



OFFICE OF THE CITY ATTORNEY

LETTER TO COMMISSION

No. LTC #

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Raul J. Aguila, City Attorney

CC: Jimmy L. Morales, City Manager

DATE: August 10, 2018

SUBJECT: **INFORMATIONAL REPORT REGARDING THE SECURITY GATES IN THE NORMANDY SHORES LOCAL GOVERNMENT NEIGHBORHOOD IMPROVEMENT DISTRICT ("DISTRICT")**

The purpose of this Letter to Commission is to provide the Mayor and City Commission with a copy of a Memorandum prepared by my Office. The Memorandum was prepared in response to citizen inquiries regarding the City's authority to restrict access to the above-referenced safe neighborhood improvement District and the City's authority to make decisions relative to the District.

Should you have any questions or concerns regarding the attached Memorandum, please do not hesitate to contact me.



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

MEMORANDUM

TO: Jimmy Morales, City Manager
Mark Taxis, Assistant City Manager
Adrian Morales, Director/Lincoln Road Manager, Property Mgmt. Dept.

FROM: Debora J. Turner, First Assistant City Attorney

DATE: August 8, 2018

SUBJECT: **NORMANDY SHORES LOCAL GOVERNMENT NEIGHBORHOOD IMPROVEMENT DISTRICT ("DISTRICT") – SECURITY GATES**

Pursuant to the inquiry of various citizens, questions have been raised with regard to the City's authority to restrict access to the District, and the entity that is authorized to make decisions regarding access to the District.

Background

In accordance with Section 163.506 of the Florida Statutes, the District was created in 1993 as a safe neighborhood improvement district pursuant to the adoption of City Ordinance No. 93-2881. In this Ordinance, the Miami Beach City Commission was designated as the Board of Directors of the District and, in addition, an Advisory Council was established comprised of property owners or residents of the District as appointed by the City Commission. In City Resolution No. 97-22449, the composition of the Advisory Council was established as three members of the Executive Committee of the Normandy Shores Homeowners Association.

Access is permitted to all streets in the District, at all times, through the manned security guard gate entrance on Biarritz Drive. When the security guard gate is unmanned, during events such as a hurricane, that entry gate is secured in an open position. Thus, at no time, is anyone restricted from entering and accessing streets in the District through the manned security guard entrance.

Analysis

Pursuant to Section 316.008(w) of the Florida Statutes, local authorities, through the exercise of their police powers, are not prevented from "...[r]egulating, restricting, or monitoring traffic by security devices or personnel on public streets...." Thus, under State law, the City is authorized to regulate, restrict, and monitor traffic in the district by the security devices and personnel.

Florida Attorney General Opinions and articles from the St. Petersburg Times have been offered by the inquiring citizens in support of the position that the City cannot restrict access to District streets by means of a clicker at the non-manned gates. The primary Attorney General Opinion relied upon in the citizen inquiry is Op. Att'y Gen. Fla. 90-51 (1990). However, this Opinion not only predates the adoption of the current authorizing language in Section 316.008(w), but it is factually distinguishable, as there is no mention of the existence of a manned security gate through which all may pass. That Opinion only discusses a security gate on a road which limits access to the road to only those who have purchased a remote control unit to open the gate. In the District, all roads may be accessed by all persons through the manned security guard gate.

In addition, Op. Att'y Gen. Fla. 04-47 (2004) is inapplicable as it concerns whether a municipality may abandon roads and convey the roads to a homeowners' association under State law. The Opinion found that the statutory authority for such conveyances applied exclusively to counties and that municipalities were preempted from abandoning roads and conveying their interests to homeowners' association.

Also, Op. Att'y Gen. Fla. 04-65 (2004) is factually distinguishable because it concerned the approval of a gate located on private property.

Finally, the newspaper articles relative to a residential development in Heritage Isles are not applicable, as there is no indication that the access restrictions were established by a local governmental entity pursuant to a safe neighborhood improvement district under Florida law.

Conclusion

Based upon the foregoing authorities and analysis, the City is authorized to implement security measurements to control and restrict access to the District through the manned security guard gate and the additional remote controlled gates. Decisions relative to the District are made by the City through the lawful exercise of its police powers. In making its decisions, recommendations from the Advisory Committee may be considered, as well as input from first responders (e.g., Police, Fire), emergency management personnel and, as needed, public utilities.

Attachments

Op. Att'y Gen. Fla. 90-51 (1990)
Op. Att'y Gen. Fla. 04-47 (2004)
Op. Att'y Gen. Fla. 04-65 (2004)
St. Petersburg Times articles

Florida Attorney General Advisory Legal Opinion

Number: AGO 90-51

Date: July 10, 1990

Subject: Municipality/security gate across public road

The Honorable George T. Woodmansee
Mayor, Town of Melbourne Village
535 Hammock Road
Melbourne Village, Florida 32904

Re: MUNICIPALITIES--TRAFFIC CONTROL--municipality prohibited from installing a security gate across a public road, thereby limiting access to road to residents and to those nonresidents who have purchased a remote control unit to open the gate. s. 316.006, F.S.

Dear Mayor Woodmansee:

You ask substantially the following question:

May the Town of Melbourne Village install a security gate on a public road limiting access to the road to residents and those nonresidents who have purchased a remote control unit?

In sum, I am of the opinion that:

A municipality is not authorized to install a security gate on a public road which limits access to the road to residents and those nonresidents who have purchased a remote control unit.

According to your letter, the automobile traffic through the Town of Melbourne Village has increased dramatically due to rapid growth in the area surrounding the town. A significant portion of this traffic is apparently caused by motorists seeking to bypass a congested intersection by driving through the town. You state that this additional traffic has affected the "safety, health and welfare and tranquility of the residents living on these neighborhood streets."

The town, in an effort to cut down on this traffic, is interested in installing a security gate on one of the city streets. The street in question has apparently been deeded to, and is being maintained by, the town.[1] Upon installation of the security gate, each town resident would be supplied with a key. Any person, resident or nonresident, would be able to purchase a remote control unit for operating the gate at cost. You state that emergency vehicles would have access by keying their microphones when approaching the gate.

Chapter 316, F.S., the Florida Uniform Traffic Control Law, was enacted to

"make uniform traffic laws to apply throughout the state and its several counties and uniform traffic ordinances to apply in all municipalities." [2] The purpose of the act was to eliminate the "hodgepodge of ordinances which vary as to language and penalty," resulting in an inconvenience and hazard to travelers. [3]

The provisions of Ch. 316, F.S., are to be "applicable and uniform throughout this state and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized." [4] This office has previously stated that Ch. 316, F.S., operates to prohibit any local legislation on traffic control or the enforcement thereof under the police power of a municipality, except as may be expressly authorized by the Uniform Traffic Control Law. [5]

Section 316.006(2) (a), F.S., provides:

"Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices *which conform to the manual and specifications of the Department of Transportation* upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic." [6] (e.s.)

"Street or highway" is defined for purposes of Ch. 316, F.S., to include:

"The entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic" [7]

In enacting Ch. 316, F.S., the Legislature recognized that there are conditions which require municipalities to pass certain traffic ordinances regulating municipal traffic that are not required to regulate the movement of traffic outside of municipalities. Section 316.008, F.S., expressly enumerates those areas within which a municipality may control certain traffic movement or parking on the streets and highways within their jurisdiction. Among those areas so enumerated are the power to restrict the use of the street, to regulate or prohibit the use of certain roadways by certain classes or kinds of traffic, to alter or establish speed limits within the provisions of the chapter.

Those areas susceptible of local regulation, however, do not, in my opinion, empower a municipality to install a security gate across a public street or highway. Such construction would appear to obstruct the free, convenient and normal use of the public road by impeding or restraining traffic on such road in a manner not authorized by Ch. 316, F.S. [8] From the information supplied to this office, it appears that the Department of Transportation and the State Attorney's Office have already advised the town that the installation of such a gate would be illegal.

Accordingly, I am of the opinion that a municipality is prohibited from enacting any local legislation to control or regulate traffic or from attempting to enforce such regulations except as may be expressly

authorized by the Uniform Traffic Control Law. While a municipality has been authorized to regulate the use of certain streets within the municipality by a class or kind of traffic or to designate or restrict the use of its streets as prescribed by s. 316.008, F.S., it is not authorized to install a security gate on a public road which limits access to the road to residents and to those nonresidents who have purchased a remote control unit to open the gate.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

[1] Cf. AGO 79-14 (municipality may not lawfully expend public funds to repair or maintain privately owned roads or streets where the general public does not have a right to travel). Cf. s. 316.006(2)(b), F.S., authorizing a municipality to exercise jurisdiction over private roads under an agreement which provides for reimbursement for the actual costs of traffic control and enforcement and for liability insurance and indemnification.

[2] Section 316.002, F.S.

[3] See the preamble to Ch. 71-135, Laws of Florida, creating Ch. 316, F.S.

[4] Section 316.007, F.S. See s. 316.002, F.S., stating that it is unlawful for any local authority to pass or attempt to enforce any ordinance in conflict with the provisions of Ch. 316, F.S. Cf. s. 166.021(1), (3) and (4), F.S., which operates to prohibit a municipality from exercising any power for municipal purposes or enacting any municipal regulation when expressly prohibited by law or when the subject matter is expressly preempted to the state by general law.

[5] See, e.g., AGO 80-80 stating that a municipality may not absolutely bar or prohibit the riding or driving of horses or horse-drawn vehicles on the public streets within the municipality.

[6] Section 316.006(2)(b), F.S., authorizes a municipality to exercise jurisdiction over any private road within its boundaries if the municipality and party owning or controlling such roads provide by written agreement for municipal traffic control jurisdiction over the roads provision for reimbursement of the actual costs of traffic control and enforcement and for liability insurance and indemnification by the party.

[7] Section 316.003(53), F.S.

[8] See s. 316.2045(1), F.S., providing that it is unlawful for any person or persons willfully to obstruct the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling,

Attachment B

retarding, or restraining traffic or passage thereon. And see s. 861.01, F.S., which provides that whoever obstructs any public road by fencing across or into the same or willfully causes any other obstruction in or to such road or part thereof is guilty of a misdemeanor of the first degree.

Florida Attorney General Advisory Legal Opinion

Number: AGO 2004-47

Date: September 14, 2004

Subject: Municipality, abandonment of roads

Mr. Lonnie N. Groot
Oviedo City Attorney
Post Office Box 4848
Sanford, Florida 32772-4848

RE: MUNICIPALITIES--UNIFORM TRAFFIC CONTROL--ROADS--HOMEOWNERS
ASSOCIATIONS--authority of municipality to abandon roads and convey to
homeowners' association. ss. 316.007 and 316.00825, Fla. Stat.

Dear Mr. Groot:

The City Council of the City of Oviedo has requested my opinion on
substantially the following question:

Is the City of Oviedo authorized to vacate municipal roads and rights-of-
way in accordance with the provisions of section 316.00825, Florida
Statutes?

Chapter 316, Florida Statutes, the Florida Uniform Traffic Control Law,
was enacted to make uniform traffic laws applicable throughout the state
and its several counties and uniform traffic ordinances to apply in all
municipalities. (s. 316.002, Fla. Stat.) Section 316.006, Florida
Statutes, vests jurisdiction to control traffic in the state, counties,
and municipalities. Municipalities are given authority to control traffic
within their jurisdictions by section 316.006(2)(a), Florida Statutes,
which provides:

"Chartered municipalities shall have original jurisdiction over all
streets and highways located within their boundaries, except state roads,
and may place and maintain such traffic control devices which conform to
the manual and specifications of the Department of Transportation upon all
streets and highways under their original jurisdiction as they shall deem
necessary to indicate and to carry out the provisions of this chapter or
to regulate, warn or guide traffic."

Section 316.640, Florida Statutes, provides generally for the enforcement
of traffic laws and, more specifically, states that municipalities shall
enforce state traffic laws on municipal thoroughfares "wherever the public
has the right to travel by motor vehicle." [1]

Section 316.00825, Florida Statutes, provides:

Attachment B

"(1) (a) In addition to the authority provided in s. 336.12, [2] the governing body of the county may abandon the roads and rights-of-way dedicated in a recorded residential subdivision plat and simultaneously convey the county's interest in such roads, rights-of-way, and appurtenant drainage facilities to a homeowners' association for the subdivision, if the following conditions have been met:

1. The homeowners' association has requested the abandonment and conveyance in writing for the purpose of converting the subdivision to a gated neighborhood with restricted public access.
2. No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the homeowners' association.
3. The homeowners' association is both a corporation not for profit organized and in good standing under chapter 617, and a "homeowners' association" as defined in s. 720.301(9) with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks, and pavement in the subdivision.
4. The homeowners' association has entered into and executed such agreements, covenants, warranties, and other instruments; has provided, or has provided assurance of, such funds, reserve funds, and funding sources; and has satisfied such other requirements and conditions as may be established or imposed by the county with respect to the ongoing operation, maintenance, and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting, and sidewalks in the subdivision after the abandonment by the county.

(b) The homeowners' association shall install, operate, maintain, repair, and replace all signs, signals, markings, striping, guardrails, and other traffic control devices necessary or useful for the private roads unless an agreement has been entered into between the county and the homeowners' association, as authorized under s. 316.006(3) (b), expressly providing that the county has traffic control jurisdiction.

(2) Upon abandonment of the roads and rights-of-way and the conveyance thereof to the homeowners' association, the homeowners' association shall have all the rights, title, and interest in the roads and rights-of-way, including all appurtenant drainage facilities, as were previously vested in the county. Thereafter, the homeowners' association shall hold the roads and rights-of-way in trust for the benefit of the owners of the property in the subdivision, and shall operate, maintain, repair, and, from time to time, replace and reconstruct the roads, street lighting, sidewalks, and drainage facilities as necessary to ensure their use and enjoyment by the property owners, tenants, and residents of the subdivision and their guests and invitees. The provisions of this section shall be regarded as supplemental and additional to the provisions of s. 336.12, and shall not be regarded as in derogation of that section."

Your question presupposes that the conditions of section 316.00825, Florida Statutes, have been met and then asks whether a municipality may act in accordance with this section to vacate roads and convey those same roads to a homeowners' association. You also suggest that a municipality may have home rule powers that would enable it to close and abandon a road and simultaneously convey the road and right-of-way to a homeowners' association in the manner provided by section 316.00825.

It is clear from the language used by the Legislature in section 316.00825, Florida Statutes, that the authority vested in local governments by that statute applies exclusively to counties. It is a rule of statutory construction that when a law mentions the things upon which it is to operate, it is ordinarily construed as excluding from its operation all things not expressly mentioned, that is, *expressio unius est exclusio alterius*. [3] Thus, it is my opinion that section 316.00825 does not provide authority for municipalities to abandon roads and rights-of-way and simultaneously convey the municipalities' interest in such roads to a homeowners' association.

Section 166.021(1), Florida Statutes, a provision of the "Municipal Home Rule Powers Act," states that municipalities may exercise any power for municipal purposes except when expressly prohibited by law. Section 166.021(3), Florida Statutes, provides that pursuant to the authority set forth in section 2(b), Article VIII, Florida Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject upon which the state Legislature may act except, among other things, any subject that is expressly prohibited by the Constitution or any subject that is expressly preempted to state or county government by the Constitution or by general law. [4] The term "express" as used in section 166.021, Florida Statutes, has been construed to mean a reference that is distinctly stated and not left to inference. [5] Thus, in the absence of any statutory or constitutional prohibition, a municipality may legislate on any subject upon which the state may adopt legislation.

Section 316.007, Florida Statutes, provides:

"The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized. However, this section shall not prevent any local authority from enacting an ordinance when such enactment is necessary to vest jurisdiction of violation of this chapter in the local court."

This statute restricts local governments from enacting or enforcing local legislation on a matter covered by Chapter 316, Florida Statutes, unless expressly authorized to do so. [6]

As section 166.021(1), Florida Statutes, makes clear, a municipality possesses no home rule authority to act against the terms of an express statutory prohibition. Section 316.007, Florida Statutes, presents such a prohibition. Further, section 166.021(3)(c), Florida Statutes, precludes a municipality from enacting legislation on a subject preempted by general law to a county. Section 316.007 reserves to counties the authority to abandon roads, rights-of-way, and appurtenant drainage facilities to homeowners' associations and acts as a preemption of this matter to the counties.

Therefore, I am of the opinion that municipalities are precluded by the terms of sections 166.021(3)(c) and 316.007, Florida Statutes, from abandoning roads and rights-of-way dedicated in a recorded residential subdivision plat and simultaneously conveying their interest in such

roads, rights-of-way, and appurtenant drainage facilities to a homeowners' association for the subdivision in the manner provided by section 316.00825, Florida Statutes.

Sincerely,

Charlie Crist
Attorney General

CC/tgh

[1] Section 316.640(3) (a), Fla. Stat.

[2] Section 336.12, Fla. Stat., provides for the closing and abandonment of roads by counties and states that the title of the easement for the road shall revert to the abutting fee owners.

[3] *Alsop v. Pierce*, 19 So. 2d 799 (Fla. 1944); *Thayer v. State*, 335 So. 2d 815 (Fla. 1976) (a legislative direction as to how a thing is to be done is, in effect, a prohibition against it being done in any other way); Ops. Att'y Gen. Fla. 00-37 (2000) (expenditure of funds strictly limited to those purposes and projects recognized by the statute); 00-25 (2000) (specific enumeration in statute of those projects for which tourist development tax revenues may be spent implies the exclusion of others).

[4] Section 166.021(3) (b) and (c), Fla. Stat.

[5] See *Edwards v. State*, 422 So. 2d 84, 85 (Fla. 2d DCA 1982); Op. Att'y Gen. Fla. 84-83 (1984). Cf. *Pierce v. Division of Retirement*, 410 So. 2d 669, 672 (Fla. 2d DCA 1982).

[6] See generally 4A Fla. Jur. 2d *Automobiles and Other Vehicles* s. 248 (1994).

Florida Attorney General Advisory Legal Opinion

Number: AGO 2004-65

Date: December 17, 2004

Subject: Roads, gated driveway between two public roads

Mr. Frank Kruppenbacher
Apopka City Attorney
Post Office Box 3471
Orlando, Florida 32802-3471

RE: MUNICIPALITIES-ROADS-approval of private gated driveway connecting two public roads. ss. s. 316.2045, 861.01, Fla. Stat.

Dear Mr. Kruppenbacher:

On behalf of the Apopka City Commission, you ask the following question:

May the City Commission for the City of Apopka approve a private gated driveway that would run between two public streets where only a limited number of residences would have access to the gate and the two public streets would continue to have public access from other points?

You have advised this office that the use of the term "approve" in the above inquiry refers to the city giving the necessary land development code, building department certificates, and traffic engineering approvals necessary to install the gates and road cuts from the private residences' driveways to the city's right-of-way. This office has no information as to whether the proposed project meets such codes; however, it is presumed for the purpose of this inquiry that the project would meet all such requirements.

This office has previously considered the authority to install gates on public roadways. In Attorney General Opinion 90-51, this office concluded that a municipality was not authorized to install a security gate on a public road limiting access to the road to residents and those nonresidents who purchased a remote control unit. This office stated that such construction would appear to obstruct the free, convenient, and normal use of the public road by impeding or restraining traffic on such road in a manner not authorized by Chapter 316, Florida Statutes.[1]

In the instant inquiry, however, the gated driveway connecting the two public streets appears to be located on private property where the public does not have the right to travel.[2] According to your letter, no gate would be placed on any public road.[3] Thus, the concerns and prohibitions addressed in Attorney General Opinion 90-51 would not appear to be applicable.

Moreover, you have informed this office ^{Attachment B} that all work and ongoing maintenance of this gated driveway would be privately funded; no city equipment or personnel would be used on this private project. This office has generally recognized that a governmental entity may use public funds for the construction, maintenance, or repair of a road only when the road is a "public" road, i.e., one open to and set apart for the public, as contrasted to a private road that by its nature is not open to the public and upon which the public has no right to travel.[4] In the instant inquiry, however, no such public funds are being used.

In light of the above and subject to the conditions specified herein, I am not aware of any provision that would prohibit the city from approving, through the issuance of the appropriate permits, the construction of a private gated driveway that would run between two public streets where only a limited number of residences would have access to the gate and the two public streets would continue to allow public access from other points.[5]

Sincerely,

Charlie Crist
Attorney General

CC/tjw

[1] See s. 316.2045(1), Fla. Stat., providing that it is unlawful for any person or persons willfully to obstruct the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon. And see s. 861.01, Fla. Stat., which provides that whoever obstructs any public road by fencing across or into the same or willfully causes any other obstruction in or to such road or part thereof is guilty of a misdemeanor of the first degree.

[2] The determination as to whether the public has a right to travel on a private road involves mixed questions of law and fact that this office cannot resolve. You have not, however, provided this office with any evidence that the public has acquired prescriptive rights to use the roadway. See, e.g., *Grove v. Reeder*, 53 So. 2d 530 (Fla. 1951), and *Orange Blossom Hills, Inc. v. Kearsley*, 299 So. 2d 75 (Fla. 1st DCA 1974), in which a private plaintiff established a public prescriptive easement, and *Cook v. Proctor & Gamble Cellulose Company*, 648 So. 2d 180 (Fla. 1st DCA 1994), denying the establishment of a public prescriptive easement across appellant land owners' property because appellee corporation failed to show substantial use by the public in a manner adverse to appellant's rights. Nor has this office been provided with any information regarding the existence of any easement rights and whether the placement of a gate across the easement amounts to a substantial interference of the dominant easement holders' rights to use the easement. See *BHB Development, Inc. v. Bonfish Yacht Club Homeowners Association, Inc.*, 691 So. 2d 1174 (Fla. 3rd DCA 1997); cf. *Monell v. Golfview Road Association*, 359 So. 2d 2 (Fla. 4th DCA 1978) (placement of speed bumps across road is a substantial

violation of an easement holder's meaningful right to use road); *Normandy B. Condominium Association, Inc. v. Normandy C. Association, Inc.*, 541 So. 2d 1263 (Fla. 4th DCA 1989). It is therefore assumed for purposes of this inquiry that no such rights exist.

[3] Cf. Op. Att'y Gen. Fla. 04-47 (2004) stating that municipalities are precluded by the terms of ss. 166.021(3)(c) and 316.007, Fla. Stat., from abandoning roads and rights-of-way dedicated in a recorded residential subdivision plat and simultaneously conveying their interest in such roads, rights-of-way, and appurtenant drainage facilities to a homeowners' association for the subdivision in the manner provided by section 316.00825, Fla. Stat. Your inquiry, however, does not indicate that the city is abandoning the road or any dedicated right-of-way; rather, the construction of the gated driveway would be on property that is privately owned where the public does not have a right to travel.

[4] See, e.g., Ops.' Att'y Gen. Fla. 79-14 (1979), 92-42 (1992), and 99-15 (1999).

[5] I would note, however, that section 316.640(3)(a), Florida Statutes, sets forth the authority of a municipality to enforce the traffic laws of this state by providing in pertinent part:

"The police department of each chartered municipality shall enforce the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the municipality *wherever the public has the right to travel by motor vehicle.*" (e.s.)

In providing for the enforcement of the Uniform Traffic Control Law, Chapter 316, Florida Statutes, the Legislature did not distinguish between public roads and private property where the public has a right to travel by motor vehicle, nor does there appear to be any reasonable basis for such a distinction. Municipalities, however, do not have enforcement authority with respect to traffic violations and accidents occurring on "private property" where the public does not have the right to travel by motor vehicle unless such roads are within the municipal boundaries and a written agreement pursuant to section 316.006(2)(b), Florida Statutes, has been entered into by the parties. Such an agreement must provide, among other things, for the reimbursement of the actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties that own or control such road or roads.