

## Dedication of County Roads

### Outline for August 26, 2019, Work Session

#### Creation of Private Roads

- The sale of lots in a subdivision by reference to a plat showing a road creates a private easement in the full length of the road in each purchaser of an adjoining lot.
- Fee simple title is in adjoining property owner to centerline, subject to each adjoining owner's easement over the entire road.

#### Dedication of Public Road

- A county road may be created by dedication.
- There is a presumption that the dedication of a road to a county transfers only an easement. Where there is no express grant of fee simple title, an easement results.
- The adjoining landowners continue to own fee simple title to the middle of the road.
- Dedication requires the intention of the owner to dedicate land for public use.
- Dedication also requires acceptance by the county or the public.

#### Description

- The description of the right of way must be certain or furnish a key to the precise location and boundaries of the right of way. This is best accomplished by a new plat.

#### Potential Issues with Dedication of Private Road

- Title: In some instances, the County may be able to identify all adjoining property owners. In others, it may not.
- Consents: In some instances, all adjoining property owners may consent to a proposed dedication. In others instances, some owners may not consent or affirmatively object.

#### Duty to Maintain

- A county has a duty to maintain a county road.

#### Abandonment

- A county may abandon a county road only if (a) the road has ceased to be used by the public to the extent no substantial public purpose is served by it and/or (b) its removal from the county road system is otherwise in the best public interest.