

**FRANKLIN COUNTY BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING
OCTOBER 8, 2001
9:00 A.M.**

OFFICIALS IN ATTENDANCE: Eddie Creamer, Chairman; Bevin Putnal, Jimmy Mosconis, Cheryl Sanders, and Clarence Williams, Commissioners; Kendall Wade, Clerk; Amelia Varnes, Deputy Clerk; Alfred Shuler, County Attorney.

9:00 A.M. Chairman Creamer called the meeting to order.

(Tape 1-9) Chairman Creamer asked Alan Pierce, Director of Administrative Services, to speak first. Mr. Pierce informed the Board he had just returned to work after 10 days. He said when he left he talked to Thad Brett, owner and developer of the "Blue Water Bay" Subdivision in Lanark Village, about Oak Street. He said he asked him about the possibility of either reconsidering the number of lots platted in his subdivision to allow Oak Street to travel across, which would be considered rezoning the property from R-1a, three units per acre to R-1, one unit per acre, so the zoning change would mean the developers wouldn't have to install sewer lines in. He said if this was done, one-acre lots, then the County could allow them to do some clustering on the one-acre lots, which would still allow him 25 lots since he has 25 acres. He stated this would save the developers a considerable amount of money by not requiring sewer. He said then the road issue would probably disappear since there would be more room to work lots around. He stated this would be a financial decision for the Brett's since the property is already zoned R-1a. He said the second option, since Oak Street is partially on the Simmons' property, would be for the County to work with the Brett's to move the road to the Simmons' property, which is on the power line easement, and then the County would only need an access down the east side of the property tying back into Pinewood. He explained there is some drainage issues the Brett's need to consider. He said if the County worked with the Brett's then the County would help with some of the drainage issues they have. He said there would be drainage from their development into a County ditch. He informed the Board this was the last he heard or discussed with the Brett's. He said then he went out of town for ten days. Commissioner Sanders asked Mr. Pierce if this was his recommendation. She said Mr. Curenton did read this recommendation to the Board at last Tuesday's meeting. Mr. Pierce replied yes it was. Commissioner Sanders said Ms. Brett got upset at that meeting and left the meeting before her scheduled time on the agenda. She said she too was out of town, at the end of last week, when the streets were blocked off. She stated she would like to ask Mr. Shuler, the County Attorney, to shed some light on this issue. Mr. Shuler replied, as he understands it, late last week Oak Street in Lanark Village, which runs through the Brett's property, was closed off. He stated he was not aware that the County has ever received a deed or any written dedication to the property. He said he would check further, however there is a Florida Statute that states if the County maintains a road for or builds and maintains a road on a regular basis for four years or more then the road is presumed to be dedicated to the County to the extent it was maintained. He stated if the road was built by the County, maintained by the County and repaired by the County for four years or it was built, in this

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case, by the armed services during the war, it would belong to the County. He said one of the options the County has is to file suit for a Declaratory Judgment. He stated the County would have to present proof of maintenance of the road and the Judge would then rule whether the road belongs to the County or not. He said a settlement, if it could be reached, is better for everybody involved than a lawsuit. He stated when a settlement is reached you know what has been decided on, but when a lawsuit is filed and has to be decided on by a Judge, you might not know what will happen until the Judge renders his opinion. Chairman Creamer asked if Mr. Shuler knew of any documentation the Road Department had kept on this particular road. Mr. Shuler replied this information was going to be presented at the last meeting, but after Ms. Brett left the meeting the Board tabled the discussion. Commissioner Sanders said her concern is not only have the Brett's closed Oak Street, but Debbie Lane as well. She stated this was an emergency exit for the people who live on the other side of Lanark Village. She said her concerns are with emergency vehicles getting in and out of that area. She stated the County put the lime rock down on Debbie Lane. She said the County built Debbie Lane. Commissioner Sanders said she wanted Mr. Shuler to recommend, to the Board, what they needed to do. Ed Saunders, previous owner of the property, presented a photograph to the Board of the area in question taken in April, 2000. Commissioner Putnal said when all of this came about a few years back he said he had a problem with it because he doesn't like to close any road. He stated the people involved in the matter convinced him the County didn't need the road. He said now all of a sudden this road is the most important road in the County. Mr. Shuler said he would be glad to make a recommendation, but he wanted to have, in the record, what maintenance had been done by the County. He stated the County would have to show that the road was maintained by the Road Department on a regular basis for four years. He reminded the Board this road was not formally abandoned. Mr. Shuler said basically, what was done in this situation, is the Board, based on the information furnished to them at that meeting, decided the County had not done the maintenance and voted to place a "Road Closed" sign on the road. He explained, if in fact, the maintenance and the requirements of the Statute was met then the Board acted on incorrect or insufficient information. He said then, since the road was not abandoned, the road might still belong to the County. He stated if the new owners took substantial reliance in that action then they are going to claim the County cannot change their position and claim the road. He informed the Board all of this would have to be sorted out by a Judge in Court. Commissioner Putnal asked what the financial costs of this lawsuit would be. He asked if it would cost more to go to Court or more to build a new road. Mr. Pierce suggested, the cheapest way out to him, would be to move the road down the power line easement. He said the problem is, at some point, the County would either have to cross the Brett's property or Jim Green's property. He said the road has to turn back south and there is no other way to move the road. He stated if the Brett's would just work with the County for just a small section of their property in the northeast corner, then the County could keep the road right where it is. Commissioner Sanders said, in other words, just keep the road where it is; if the Brett's would agree. Mr. Pierce agreed and said the some of the road could be moved to the power line. Commissioner Putnal said he was interested in saving dollars. Mr. Pierce said the simplest thing would be for the Brett's to work with him to try and solve this problem. He stated he was waiting on Thad Brett to call him back with an answer. Commissioner Sanders stated she

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had a conversation with Mr. Brett and she felt like he was going to try and work with the County. Commissioner Mosconis asked why didn't the Board agree to give instructions to the County Attorney and Mr. Pierce to pursue working out an agreement with the Brett's and if an agreement cannot be reached, then allow the County Attorney to file a lawsuit. Commissioner Sanders said that would be fine, but until some kind of agreement can be reached the roads would still be closed. She stated she was especially concerned about Debbie Lane. She said she knew the ambulance had to use the road several times just in the last few months. Mr. Shuler said he didn't know what the factual situation is about Debbie Lane. He stated he didn't know if the County had maintained it or not. Commissioner Sanders said the road was built by the County and had County lime rock on it right now. He said a further alternative, although the County has never exercised the right, would be to file a condemnation suit. He stated other places do it when a matter like this can't be resolved otherwise. He said the County would have to pay for the value of the land, as established; the consequential damages; and all attorney fees and court costs. He said it was expensive. He said, to his knowledge, as long as he has been County Attorney the County has never had to condemn anything. Mr. Jim Green, adjacent property owner to the Brett's, said there would be two dead ends created, one from Oak and one from Pinewood. He stated he would be glad to work with the County. Commissioner Putnal said he would be glad to help Mr. Green with his development if Mr. Green would help the County with this road situation. Mr. Green said it wouldn't be a problem with him, because he has already had his plat approved. He stated he called Prentice Crum, when he was Road Superintendent, and asked him about the maintenance of Pinewood, what he thinks is a continuation of Oak Street. He said the County did some clearing and cutting along Pinewood. He stated he didn't know if the County considered that one in the same road or not, but he did. He said the maintenance was proportional to the use of the road. He stated the use was limited because the surface was so rough. He said he would be very supportive of Pinewood being designated a County Road as well. Commissioner Mosconis asked why couldn't another route be made using Mr. Green's property. Mr. Green stated he also thought lime rock had been put over the asphalt surface on Deer Run. Chairman Creamer said he thought the Brett's would not want to work with the County. He stated no matter how many times the Board asks County staff to talk and try to work with the Brett's they are simply not going to do it. He said the only thing he thinks can be done is for the County to go ahead and take them to Court. He stated the way they closed the road off, without any warning, was not the right thing to do and the County should just go ahead and sue them. Ed Saunders said the property was platted, at his request in 1995 or 1996, and the development never went through. He stated he understood the plat had been changed, but the "footprint" was the same. He said Prentice Crum informed the Board and the public at the meeting in 1995 or 1996 that the County did not maintain the road. He reminded the Board Mr. Crum built the road years ago for the County to use to haul dirt from some property near there. He stated this is how the road got there in the first place. He stated the road was just used as a little trespass road, then the County mowed the road a couple of times. He presented a photograph reflecting how the road looked in April of 2000, which shows, he thinks, the road is not a County maintained road. He informed the Board, although he is not a lawyer, he believes if the matter does go to Court the County would lose. He said there is documentation as to when he came before the County Commission and everything after

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that shows the County did not own or maintain the road. He stated he personally put over \$30,000.00 in the property. He said the Brett's are going to benefit a lot of people by running their own sewer line to Gulf Terrace at no cost to the Lanark Village Water and Sewer Department. He stated, when he was going to develop the property, he wasn't going to do that. He said the Brett's are upset because they feel every time they come before the Board they are delayed or the matter is tabled. He stated the President of the Association called him or he called "her" and asked her what was going on. He said "she" informed him that "she" and "you"-pointing to Commissioner Sanders-wanted to close Debbie Lane. He stated he told "her" Debbie Lane couldn't be closed.

Commissioner Sanders adamantly told Dr. Saunders she had never said such a thing. She stated she is not going to get into personal attacks since everyone is here to discuss how this problem can be remedied. He said he didn't say "she" did. Commissioner Sanders asked Dr. Saunders why he pointed his finger at her and accuse her of saying it then.

Commissioner Sanders said she was not going to put up with this type of thing. She said she was here to protect the health, safety, and welfare of the people in District 2 and that is exactly what she is going to do. She stated whatever it takes and told Dr. Saunders he was beginning to agitate her. She said he has called her and said "this could be a political firecracker". She stated she didn't really care because she was here to protect her people in her District. She said whatever she needed to do today she was going to do to protect the "Village". Dr. Saunders denied saying any of this. Chairman Creamer said he would like to hear from other members of the audience. John Roberts said he lives in Carrabelle right at the edge of Lanark Village on Carl King Avenue. He stated he has a question, in his mind, if the property has ever been abandoned. He said he has lived here for seven years and he has a very good friend who has lived here for fifteen years. He stated they walk, every day, on this road, without any impediment. He said they enjoy their walk and it would be an unusual day when they didn't or wouldn't run into any traffic on this road as they walked. He stated they walk at all hours of the day. He said he believes the road has never been abandoned nor has he every even heard about the road being closed or abandoned. He stated he didn't know of any regulation, which would require the County to periodically scrape or put gravel on the road. He said the property, according to him, has never been abandoned because he has been using the road for seven years.

He stated Ms. McDonald has been using it for fifteen years. Ms. Harriett Beach, Lanark Village, said she wanted to respond to Dr. Saunders remarks. She stated Dr. Saunders called her, she did not call him, and she hung up on him. She said he was attempting to get her to make statements that would misrepresent the situation. She told the Board she received telephone calls from people living in the Village informing her Dr. Saunders had called them and told them she had said this or said that. She said she did not say anything and this was simply a smoke screen, propoganda, and he had disseminated misinformation throughout the Village. Commissioner Mosconis said he had an appointment this morning and would have to leave soon. He stated if the landowner has a situation like this and would work with the County to continue to provide access to all of the parties involved; he could see allowing them to have their land, the integrity of it. He said he didn't have a problem with that, but they need to have a "spirit of cooperation" and work with the County. He said he thought the County did have a good case, but he did want to try one more time to reach a settlement with the Brett's. He said he wanted to be sure nobody in this neighborhood was being denied access, especially for

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emergency vehicles. Commissioner Mosconis said Ms. Brett stormed out of the meeting the other day before anyone could discuss her proposal. He stated it cost the County money when those Road Department employees were just sitting in the meeting waiting to be heard. Commissioner Sanders said again she was concerned about the end of Debbie Lane being blocked off. She said she wanted to be sure emergency vehicles could go in and out of Debbie Lane. She asked Mr. Shuler what could be done about opening Debbie Lane back up. Mr. Shuler replied if the road belongs to the County, which it could, by being deeded, if it is in a plat or if the County has regularly maintained the road, then the County could file a lawsuit for Declaratory Judgment. He said the Judge would determine who owns the road and the declared owner can either close the road or keep it open. He stated the other alternative would be to condemn the property and pay all costs incurred. Commissioner Sanders explained that Debbie Lane was the road opened up by the County. She informed the Board the County placed lime rock purchased by the County on the road. She stated at the time all of this happened several years ago the road was supposed to be changed over to the County. She said this didn't happen because Dr. Saunders and the developers didn't ever actually develop the property. She stated the new owner's, the Brett's, haven't even had their plat approved yet. Chairman Creamer said he thought Mr. Pierce should be able to report back to the Board at the next Board Meeting scheduled for October 16th. Lucille Beaty, Lanark Village, said she wanted to remind the Board that at the last Board Meeting on October 2nd Mr. Chipman, Superintendent of Public Works, informed the Board Oak Street had been maintained by the County. Gerald Judge, Lanark Village, said he lived on the Infield Road and owned the property there. He said his title insurance company helped fix this road too. He asked if his property or the street was in jeopardy. Mr. Pierce told him since his lot was one of the first two on the road he didn't think Mr. Judge had anything to worry about. He said there are several property owners on down this road who would be land locked, so to speak. Mr. Judge said Mr. Brett and his neighbor, Ms. Guyton, got into an argument after Mr. Brett told her he would be putting a chain link fence across her property line. Dr. Saunders said the road did belong to the County and Mr. Judge did not have anything to worry about. He stated Mr. Judge has the road included in his title policy. Commissioner Mosconis said he would make a motion instructing Mr. Pierce to attempt to negotiate a solution to this problem one last time; if a solution cannot be reached then the County Attorney would need to proceed with legal action; and instructing Mr. Pierce to report back to the Board on October 16th. Commissioner Sanders seconded the motion. All for. **MOTION CARRIED.** Chairman Creamer said he wanted to make sure the County Attorney and Mr. Pierce took care of this matter and had a report at the next meeting for the Commissioners.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD
THE MEETING WAS ADJOURNED.**

Eddie Creamer

EDDIE CREAMER, CHAIRMAN

Kendall Wade

KENDALL WADE, CLERK