

# RICHLAND COUNTY COUNCIL

## SOUTH CAROLINA

### DIRT ROAD AD HOC COMMITTEE

April 28, 2015  
2:00 PM  
4<sup>th</sup> Floor Conference Room

*In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building*

#### CALL TO ORDER

Mr. Rush called the meeting to order at approximately 2:02 PM.

#### ADOPTION OF THE AGENDA

Mr. Washington moved, seconded by Mr. Rush, to adopt the agenda as published. The vote in favor was unanimous.

#### RIGHT OF WAY ACQUISITION PROCESS

Mr. Perry stated the road must be within a publicly dedicated right-of-way of a minimum 50 ft. A right-of-way width of no less than 30 ft. may be considered if in the judgment of the Director of Public Works a safe road with adequate drainage may be constructed.

Mr. Perry stated the ordinance cited above does not address condemnations, but there is another County ordinance that does. (i.e. Sec. 21-23).

*Sec. 21-23: In General the County will not compensate property owners for easements or right-of-way on Public Works projects from which they directly benefit.*

Mr. Perry stated there are exceptions to this ordinance if condemnation would help meet a deadline or there were some unusual situations.

Mr. Washington inquired if Sec. 21-23(b) was adequate to cover any condemnation actions that the County needs to take.

Mr. Perry stated it does seem to lend itself to allow the County to do condemnations.

Mr. Perry stated if a property owner denies access to their property for the road project and the County decides to pursue condemnation the follow has to be completed: (1) clean title opinion; (2) make fair market value offer; and (3) the property owner has to deny that offer. At this point, the County may shows they have offered the property owner fair market value for the property and the property owner has denied it then the County may proceed with a condemnation action.



#### Committee Members Present

Julie-Ann Dixon, Chair  
District Nine

Torrey Rush  
District Seven

Bill Malinowski  
District One

Kelvin E. Washington, Sr.  
District Ten

#### Others Present:

Tony McDonald  
Michelle Onley  
Monique McDaniels  
Ismail Ozbek  
Shawn Salley  
Chris Gossett  
Tony Edwards  
Stacy Culbreath  
Sparty Hammett  
Rob Perry  
Brad Farrar

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Mr. Washington stated the citizens that sign the consent documentation expect their road will be paved.

Mr. Perry stated the public outreach presentations have stated the County will not condemn; therefore, if Council decides to pursue condemnation actions additional public outreach will be needed.

### **POTENTIAL PAVE-IN-PLACE CANDIDATES**

Mr. Perry stated the direction staff was given at the last meeting was to bring back the dead end roads that are considered low volume and 500 ft. or less.

- Staff has identified 26 roads.
- The next steps would be to work with Risk Management and Legal to amend the existing ordinance

Mr. Washington inquired if there was low volume ordinance and how it would match the pave-in-place.

Mr. Hammett stated there was a discussion, but there was never a pave-in-place ordinance adopted.

Mr. Washington moved, seconded by Mr. Rush, to draft a pave-in-place ordinance and bring back to committee. The vote in favor was unanimous.

### **RIGHT OF WAY ACQUISITION PROCESS (CONTINUED)**

Mr. Farrar outlined the right-of-way acquisition process:

- Consent by property owners; owner may be compensated
- Donate property
- Property owner denies access; condemnation action may be required
- Condemnation of property is allowed under Eminent Domain Procedures Act
- Condemnation has to be for a public purpose
- Condemnation of property involves: (1) appraisal of property; (2) title search; (3) attempt negotiations with property owner; and (4) file condemnation action

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- The condemnation action will be taken up by a judge, jury or appraisal panel
- If the property owner contests the condemnation is for a public purpose the action could take years. Also, if the jury's award is closer to the property owners' assessment than the County's assessment then the County would be responsible for paying the property owners' attorney's fees.

Ms. Dixon inquired if a citizen who signed the consent documentation, but was not compensated, and then found out their neighbor was compensated could sue the County for misrepresentation.

Mr. Farrar stated the citizen could bring the lawsuit, but they would have to prove they detrimentally relied on the County and the individual from the County had the authority to bind the County. The Supreme Court does not like those situations.

***The Committee went into Executive Session at approximately 2:35 p.m. and came out at approximately 2:38 p.m.***

Mr. Perry stated the process to pave a road is as follows:

- 25% or greater denial is the first step in keeping the road on the list to be designed
- Once the road is designed with a set of right-of-way plans, a determination is made if there is a 50 ft. right-of-way

Mr. Washington moved to direct staff to move forward with developing a process and determining what authority the County needs, and review the scope.

Mr. Farrar stated the only thing needed in Sec. 21-23 is subsection (b) the rest of the ordinance can be deleted.

Mr. Perry stated the Dennis contract is geared to get the right-of-way gratis, but Mr. Smith has set up a contract with Willoughby & Hoefler to handle condemnation for anything Transportation Penny related.

Mr. Farrar stated compensation should never be mentioned when trying to acquire the property for any of the projects.

Ms. Dixon moved, seconded by Mr. Washington, to amend the ordinance to remove any verbiage that relates to compensation. The vote in favor was unanimous.

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### **PROPOSED CONNECTIVITY PAVING CANDIDATE**

This item was held in committee.

### **ADJOURNMENT**

The meeting adjourned at approximately 3:00 PM.