



# FREDERICK COUNTY GOVERNMENT

Jan H. Gardner  
County Executive

## DIVISION OF PUBLIC WORKS

Department of Engineering & Construction Management *Charles F. Nipe, Division Director*  
*Yau-Ming (Robert) Shen, P.E., Department Head*

### MEMORANDUM

**TO:** Frederick County Roads Board

**FROM:** Charles F. Nipe, Director, Division of Public Works 

**DATE:** May 14, 2019

**SUBJECT:** Rural Roads Program Update

#### ISSUE:

Should the Roads Board endorse proposed changes to the Rural Roads Program?

#### BACKGROUND:

The Rural Roads Program (Program) was initiated September 24, 2002, via resolution of the Board of County Commissioners (BoCC). On December 1, 2014, the County transitioned to charter government, and the County Executive and Council replaced the BoCC. The original text of the Program specifically references the BoCC and should be updated to reflect the change in government.

The Division of Public Works (DPW) suggests additional changes based on 16 years of experience with the Program. The Program is a Resolution, not an Ordinance, and the County Attorney advises that Resolutions are under the County Executive's purview, as they pertain to County policy, operations, and procedures. The County Executive may adopt any, all, or none of the proposed changes.

The original text of the Program, as adopted, is included for reference as Attachment 1; an edited version, with proposed changes indicated by various symbols, as Attachment 2; a clean copy of the proposed new text, as Attachment 3.

Changes to reflect the adoption of the Charter and minor changes to clarify or correct elements of the original text are indicated in Attachment 2 as follows: ~~strikethrough~~ (deletion); underline (addition). Changes based on "lessons learned" since the Program's 2002 adoption are further identified in Attachment 2 by footnotes. The "lessons learned" are as follows:

- Add language to clarify that the Program does not limit the County's ability to perform "limited, localized widening and/or stabilization" as deemed necessary to address a safety or maintenance issue. (Footnotes 1 and 10)
- Allow subdivision of a road into segments, which facilitates satisfaction of resident stabilization requests *and* retention of gravel surfaces where practicable. This recommendation is partly based on DPW experience with Wildcat Road in 2009 and

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Dern Road in 2007. In both cases, the application requested removal and stabilization of the entire road, per the interpretation of the requirements of the Program, yet the resident's goal was stabilization of a limited portion of road. The BoCC directed DPW to stabilize only the area of concern. The stabilized portion of Dern Road was removed from the Program, while the gravel portion remained in the Program. A portion of Wildcat Road was stabilized and all of the road remained in the Program. DPW suggests this approach be formally recognized in the Program text. (Footnotes 2, 3, 5, 6, 9, and 11)

- Include, as a petition option, "comprehensive upgrade" while remaining in the program. This recommendation is based on DPW's experience with Fox Tower Road in 2004. Residents requested that the road be stabilized with tar and chips while remaining in the Program. The County Attorney rendered an interpretation of the Program at the time that supported this approach. (Footnote 4)
- Add language that a petition shall be considered by the Roads Board and the County Executive "as it was originally submitted". In the case of Tower Road in 2014, several property owners who originally supported the petition later desired to withdraw support, and this was construed as grounds to cancel the public hearing. DPW believes that a petition meeting the program criteria should be presented at the public hearing, and "changes of heart" can be expressed as public comments and considered alongside the original petition document. (Footnote 7 and 8)
- Add language that removal of a road from the Program does not guarantee the road will be stabilized or paved. DPW reserves the right to base the decision to stabilize a gravel road on traffic data, maintenance costs, and available resources. (Footnote 12)

#### **RECOMMENDATION:**

DPW recommends endorsement of Attachment 3, which updates the original Program text to reflect the adoption of charter government, clarify or correct minor details, and incorporate improvements based on 16 years of Program administration.

#### **FUNDING IMPLICATION:** No

#### **ATTACHMENTS:**

Attachment 1 – Resolution No. 02-23

Attachment 2 – Proposed Changes to Resolution No. 02-23 – changes indicated

Attachment 3 – Proposed Changes to Resolution No. 02-23 – "clean copy"

cc: Susan Barthol, Special Projects Manager, Division of Public Works  
Robert Shen, P.E., Dept. Head, Dept. of Engineering & Construction Management  
Jason Stitt, P.E., Chief, Office of Transportation Engineering  
David Olney, Project Manager, Traffic & Permit Section  
Project File

*gwl*  
*RS*  
*JMS*

EXHIBIT A*Frederick County, Maryland Rural Roads Program*

1. Purpose. The Rural Roads Program provides the County with another tool to recognize and preserve the County's agricultural and rural heritage. The purpose of this program includes the following:
  - Help protect the scenic and historical qualities of the roads and the adjacent landscape.
  - Support, preserve, and enhance the agricultural/rural character of the County.
  - Contribute to a comprehensive, county-wide inventory of rural/scenic qualities.
  - Provide continuing maintenance of gravel roads, allowing for localized, necessary, safety accommodations (excluding comprehensive stabilization tar and chipping).
  - Discontinue the practice of "automatic" stabilization (tar and chipping) of dirt/gravel roads.
  
2. Designation Criteria. Roadways exhibiting the characteristics set forth below may be considered for inclusion in the Rural Roads Program, and thereafter not be subject to comprehensive upgrade by the County unless removed from the list. The Board notes that many elements of the following criteria (i.e., scenic vistas, rural character, etc.) are subjective.
  - a. The roadway should have outstanding natural features including, but not limited to, a strong heritage with regard to mostly unchanged alignment, width, and adjacent development, etc., open areas with agricultural or scenic vistas, or character consistent with rural heritage and maintenance.
  - b. The road should be lightly traveled, with trip purposes consistent only to serve the local, fronting properties, or to serve auto, biking, or hiking needs in order to enjoy its rustic or recreational features.
  - c. The road should not be scheduled or programmed in the County's CIP program for future major improvements that would change its rural or rustic character, or designated for improvements by the Planning Commission as a result of development activity.
  - d. Scenic roads shall only be located in areas designated Agricultural/Rural and/or Conservation on the County's Comprehensive Plan. These designations must adjoin both sides of the road.

3. Application Process.

- a. Application for a specific roadway inclusion in or removal from the program shall be filed with the Director of the Division of Public Works.
- b. An application may be filed by: (1) Petition of 60% of the property owners adjacent to the road; or (2) by any County agency, the Roads Board, or the Board of County Commissioners.
- c. Upon receipt of the petition, the Director of the Division of Public Works shall forward a copy to the Roads Board for inclusion in its next meeting agenda. The Director shall also forward a copy to the Office of Transportation Engineering for evaluation and creation of a written recommendation. The Office of Transportation Engineering's written recommendation shall be forwarded to the Roads Board and the Board of County Commissioners for consideration during the respective hearings.
- d. The applicant shall be responsible for the cost of the advertisement for the public hearings.
- e. Hearing
  - 1) The Roads Board shall conduct a hearing on the application and forward its recommendation to the Board of County Commissioners.
  - 2) The Board of County Commissioners shall conduct a hearing on the application and determine whether to include or remove a proposed road from the list.

4. Maintenance. A roadway designated as a rural road shall continue to be maintained by the County on a regular schedule, and in such a manner that safe public access continues to be afforded. These guidelines are intended only to pertain to the County-maintained rights of way, including, but not limited to, the travel way and any contiguous ditches. The County shall continue to maintain the road in a continuing, responsible, manner equal to the effort that existed at the time the road was adopted into the program.

- a. Rural roads may have dirt/gravel surfaces or sealed surfaces. The Division of Public Works shall undertake minor maintenance improvements and reconstruction as necessary to retain the integrity of the roadway within the normal bounds of regularly scheduled maintenance. For example, short lengths of road on steep hills may be surface-treated as deemed appropriate by the County to curb gravel run-off or erosion.

- b. Side-swailes and linear drainage shall be maintained pursuant to continuing expectations.
- c. Dust treatment may be applied at the discretion of the Division of Public Works.
- d. Repairs to existing cross-drains or the installation of new drains shall be accommodated.
- e. Where practicable, new or repaired cross drains shall be covered with the same type of surface that existed previously.
- f. The Division of Public Works shall continue to trim and mow roadside vegetation where necessary to maintain safety and access by the traveling public. Tree branches, shrubs, and whole trees may be removed by DPW under regular maintenance when such items threaten the health and safety of the public.
- g. Land and forest management may be practiced.
- h. Control of undesirable vegetation shall be accomplished by mowing or selective cutting whenever possible. When herbicides are necessary, they shall be used in a judicious and prudent manner to avoid unnecessary browning of the roadside vegetation.
- i. Any adjacent property owner may request of DPW to selectively avoid cutting unique vegetation along their road providing that said avoidance does not conflict with "8" above. DPW will endeavor to comply with such requests.
- j. Routine maintenance or repairs to Bridges or Culverts shall be done with consideration for the historic, rustic, or pre-existing character of the structure, as long as safety is not sacrificed.
- k. Materials used to install or repair Bridges or Culverts shall be consistent with pre-existing conditions.
- l. Snow removal and normal "winterizing" practices shall continue.

- m. The County shall continue to supply and maintain all necessary regulatory and advisory signs under authority granted by the County Code. Said signs shall continue to meet specifications for size, reflectivity, message, and placement, etc., as outlined in the Manual on Uniform Traffic Control Devices.
  - n. Speed limits or advisory warnings shall continue to be reviewed and posted under authority granted to the Director of the Division of Public Works. Speeds limits should be well posted on Rural Roads.
  - o. Existing guardrail shall be replaced or repaired with a like material when practicable. New guardrail may be installed by the County to address safety concerns.
5. No Restriction on Development. The designation of a roadway as a rural road under this program shall not limit or restrict development or subdivision rights of adjoining owners. Development related improvements as directed by the Planning Commission or the Division of Public Works may be performed without regard to the policies set forth in this program.

EXHIBIT A***Frederick County, Maryland Rural Roads Program***

1. *Purpose.* The Rural Roads Program provides the County with another tool to recognize and preserve the County's agricultural and rural heritage. The purpose of this program includes the following:
  - Help protect the scenic and historical qualities of the roads and the adjacent landscape.
  - Support, preserve, and enhance the agricultural/rural character of the County.
  - Contribute to a comprehensive, county-wide inventory of rural/scenic qualities.
  - Provide continuing maintenance of gravel roads, allowing for localized, necessary, widening and/or stabilization and<sup>1</sup> safety accommodations (excluding comprehensive widening and/or stabilization ~~tar and chipping~~).
  - Discontinue the practice of "automatic" comprehensive widening and/or stabilization (~~tar and chipping~~) of dirt/gravel roads.
  
2. *Designation Criteria.* Roadways and road segments<sup>2</sup> exhibiting the characteristics set forth below may be considered for inclusion in the Rural Roads Program, and thereafter not be subject to comprehensive widening and/or stabilization ~~upgrade~~ by the County unless removed from the list. The Board County notes that many elements of the following criteria (i.e., scenic vistas, rural character, etc.) are subjective.
  - a. The roadway should have outstanding natural features including, but not limited to, a strong heritage with regard to mostly unchanged alignment, width, and adjacent development, etc., open areas with agricultural or scenic vistas, or character consistent with rural heritage and maintenance.
  
  - b. The road should be lightly traveled, with trip purposes consistent only to serve the local, fronting properties, or to serve auto, biking, or hiking needs in order to enjoy its rustic or recreational features.
  
  - c. The road should not be scheduled or programmed in the County's CIP program for future major improvements that would change its rural or rustic character, or designated for improvements by the Planning Commission as a result of development activity.

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<sup>1</sup> Added to clarify what type of road modifications can be made for safety reasons.

<sup>2</sup> Added to acknowledge the decisions of previous Board of County Commissioners that approved the segmentation and partial stabilization and/or removal of Dern Road in 2007 and Wildcat Road in 2009.

d. ~~See~~ The roads shall should only be located in areas designated Agricultural/Rural and/or Conservation on the County's Comprehensive Plan. These designations must adjoin both sides of the road.

3. *Application Process.*

- a. Applications shall be filed with the Director of the Division of Public Works. An application may request:
- 1) for a specific roadway or road segment to be included~~inclusion~~ in or removal removed from the program<sup>3</sup>
  - 2) for an existing Rural Road to be made eligible for a comprehensive widening and/or stabilization without removing the road from the Program.<sup>4</sup>
- b. The application shall describe the limits of the road or road segment, using typical segment breaks such as intersections, changes in surface type and/or road width, or bridge or drainage structures as starting and ending points. Road segment limits shall be reviewed and approved by the Division of Public Works.<sup>5</sup>
- ~~b~~c. An application may be filed by: (1) Petition of 60% of the property owners adjacent to the road or road segment<sup>6</sup>; or (2) by any County agency, the Roads Board, or the ~~Board of County Commissioners~~ County Executive.
- ~~e~~d. Upon receipt of the petition, the Director of the Division of Public Works shall forward a copy to the Roads Board for inclusion in its next meeting agenda. The Director shall also forward a copy to the ~~Office of Transportation Engineering~~ Department of Engineering and Construction Management for evaluation and creation of a written recommendation. The ~~Office of Transportation Engineering's~~ Department's written recommendation shall be forwarded to the Roads Board and the ~~Board of County Commissioners~~ County Executive for consideration during the respective hearings.
- ~~e~~e. The applicant shall be responsible for the cost of the advertisement for the public hearings.

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<sup>3</sup> Added to accommodate segmentation of existing Rural Roads (see footnote 2).

<sup>4</sup> Added to clarify that a Rural Road may be stabilized and remain in the Program, per interpretation rendered by the County Attorney and applied to Fox Tower Road in 2004.

<sup>5</sup> Added to accommodate segmentation of existing Rural Roads (see footnote 2).

<sup>6</sup> Added to accommodate segmentation of existing Rural Roads (see footnote 2).

ef. Hearing

- 1) The Roads Board shall conduct a hearing on the application as it was originally submitted,<sup>7</sup> and forward its recommendation to the ~~Board of County Commissioners~~ County Executive.
  - 2) The ~~Board of County Commissioners~~ County Executive shall conduct a hearing on the application as it was originally submitted,<sup>8</sup> and determine whether to include or remove a proposed road or road segment<sup>9</sup> from the list.
4. *Maintenance.* A roadway designated as a rural road shall continue to be maintained by the County on a regular schedule, and in such a manner that safe public access continues to be afforded. These guidelines are intended only to pertain to the County-maintained rights of way, including, but not limited to, the travel way and any contiguous ditches, signs, and other road appurtenances. The County shall continue to maintain the road in a continuing, responsible, manner equal to the effort that existed at the time the road was adopted into the program.
- a. Rural roads may have dirt/gravel, tar and chip, or asphalt surfaces ~~or sealed surfaces~~. The Division of Public Works shall undertake minor maintenance improvements and reconstruction, including localized widening and/or stabilization<sup>10</sup> as necessary to retain the integrity of the roadway within the normal bounds of regularly scheduled maintenance. For example, short lengths of road on steep hills may be surface-treated as deemed appropriate by the County to curb gravel run-off or erosion.
  - b. Side-swales and linear drainage shall be maintained pursuant to continuing expectations.
  - c. Dust treatment may be applied at the discretion of the Division of Public Works.
  - d. Repairs to existing drainage structures ~~cross-drains~~ or the installation of new drainage structures shall be accommodated.

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<sup>7</sup> Added to address attempts by property owners to rescind their previous support for a petition to remove and stabilize a portion of Tower Road in 2014. Staff believe that a "change of heart" should not affect the public hearing process, and such a change can be expressed by the individual during the hearing as public comment.

<sup>8</sup> See footnote 7.

<sup>9</sup> See footnote 2.

<sup>10</sup> Added to clarify the types of work that may be considered allowable as "minor maintenance".

- e. Where practicable, new or repaired cross drainage structures shall be covered with the same type of surface that existed previously.
- f. The Division of Public Works shall continue to trim and mow roadside vegetation where necessary to maintain safety and access by the traveling public. Tree branches, shrubs, and whole trees may be removed by DPW under regular maintenance when such items threaten the health and safety of the public.
- g. Land and forest management may be practiced.
- h. Control of undesirable vegetation shall be accomplished by mowing or selective cutting whenever possible. When herbicides are necessary, they shall be used ~~in a judicious and prudent manner to avoid unnecessary browning of the roadside vegetation applied under the~~ direction of a licensed applicator.
- i. Any adjacent property owner may request of DPW to selectively avoid cutting unique vegetation along their road frontage providing that said avoidance does not conflict with “g” “f” and “h” above. DPW will endeavor to comply with such requests.
- j. Routine maintenance or repairs to Bridges or Culverts shall be done with consideration for the historic, rustic, or pre-existing character of the structure, as long as safety is not sacrificed.
- k. Materials used to install or repair Bridges or Culverts shall be consistent with pre-existing conditions.
- l. Snow removal and normal “winterizing” practices shall continue.
- m. The County shall continue to supply and maintain all necessary regulatory and advisory signs under authority granted by the County Code. Said signs shall continue to meet specifications for size, reflectivity, message, and placement, etc., as outlined in the Manual on Uniform Traffic Control Devices.
- n. Speed limits or advisory warnings shall continue to be reviewed and posted under authority granted to the Director of the Division of Public Works. Speeds limits should be well posted on Rural Roads.
- o. Existing guardrail shall be replaced or repaired with a like material when practicable. New guardrail may be installed by the County to

address safety concerns.

5. No Restriction on Development. The designation of a roadway or road segment<sup>11</sup> as a rural road under this program shall not limit or restrict development or subdivision rights of adjoining owners. Development related improvements as directed by ~~the Planning Commission or the Division of Public Works~~ County Government may be performed without regard to the policies set forth in this program.
6. No Guarantee of Stabilization. Removal of a road or road segment from the Program does not guarantee that the road or road segment will be stabilized with tar and chips or paved with asphalt.<sup>12</sup>

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<sup>11</sup> See footnote 2.

<sup>12</sup> Added to clarify that removal of a road from the Program may not result in stabilization. DPW reserves the right to base the decision to stabilize a gravel road on traffic data, maintenance costs, and available resources.

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