



Richland County Council
DIRT ROAD AD HOC COMMITTEE
 May 7, 2019– 3:30 PM
 4th Floor Conference Room
 2020 Hampton Street, Columbia, SC 29204

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| Dalhi Myers District 10 | Chakisse Newton District 11 | Bill Malinowski District 1 |
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1. **CALL TO ORDER**
2. **ADOPTION OF AGENDA**
3. **APPROVAL OF MINUTES [PAGES 2-12]**
3. **COUNTY MAINTAINED ROADS AND PUBLIC WORKS PLAN**
4. **RICHLAND COUNTY ROAD MAINTENANCE FEE**
5. **REVIEW OF CODE SECTIONS DEALING WITH DRIVEWAYS AND PUBLIC VS. PRIVATE ROADWAYS**
6. **ADJOURNMENT**



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DIRT ROAD AD HOC COMMITTEE
April 23, 2019 – 3:30PM
4th Floor Conference Room
2020 Hampton Street, Columbia, SC 29204

COMMITTEE MEMBERS PRESENT: Dalhi Myers, Chair and Chakisse Newton

OTHER COUNCIL MEMBERS PRESENT: Bill Malinowski

OTHERS PRESENT: John Thompson, Eden Logan, Nathaniel Miller, Michelle Onley, Ashiya Myers, Michael Byrd, Ashley Powell, Allison Steele, Brad Farrar, Mohammed Al-Tofan, Kimberly Toney, Michael Niermeier and Chris Eversmann

CALL TO ORDER – Ms. Myers called the meeting to order at approximately 3:30 p.m.

ADOPTION OF AGENDA – Ms. Newton moved, seconded by Ms. Myers, to adopt the agenda as published. The vote in favor was unanimous.

ELECTION OF CHAIR – Ms. Newton nominated Ms. Myers for the position of Chair. Ms. Myers accepted the nomination and was elected by acclamation.

County Maintained Roads vs. Private Roads – Ms. Myers stated the issue before us is the distinction between County maintained roads and private roads. We obviously this system of roads. Some of them have been marked with green, red and blue signs. Over a long period of time those signs have stood, and the County goes out and places them. This issue came up last week because a constituent contacted her with a green sign on her road. We determined that is should have been, in our opinion, a blue sign. Therefore, we went out and changed it to blue, but the green sign had been there more than 20 years. They were shocked because, of course, they do not have the means to maintain the road. There are more than 3 houses on the road, so her suggestion was that we put the signs back, and move forward with a policy that speaks to how we will change the signs, if there has been a mistake. How we ascertain if there has been a mistake, and the legal implications of that are.

Mr. Eversmann stated they are guided, with regards to their County Road Maintenance Network, which incorporates both paved and unpaved roads, by Chapter 21 of the Richland County Code of Ordinances. There was a significant change in interpretation of policy during Mr. Seals time as County Administrator. You will see in the ordinance there is a provision, with regards to emergency maintenance on private roads, which is not limited to dirt roads. Although there are many dirt roads that are candidates for that. They have pretty good records as to the frequency with which emergency maintenance was performed on these various private roads. In concert with the Legal Department, and their review and interpretation, the distinction was that we should not call individual circumstances, with regards to the ride ability or pass ability of a road, as emergencies. In other words, what they had been doing, over time, with concurrence of the County Administrator because every single time Roads and Drainage performed emergency maintenance on a private road, it was signed off by the County Administrator himself. It was a very deliberate process that was applied.

Ms. Myers stated, for clarification, so you make a distinction between a public emergency and a private issue (i.e flood vs. cannot get out).

Mr. Eversmann stated the criteria, judgment and process they applied before was that if a First Responder will have difficulty accessing this road to respond to a bona fide emergency, then that lack of access constitutes an emergency. Again, we would investigate, make a recommendation and the County Administrator would sign off on it. Then they would do perform the maintenance.

Mr. Malinowski stated he thought back when we were debating whether public funds could be used on private roads the Legal Department came up with a blanket statement that said, it is against the law to use public funds for private roads, whether it be emergency or not.

Mr. Farrar stated he does not know that it is a one-size fits all. As a general rule, the person that has a driveway that needs to be maintained is no different than the millionaire who needs his pool swept out. It is using money for a private purpose. The former one with the driveway needing access to a hospital is a more sympathetic cause, but it is the same general principle. If you look at this emergency maintenance, Sec. 21-13, on p. 12...

Mr. Malinowski stated he wants to know what the State or legal rule is overall for spending public funds for private entities. If you cannot do it, then he does not think it makes any difference what the emergency is.

Mr. Farrar stated that is the very broad rule that you are not supposed to use public resources for private benefit, but there are some listed in Sec. 21-16, "except in emergency situations." The problem with that is, if you go back to Sec. 21-13(b) it says, "Any work performed under this section will be done on a one-time basis only." That exception swallows up the rule because, if you are looking at the criteria Mr. Eversmann was talking about, roadway access for one or more owners or residents. EMS and Sheriff's Department have a difficult time gaining access; and it's a primary residence." There is going to be a lot circumstances where that comes into play. Then, you get to (b) this can only be done on a one-time basis. Well, if you have separate emergencies, that is a pretty universal statement. If you did the repair in 1970, then under this ordinance, you could not do the repair work in 2070. That is something you may want to take a look at. Unless you know that we are never going to have another emergency.

Ms. Myers stated she would think that the failsafe would be under Sec. 21-16, where it says, except as authorized by the County Administrator. That is the get out of jail card when you have had the Sec. 21-13. Then, it says, the County DPW is prohibited from performing any work on private property not specifically authorized under the provisions of this article except in emergency situations involving public health or safety..." We already have that, but because it is duplicated it suggests this is a different kind of exception "...in writing, by the county administrator" because it is more specific.

Mr. Farrar stated he thinks Sec. 21-13(b) should be married up more to Sec. 21-16 to avoid that confusion. Also, just as a general principle, if you could never use public dollars for private benefit then FEMA would not be able to do much. They do all sorts of public dollars, so there is recognized that there are catastrophic situations where the government would step in. Again, that needs to be policed rather rigorously because one person's emergency is going to be another person's that the consequences of where you live or the circumstances that happened to you, as opposed to an October 2015 Flood type of thing.

Mr. Eversmann stated the course of the discussion highlighted a couple of points that would be good with regards to clarification if we are looking to better define this issue and come up with better policies. One is the issue of one-time and defining that. As an example, we patch a pothole located on Road X and then a year later we are requested a pothole at a different location on Road X. Does the one-time refer to the road? Does the one-time refer to the location on the road? In all honesty, the one-time and the lack of meaningful definition of that has been a source of consternation or concern with DPW personnel that have to go out and do the repairs. The issue of what one-time means is something that we need to wrestle with, and define. Again, going back to whether it is a personal or a very limited focused emergency, or whether it is a general emergency with the presidential or gubernatorial

proclamation. The last guidance they received was that it was inappropriate to perform maintenance unless there was general emergency declaration.

Ms. Myers stated she thinks that is fine guidance, but thinks it slightly off given this the subsection at Sec. 21-16. There is no reason for those words to be added, but to further clarify Sec. 21-13. She would suggest that we might need language that says, "except as for as provided for in Sec. 21-16" in Sec. 21-13. Because Sec. 21-16 is so specific, and generally the way you read a statute is if there something that is more specific than the other thing, the more specific thing controls because you have every opportunity to just leave the general thing. She sees where the confusion comes from. The reason she wants help from the committee is exactly what Mr. Eversmann is pointing to. You need guidance. You do not need to be lawyers out in the field. You need to have a list of things you can and cannot do, and we all need to understand what they are. And, everybody needs to be happy with each other and move on rather than this ad hoc decision making that you have to do, and lands you on somebody's bad side because they do not read it the way you read it. Maybe with this committee, we can discuss the general issues. Between the 3 of us, we probably represent the constituents with more of these roads than anybody else. Her concern is twofold. First, we have a plethora of roads that we have been maintaining for a long time. Now we are saying, "Oops. We made a mistake. They are private and they should have a blue sign." She does not think you can just go out and change the blue sign because we do not take roads from people when they have poorly maintained, but most of those roads have been poorly maintained, which means we are giving them back to people in a really bad state. We are saying figure out how you are going to get this done because it is not our job anymore, and that is the situation we found ourselves in last week. She inquired as to who is responsible for how these roads get defined. She sees the definitions, but by these definitions the road from last week should still not be a blue sign. It should be a green sign because there is more than 3 houses, and their only method of egress and ingress to a main road. Are we using a different definition, or how do we decide?

Mr. Eversmann stated most of our dirt roads are maintained by our prescriptive claim. In other words, we have to recognize the fact that we are custodians of systems and things that evolved since the 1940's and 50's that carry on to this day. If we, at one point, had a high degree of confidence that we had maintained a dirt road for a period in excess of 20 years, then we continue to maintain it. And, if not challenged, continue to maintain it to this day. The advantage we have now, that we did not have in the 40's - 70's, is that we now have GIS. We are, in fact, documenting our efforts and ownership, so that we have a ready means of pointing and clicking on a road on a map, and saying, "Yes, that is ours to maintain."

Ms. Myers inquired about the ones that have more than 3 occupied houses on them, where there are taxpayers, which is Sec. 21-5(e)(4).

Mr. Eversmann stated, if they do not have a prescriptive claim to it, or if we did not, for whatever reason, received right-of-way by deed and title, then it will probably show up in the GIS as a private road.

Ms. Myers stated this says that we should be maintaining it as a County maintained road. Sec. 21-5(e)(4) says, "Unpaved roads not maintained by the county under the provisions of (a) through (d) above, will be accepted for maintenance only when such maintenance will provide a substantial public benefit. For the purpose of this section, one or more of the following characteristics will constitute 'substantial public benefit.'" (1) Provides access to a publicly owned facility, (2) Compromises an integral part of the comprehensive transportation plan...(3) Comprises a part of an existing street/road network as of January 21, 2003 and is used by the surrounding community, (4) Provides the principal access to the minimum of three (3) occupied residences situated on individually owned parcels that are lots of record for tax purposes and does not exceed one fifth (1/5) mile in length per residence served." She stated that is the road in question, by definition. There are six (6) houses on it, they are individually owned and they are taxpayers. And, we deemed that a private road. She does not know that is consistent with the ordinance.

Mr. Eversmann stated the intent of this paragraph, when they talk about acceptance under the following circumstances, might define a benchmark by which we would accept formal right-of-way.

Ms. Myers stated that does not make sense.

Mr. Eversmann stated only because 20-year prescriptive maintenance may not have been met.

Ms. Myers stated that is not consistent with what the statute is trying to do. These are roads that we have had green signs on forever, and they meet these requirements. Probably the reason we got into putting those signs out there in green was because a bunch of taxpayers lived there, and paid for us to maintain their roads. We collect their money, and it makes sense that they would expect us to maintain the road.

Mr. Farrar stated there are various way you can maintain unpaved roads in (a) – (d) and this is an additional one. It says, “will be” not “shall be” accepted for maintenance only when such maintenance will provide a substantial public benefit, and then they go on to define four (4) ways you can could have a substantial public benefit. They probably hit the requirements of Sec. 21-5(e)(4). The only thing is it says, will instead of shall, but that is still suggestive of the County accepting it. He thinks there is a disconnect because the linchpin of the prescriptive piece is the 20-year maintenance addressed in Sec. 21-5(b).

Ms. Myers stated it does not have to be all of these.

Mr. Farrar stated he thinks the interpretation has been to claim the prescription and dedication 20-years is the bellwether piece. This is an additional way a road can be accepted under the ordinance.

Mr. Eversmann stated he thinks Sec. 21-5(f) is what he was trying to refer to.

Mr. Farrar stated, if you get the right-of-way deed...

Ms. Myers stated that is the next place she is going on this.

Mr. Eversmann stated offered for consideration, and what he briefed staff on and they are prepared to do, although this is always easier said than done, is if the owners on Sooney Benson Road would be willing to provide the requisite right-of-way, then under Sec. 21-5(f), it could be officially accepted into the County Road Maintenance System, and would be maintained.

Ms. Myers stated we have been maintaining the road since 1993.

Mr. Eversmann stated the records he provided to the Acting Administrator went back to 2006, and the times that we had provided maintenance were under the emergency maintenance provision.

Ms. Myers inquired as to how long the green sign had been there.

Mr. Eversmann stated, with the advent of the expanded E911 addressing program, that drove addresses assigned to individual parcels to include, in rural areas where heretofore there had been Rte. 1 – Box 78. You could not have that format of address anymore, you had to have 105 Sooney Benson Road. That took place in the late 80's, early 90's, which is when the signs would have been put out. They established green background with white letters as the road name standard with no real differentiation between public and private. He is told, but he has never seen, that at some point along the line, someone said, “Maybe we should be drawing an easily identified differentiation in the field, such that motorgrader operators can say that is a road they maintain, or no that is not a road they maintain.” He is told there are some signs out there that have a green background that have a “P” or “PVT” on them to indicate a

private road. And, then at one point, they said, "No, let's go with a color code." So, that became the blue background with the white letters.

Ms. Myers inquired if these were unilateral decisions that we made. The public was not involved in them. The public did not come in and say, "Oh, I would like my road to have a blue sign. Thanks." The public got the sign that we gave out.

Mr. Eversmann responded in the affirmative. However, we installed them based on our best knowledge of "yes, we have been maintaining this road for 20 years" and that is definitely public.

Ms. Myers stated if we got it wrong, and we put up the green sign from 1988 until now, then 2 weeks ago we realized we should not have been doing that, so we better change it to blue, the problem is you have created, in her opinion, a right. It is long enough to have earned you into an easement, by prescription. It is a road where more than 3 houses are, for the purposes of taxpayers, and it is a road that we have maintained. There are a bunch of these things in this ordinance that we have ticked off. Now what we are trying to do is turn the whole ship around and say, "Sorry, we are not going to take this one." In those circumstances, in her opinion, the County puts itself in a legal position that it is almost untenable because there is so many things a taxpayer can come back, and say, "I meet these." The icing on the cake is you put up the signs and you told me what you were going to do.

Mr. Farrar stated the sign is the bad fact, for the County. He would imagine there was some rationale. He does not know why there are different color signs. If you put a sign, and you are going to say it is private property, then why are you putting a sign on private property. The fact that we put a sign up gets us a little bit closer to we have some responsibility because we actually put the sign up. The comeback to that is going to be the totally separate issue of the E911 thing because operationally it is quite important to know where you are going. Operationally, then puts you in a bit of legal problem. The fact of the maintenance is more important than the color, but the color of the sign is a further indication, at least in the County's subjective understanding, that this is a road we need to maintain. It does not matter what color the sign is. If we put the sign up, we have taken some step towards claiming some responsibility for the road, even if it is just to put the sign up. Now, if the comeback is we are required by law to put the sign up, that is a different deal. He inquired if the E911 program is "this is how we would like to run the program" or is "it thou shall put up a sign?"

Mr. Malinowski stated, following up on that, we have what are nothing more than driveways that have been named, and have a sign up there. If it is just a driveway, why is it there and why is it in the map book?

Mr. Byrd stated when they started the addressing process for the E911 program the postal service was involved, so there may be a postal requirement of some sort. From a public safety standpoint, when you are responding to a call, you want to be able to see that this the dirt road that you are trying to ultimately get to. He thinks there were a lot of factors that go in. He does not think you are going to be able to point to one statute and say it is going to require that.

Mr. Farrar stated, operationally, this does not marry up perfectly with the legal rights because if you put a sign on private property, and someone who owns the property takes it down, what are we going to do. Now, if there is a postal thing that says the jurisdiction in which that private property is has to have a sign, he does not know how you do that without trespassing. You would hope that the owner would want the sign up there, so you could rescue them or deliver mail to them, but that is not going to marry up. Again, he does not think the sign is as important as the maintenance history. The maintenance history is very important.

Mr. Malinowski inquired as to when E911 was started.

Mr. Byrd stated they started preparing for it in 1985. They had to have 80% addressing completed before they could turn the switch. He believes that took place in 1987, and completed the addressing in 1988.

Mr. Malinowski stated he understands what you are saying about a name on a dirt road, but he thinks some of these signs were there prior to that. Even if they were not there prior to that, you have 2 or 3 houses down that private drive, they do not get mail service back there. They get it out on the main road, and their mailboxes are there with numbers on them.

Ms. Myers responded that some do, but some do not.

Mr. Eversmann stated that is what they deal with, and he does not mean to sound critical because E911 and emergency maintenance were certainly were made with the best of intentions, and more or less in a macro sense work great. But, we have to deal day in and day out with family compounds, which is nothing more than a driveway, yet it has a sign on it because we have been maintaining it forever. They try to work within the parameters and not run afoul of Chapter 21, or any other ordinance.

Ms. Myers stated, assuming it is a family compound, we do not charge those taxpayers any less because they are related by whom they live. She does not know that is dispositive of whether or not the road is public or private just because the people who live down that road are all related. If we are charging each house, as a taxpayer, they are remitting money to the Richland County Treasurer, and there are 3 or more houses down that road, it says, the County will maintain that road. She inquired if the committee wants to look at the number of roads that are in question because the last thing we need is for people to be out in the field taking down signs. Putting up signs. Folks calling and saying, "My sign is blue, red, or green today." That is why she asked, last week, that those signs that we had taken down that had been green forever, and we made them blue, that we go back and put them back until there was some decision that the full body agreed to take responsibility for. But, changing the signs when there are big mud holes in the roads and people cannot get to their houses, where we have maintained the roads for eons, is problematic. In the area that she is speaking of, there are more than 3 houses on these roads, which we are not maintaining and trying to figure out a way so we do not have to call them ours. This is shocking, when you consider that 2/3 of Richland County's taxpayer base lives outside of the incorporated City of Columbia. That is a lot of money, with a lot of expectations that we have to figure out how to speak to. She inquired as to how many roads are questionable? Is there a list of road that you are working off of? What made you decide to go and change signs?

Mr. Eversmann stated up until Thursday of last week we looked upon installation of appropriately colored signs as a part and parcel to our mission. The signs were changed because 2 members of the staff had gone out to look at different road, which they determined to have a blue sign. When they got to a point in that road, there was a sign that said, "Danger Rifle Range in This Area", so they turned around and met a survey crew and inquired if there was another way out, which took them onto the road in question. One member of the staff looked at the sign, and saw that it was green, and assumed it was a public road. Upon further research, according to our records, it is not a public road. It is a private road.

Ms. Myers inquired about what records were researched.

Mr. Eversmann stated they have huge flat files that show a lot of subdivision development; hard copy paper files, maintained by the County Engineer, that contain deeds, titles, and easements; and GIS, which is the easiest means of identifying road by road any questions. They searched all 3 files, and what they found in the aggregate search differed from what they observed in the field, in terms of the sign color.

Ms. Myers stated, you have 10 taxpayers living in a place, she thinks it is beyond a stretch to call that a private road. This ordinance recognizes this. If you have 10 separate houses, that is different than Mr. Malinowski's example where you have a driveway, leading to one house and we go in and pave it, and call it a private road. But, if there is a group of taxpayers paying taxes and living on this road, what is

difference in that and a small subdivision. You came in last year with a request by a developer to pave an extension of a road where he was planning to build houses. She would say we certainly have people living here, and there are no people living there. They have an expectation that has been years in the making. She is just trying to understand what factors we are using to determine that we are going to go against what the ordinance said, decide we are not going to maintain it, and what steps we go through to put the taxpayers on notice.

Mr. Eversmann stated that is where the prescriptive claim comes in.

Ms. Myers stated this is a process that ought to be standardized. There should not be taxpayers living on public road today, and wake up tomorrow and live on a private because we subjectively decided that. What she is trying to get at is, "What steps we went through?" "Who we notified?" "How the taxpayers got noticed?" Are there any steps or do you need us to give you some?

Mr. Eversmann stated he thinks we have a disconnect with regards to our understanding, and if you want to redefine or change the provisions of Chapter 21, that is fine.

Ms. Myers stated she gets paid to practice law, and she reads this real clearly. It says, that if you have 3 or more houses on the road, we maintain it. There is no lack of understanding. The reason that she asks these questions is because this what she does, and she does not understand how we are violating this statute to go and tell these people that we are not going to maintain their roads. There are 7 disjunctive ways that a road can be deemed public. They meet 3 of them, and you only have to meet 1. She is unclear as to what we are doing. She stated, if this is what we want to do, we should stop taking these people's money. If folks are paying taxes, and this ordinance says they have rights based on that, then they have those rights. If what we are saying is, that for people living outside of the areas where it is easy to maintain their roads, then we just use our tax money where we want to. She agrees that a house at a dead end of a dirt road is a private road, but this says, if you have 3 or more, it is not a private road.

Mr. Farrar stated it always comes back (f) because if you had the deed of right-of-way it would be clear. If you had the 20 years, it would be clear.

Mr. Malinowski stated the department handling this should take the time to go through and see what roads do not come under 20 years, and come under (d) and (e). Those are the ones that need to be targeted. If the others fall under, they fall under it then.

Ms. Myers would like the Legal Department to give a full reading of the ordinance, and not just what makes it easy for us.

Mr. Malinowski stated to leave all the roads alone until we figure out what is what.

Ms. Myers stated that we come back with a listing of where we are and what the roads in question are.

Mr. Eversmann stated they do not currently have a list of roads, but the data is within the GIS. It is a matter of doing an analysis and extracting it. They have identified 1,369 private roads within unincorporated Richland County, which are broke up into the following categories: private subdivision roads yet to be taken over; private gated subdivisions, private paved roads (commercial or private drives), portions of otherwise public roads that are private, private dirt roads, and private named roads through residential complexes (apartments/condos).

Ms. Myers inquired, if you can cross section that with the roads on the dirt road paving list, that are county maintained.

Mr. Eversmann stated everything on the paving list ought to be county maintained. If it is county maintained, by virtue of prescription, then we will obtain the right-of-way, by deed and title, before we make improvements to the road.

Ms. Myers stated, even if it should be, we are clearly finding that some of them are not what they should be. If you could marry that list up, and show us, what is county maintained, what is private and where those things are on the paving list. If someone wants to maintain their own road, we should flip cartwheels and let them. For her, the concern is, with the exactitude of which we are reading these statutes, and applying them to taxpayers.

Ms. Newton stated we are talking about public roads, private roads, and cross-referencing with dirt roads. As we go through the paving process, we are coming across people who do not want their roads paved, where the county has said, "We would like to come and pave your road." Her understanding is it may be more economical for us to maintain a paved road, so, at some point, it may be a small or large inventory, we are going to find ourselves with roads where people declined to have the roads paved. Her question is going to be, how is that going to be reflected in this ordinance. Are we still going to be required to maintain these roads, if there are more than 3 people, or is there an assumption that at some point they may be waiving rights for maintenance. Since we know this is coming, we should plan for it now.

Ms. Myers stated she thinks the county has the right to say, once we are out of the dirt road business, we are out of the dirt road business. If you want a dirt road, fine, but be ready to maintain it.

Ms. Newton stated it will need to be addressed with policy.

Mr. Malinowski inquired if any proposed changes to Chapter 21 should be forwarded to Mr. Farrar.

Ms. Myers stated all comments and questions should be directed to Mr. Farrar.

E911 Process – This item was handled during the discussion of the previous item.

One Driveway per Residence – Ms. Myers stated the County will essentially provide one driveway connection off of a county maintained road going into someone's house. When we say, in Sec. 21-8(1), "Only one driveway connection per residence, and a maximum of two (2) per individual parcel of property will be provided by the county. The public works department will not install additional driveway connections." She stated, for clarification, this means she builds a new house, DPW will provide her a driveway connection. If she chooses to provide a separate driveway connection, that is immaterial.

Mr. Farrar stated you are looking at 1 – 2 per parcel and they each have to have a residence if you are getting one.

Ms. Myers stated, so if she goes in and puts in a connection for herself, and she wants her county connection, does anything on this prevent me from getting it?

Mr. Farrar stated he does not know that there is anything prohibiting that.

Ms. Myers inquired if this disenfranchises her from receiving the one that DPW is supposed to provide me under this section of the Code.

Mr. Farrar stated it would be interesting if you put one in, and we came along and say that is wonderful. That is exactly the job we would have done for you, and you have already got it.

Ms. Myers stated, for clarification, she is entitled to her one connection, under the ordinance, so long as she has not put it in where the county would.

Mr. Eversmann stated, if it is a road that is ours, by deed and title, it would require an encroachment permit.

Mr. Farrar stated, for clarification, if the exit way touches and concerns the county's right-of-way, that is where the encroachment is needed.

Mr. Eversmann stated they would only work within the right-of-way or the limits of a roadside ditch, in the event of a prescriptive easement.

Mr. Malinowski inquired if the county will come in and put the necessary piping and covering to access your property if you have to traverse a deep ditch to do so.

Mr. Eversmann stated, for the sake of this discussion, it might be easier to talk in terms of a defined right-of-way (50 ft. by deed and title) The center line of the 50ft. would be the center line of a paved road. They would go to the edge of the right-of-way, so if the ditch fell within the right-of-way, as it typically would, then they would install a pipe. The intention of this is maintain positive, proper drainage with the right size pipe, set at the right elevation. That is the public interest, as well as the location, of the county being involved in drive apron installation. In the case of a developed subdivision, the developer has to install all of their driveways.

Mr. Malinowski stated putting in this driveway adds value to the property. The taxpayer is paying to add value to my property. If we have building codes, and he has property with a ditch, and you are talking about proper drainage, when he comes in with his plans, that is when someone would say you need a pipe this size.

Mr. Eversmann stated, in the case of a developed subdivision, that absolutely would.

Mr. Malinowski stated he does not know why we would not move that along to anybody that wants to build a house on their property.

Ms. Myers stated the issue that brought this up is, new homeowner builds a house, puts in a horseshoe driveway in front of the front door. The garage points toward the county road, and the county has installed its pipe and has said, "You have a driveway. Sorry, we are not putting a driveway where your driveway should be because you put it in a horseshoe." It seems to her the statute says we have to put in a driveway because that is what it says. If we want to make changes we can, but the way we are implementing this is inconsistent with the way the ordinance reads. It is immaterial what the taxpayer has done for him or herself. It says, "the county will provide driveway connections from the roadway to the right-of-way line on a county maintained by DPW, subject to the following limitations: (1) Only 1 per residence; two (2), if more residences are on the parcel." This suggest to me that we are not discussing what the taxpayer has invested in. We are discussing what we will do.

Alternative Methods of Paving or Improvements – Ms. Myers stated there are companies that have alternate methods of paving. She inquired if the county had investigated those alternate methods of sealing roads that are less expensive than paving.

Mr. Eversmann stated DPW is no longer the lead agency on paving.

Mr. Malinowski inquired who does the paving then.

Mr. Eversmann stated the Transportation Penny. DPW is doing sidewalk projects, but they are not involved in the paving program.

Mr. Malinowski inquired what happens to the C-Funds that come in for paving purposes.

Mr. Eversmann stated, at this point, they are using C-Funds primarily for sidewalk projects.

Ms. Myers inquired as to when the C-Funds were diverted.

Mr. Eversmann stated there is no diversion. We still get our C-Funds allotment.

Ms. Myers stated they are not being used for roads.

Mr. Malinowski stated they were told, when the Penny Tax came, that C-Funds would still be used for road paving that are not a part of the Penny Program.

Mr. Eversmann stated, currently DPW, with regards to our participation in C-Funds, and their availability, has been for sidewalk projects, which is a legitimate C-Fund expenditure.

Dr. Thompson stated he will ensure staff provides a list of how the C-Funds have been utilized for the last 24 months.

Ms. Newton stated, her understanding is, the Penny Program is responsible for a defined set of roads, but not every road in Richland County falls under their purview. So, if we have the Penny roads in one bucket and we have DPW, that is not lead on paving roads, who is the lead on paving all those other roads not named.

Mr. Eversmann stated there was, at one point, a list of 40 roads accepted by Council, and brought into the County Road Maintenance System. They are embarking on design for improvements, to include resurfacing of them.

Ms. Steele stated they are doing proposals to get an engineer on board.

Ms. Newton stated, for clarification, County approved turning over 40 private roads to the County, and those are the roads we are discussing. She stated she is trying to figure out who is responsible for which roads.

Ms. Steele stated the County does not automatically get C-Funds. You have to provide a cost estimate, and propose it to the CTC. The CTC votes on whether or not to approve it. There is a limited amount of funding. She had a conversation with Mr. James Brown, and he said, he did not believe that the CTC would vote to supplement the Penny with C-Funds.

Ms. Newton stated, hypothetically, she lives on Acme Road and is a County road. Acme Road is not one of the 40 private roads, is not on the Penny Project, and the road has problems and needs to be repaved, who is responsible for paving the road.

Mr. Eversmann stated Richland County.

Mr. Niermeier stated, Sec. 21-19. "C" construction program says, "(a) All funds available to the county council through the "C" construction program will be used exclusively for maintenance and construction, of publicly owned streets and roads in the county and the drainage facilities directly related thereto. (b) The director of public works will be responsible for implementing systematic program for resurfacing of existing streets and new construction funded with "C" funds. New construction may include any of the following..."

Mr. Malinowski stated Ms. Steele was correct the County accepted a group of private roads, but he knows that some of the questions and concerns, with accepting those, it was mentioned that these roads

are being accepted and we have all of these other roads that have previously been in the county system and needed addressing prior to this. We needed to take that into account also, not just move forward with these to the exclusion of those. It sounds like that may be what is happening.

Ms. Steele stated, if there are roads that we know need repair, DPW could easily put together a cost estimate and submit it to the CTC.

Ms. Myers stated, for clarification, under Sec. 21-19 "C" construction program, under the seven (7) enumerated items, DPW is primarily working on sidewalks.

Mr. Eversmann responded in the affirmative.

Ms. Myers inquired, since the Penny Program came into existence and we had the PDT working on roads, has the County done any work on the roads not on the Penny list.

Mr. Eversmann stated they do maintenance.

Ms. Steele stated DPW did resurface Fountain Lake Road.

Ms. Myers stated the "C" funds that come into Richland County should, at all times, be subject to policy set by County Council. It may well be that a third party believes that this is supplemental, but the only group that can appropriate funds for the County is Council. If the funds have been appropriated, based on what a third-party thought would or would not be acceptable, we probably need to go back and look at what's happened. Mr. Brown is right, "C" funds cannot supplement the Penny Program, but the Penny has bespoken roads. There is a list of roads that do not fit in the Penny, that are roads that we still maintain. We have approximately 290 miles of unpaved dirt road in Richland County. A lot of that does not fall under the Penny, and could get us a long way down the road to making progress using the "C" funds.

ADJOURNMENT – The meeting adjourned at approximately 4:48 p.m.