for a public hearing to be held May 6, 2021.

3. Animal Control Appeal Board

The Board met on April 15, 2021. The Board affirmed the decision of animal control to humanely destroy a dog for an unprovoked bite subsequent to being declared a dangerous dog. The owner has a right file an appeal to the circuit court.

4. 2036 Highway 98 – destroyed house

On March 19, 2021, the property owner received my certified letter notifying her of the public nuisance caused by the destroyed house. I gave her 30 days to respond. Failing to receive any response, I sent her a letter on April 9, 2021, informing her that this was her final

notice to remove the destroyed house and abate the nuisance. I gave her a deadline of April 30, 2021. If no response is received, then a lawsuit will be filed.

5. 2626 Highway 98 – destroyed house

The certified letter that I mailed to the property owner on March 5, 2021, was returned as refused by the owner. However, on April 1, 2021, Mr. Steve Paterson informed me that the property owner had applied for a demolition permit.

I sent a follow-up letter to the property owner on April 9, 2021.

6. 329 Highway 98 – unpermitted structure

I have worked with the property owner to bring this property into compliance. To date, no meaningful progress has been made. On February 22, 2021, the property owner agreed to hire a private building inspector, but to date he has not.

I sent him a letter on April 9, 2021, giving him a firm deadline of April 30, 2021. I spoke with the owner by phone today (4/16/21) about this matter.

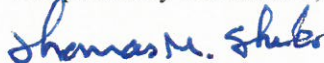
7. 331 Highway 98 – unpermitted structure and unpermitted use

The property owner stated that he had brought the permit and use of the property into compliance with the building code and the zoning code. Mr. Steve Paterson conducted an inspection and informed me that the property is now in compliance.

8. Alligator Point VFD MSBU Matter

I will report on this at the May 6, 2021, meeting.

Respectfully Submitted,



Thomas M. Shuler

Enc: as stated

ORDINANCE 10- _____

AN ORDINANCE ESTABLISHING A PROGRAM IN THE UNINCORPORATED AREA OF FRANKLIN COUNTY FOR THE PREVENTATIVE MAINTENANCE AND REPAIR OF PRIVATE DIRT ROADS; FINDING THAT THIS PROGRAM SERVES A PUBLIC PURPOSE; LIMITING THIS PROGRAM TO PRIVATE INDIVIDUALS ONLY, EXCLUDING ALL ROADS OF ALL GOVERNMENTAL ENTITIES AND AGENCIES, EXCLUDING ALL ARTIFICIAL ENTITIES; REQUIRING THAT THE COUNTY SHALL BE PAID IN ADVANCE FOR ITS ACTUAL COST FOR SUCH PROGRAM; ESTABLISHING LIMITATIONS AND GUIDELINES FOR SUCH PROGRAMS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

Deleted: PRIVATE DRIVEWAYS AND PRIVATE PAVED ROADS

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WHEREAS, Franklin County finds that that a valid public purpose is served by establishing a program which ensures the safe ingress and egress to existing private roads for homeowners, U.S. Postal Service, School Buses, Fire Trucks and Emergency Services Vehicles, ("Program") and

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WHEREAS, this Program shall be limited to the unincorporated areas of Franklin County, Florida, and

WHEREAS, Franklin County requires that is shall be paid in full in advance for its actual costs from those choosing to participate in the Program, and

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WHEREAS, Franklin County declares that the Program provided for herein shall not be construed as competition with private enterprise, but rather a limited service in furtherance of the public good with the restricted purpose of providing access to residential dwellings only by a two-wheel drive car, and

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WHEREAS, such Program shall be contingent upon the availability of county resources, with county owned and maintained roads taking priority over requests for the repair and/or maintenance of private roads, and

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WHEREAS, such Program shall not exceed \$1,000.00 for any single repair and/or maintenance request per fiscal year or, alternatively, all such requests within one neighborhood or subdivision shall not exceed \$5,000.00, per fiscal year (October 1 through September 30), and

WHEREAS, such Program shall exclude new construction of private roads, driveways, stormwater, drainage, ditches and swales, and

WHEREAS, such Program shall be limited to the repair and/or maintenance of private roads, ditches and swales, but shall exclude the provision of stormwater management services, and

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WHEREAS, the private property owner shall be solely responsible for the actual cost of all materials, equipment, staging fees, mileage and personnel costs of Franklin County, and which shall not include any profit margin, and

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WHEREAS, such Program shall be limited to private individuals only and shall exclude all governmental entities and agencies, and

WHEREAS, such Program shall exclude all corporations, partnerships, limited liability companies and all other artificial entities; and,

WHEREAS, Paved Roads are excluded from this Program; and,

WHEREAS, this Program excludes cutting grass on Private Roads; and

WHEREAS, this Program excludes Private Driveways; and,

WHEREAS, this Program excludes the creation of ditches and swales; and,

WHEREAS, Franklin County does not intend that this Program shall be construed as constituting County maintenance of any private road within the meaning of Florida Statute §95.361 (2009) and shall not result in the vesting of any right, title or interest in such property in Franklin County; and,

Deleted: or driveway

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WHEREAS, such Program is not intended for the purpose of, and shall not, improve Private Roads to county road standards for dedication to Franklin County; rather, it shall maintain them at the grade, width and length that such roads exists on the date that this ordinance is adopted; and,

IT IS THEREFORE ORDAINED THAT:

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Section One: Recitals. All the above recitals are incorporated herein by this reference.

Section Two: Title. This Ordinance may be cited as the "Franklin County Maintenance and Repair of Private Roads"

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Section Three: Definitions:

3.1: "Franklin County" means Franklin County, a political subdivision of the State of Florida.

3.2: "Paved Road" means any road that is improved with a durable surface material such as asphalt, concrete or paving stones intended for vehicular traffic

3.3: "Private Driveway" means any private single lane road intended for access to a single or a small group of residential homes

3.4: "Private" means property that is owned by a person who is not Franklin County or the State of Florida, an agency thereof, or any subdivision of the State of Florida or municipality.

3.5: "Property Owner" means the person who owns the fee simple title, life-estate or beneficial ownership to the private road or driveway to be maintained or repaired.

3.6: "Road" means any path or route intended for vehicular traffic, including swales and ditches.

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3.7: "Unpaved Road" means any private road whose surface is improved with a natural unaltered material such as dirt, limestone, dolomite, aggregate materials or similar materials, and which excludes asphalt, concrete and paving stones.

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Section Four: Program:

4.1: Private homeowners may apply/request participation in the Preventative Maintenance and Repair Program at the Franklin County Planning and Zoning Department, 34 Forbes Street, Apalachicola, Florida 32320. 850.653.9783.

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4.2: All requests/applications shall include the following information:

- a. Name, address and phone number of the property Owner
- b. The date of the application or request
- c. A description of the maintenance or repair to be made, including a list of materials.
- d. The name of road subject to the request, if any.
- e. Photographs of the entire road taken within 30 days of the application.
- f. A hold harmless and release of Franklin County from liability and damages.
- g. The property owner shall acknowledge that they understand and agree that the county's maintenance/repair of the road/driveway does not now, and shall not in the future, vest in Franklin County any right, title or interest therein, and that such owner is solely responsible for all future maintenance and ownership of the road.
- h. In the case of private subdivisions, all requests for repairs/maintenance of roads within such subdivision shall be made by the homeowners association and signed by its President. In the event there is no homeowners association or the road has not been dedicated to the homeowners association, then all the owners within the subdivision (recorded or unrecorded subdivision) shall join in the application/request.
- i. Prior to Franklin County commencing work within a subdivision, the property owners shall place flags showing the boundary within which the County is to provide the repair or maintenance of the road.
- j. If state or federal permits are required for any work requested pursuant to this Program, then the applicant is solely responsible for obtaining such permits before Franklin County will commence.

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4.3: Following receipt of the application/request, the Franklin County Engineer shall evaluate the request to determine whether the request meets all Program criteria, whether the materials requested are sufficient to perform the work requested, and to determine the cost of the request.

4.4.: The Engineer shall then notify the property owner of the findings of the review and the cost of the requested repair.

4.5: This Program is limited to the following activities:

- a. Pot hole repair.
- b. Roadside ditch or swale maintenance.
- c. Repair/maintenance of drainage outfall to stormwater treatment facilities.
- d. Storm sewer repair.
- e. Culvert repair or replacement.
- f. ~~Franklin County shall not pave any private unpaved road~~

Deleted: <#>Driveway repair/maintenance.*

- h. Franklin County shall not re-pave any private paved road.
- i. Road grading.

4.6: All costs of the requested repair/maintenance shall be paid in full prior to the commencement of work. All payment shall be made payable to the Franklin County Board of County Commissioners. Cash payments shall not be allowed.

4.7: Franklin County shall not either mediate or negotiate between private property owners concerning participation in this Program.

4.8: The fees for participation in this program shall be based on the following:

- a. \$25.00 per hour for Equipment Operator I.
- b. \$30.00 per hour for Equipment Operator II.
- c. \$50.00 per 18 cubic yard of dirt from the county owned pit.
- d. Actual cost for aggregate materials, limerock, dolomite or similar earthen material.

4.8.1 Franklin County may by motion at any public meeting without notice change the fees charged by this ordinance.

4.9 : No repair or maintenance shall exceed \$1,000.00 for any single repair and/or maintenance request of a single homeowner per fiscal year or, alternatively, all such requests for repair or maintenance of a road within one neighborhood or subdivision shall not exceed \$5,000.00, per fiscal year (October 1 through September 30),

4.10: Approval and scheduling of all requests shall be contingent upon the availability of county resources, with Franklin County owned and maintained roads taking priority over private road/driveway requests.

4.11: Upon completion of the request, the private property owner shall be solely responsible for all future maintenance of the road/driveway or other work performed by Franklin County. Franklin County shall not in manner assume any responsibility for future maintenance.

5.0: Severability: If any part or portion of this ordinance shall be found to be unenforceable, then it shall be amended to remove the objectionable part or portion. If such part or portion thereof cannot be so amended, then it shall be stricken and the remainder shall remain in full force and affect.

6.0: Effective Date: This ordinance shall take effect in accordance with Florida law.

Franklin County, a political subdivision
of the State of Florida

BY: _____
Ricky D. Jones, Its Chairman

Deleted: Joseph A. Parrish

Attest:

Michele Maxwell, Clerk

Dated: _____
2021

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Deleted: October 5

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Deleted: Marcia M. Johnson

Approved as to Form:

By: _____
Thomas M. Shuler, County Attorney

Material

Lime rock \$466 per 18 cubic yards

Milled Asphalt \$700 per 18 cubic yards

Cold Mix \$900 for 8 cubic yards

Black Dirt \$190 for 18 cubic yards

Yellow Sand \$211 per 18 cubic yards

Laborer's

Equipment Operator \$23.19 p/hour average cost for employee including fringe benefits

Dump Truck Driver \$23.07 p/hour average cost for employee including fringe benefits

Flagger \$25.48 p/hour average cost for employee including fringe benefits

Equipment

Dump Truck \$77.50 per hour

Grader \$63.63 per hour

Tractor w/ box drag \$37.38 per hour

Ford F-150 \$12.78 per hour

(Equipment rates are calculated using FEMA current equipment rates)