

**NEWBERRY COUNTY COUNCIL WORK SESSION
MINUTES
November 6, 2024**

Newberry County Council met on Wednesday, November 6, 2024, at 5:02 p.m. in Council Chambers at the Courthouse Annex, 1309 College Street, Newberry, SC, for a Work Session.

Notice of the meeting was duly advertised, as required by law.

PRESENT: Todd Johnson, Chairman
Robert Shealy, Vice-Chairman
Leon Fulmer, Council Member
Les Hipp, Council Member
Travis Reeder, Council Member
Karl Sease, Council Member
Johnny Mack Scurry, Council Member
Jeff Shacker, County Administrator
Joanie Winters, County Attorney
Eric Nieto, I.T. Director
Andrew Wigger, Clerk to Council/PIO

Mr. Shealy called the meeting to order at 5:02 p.m. for Mr. Johnson who was delayed due to a work commitment.

1. Discussion and review of proposed revisions to Chapter 91 of the Code of Ordinances of Newberry County providing design and other standards for the Newberry County Public Road System.
 - Mr. Shacker reviewed the remaining pages (pages 20-23) of Chapter 91 of the Code of Ordinances of Newberry County providing design and other standards for the Newberry County Public Road System. Those pages are attached with these minutes.

- Mr. Sease asked, regarding bridges, if the approval comes from the county administrator, where does the funding come from. Mr. Shacker said if it is primarily benefiting the applicant, it will be at their expense, but the county is taking on a long-term obligation.
- Mr. Hipp said during the last meeting, he made a comment that he did not like the idea that the director of Public Works established design requirements, and it was agreed upon that they reference design standards, whether it is SCDOT, or another agency, and Newberry County does not need to arbitrarily design bridges.
- Mr. Hipp referenced 91.34, subsection B, where it discusses condemnation where it says, “only to address safety issues.” He said the county has used eminent domain, even on Mawson’s Way, that was for the good of the public that had nothing to do with a safety issue. He recommended adding that language to the subsection.
 - Mr. Shacker asked should they make it clear to add language that it is for existing county roads that are being paved; to which Mr. Hipp said yes.
 - Ms. Winters recommended adding that final section to the petition, so that it is clear in the document that they are signing.

2. Executive Session:

a. Legal Matter(s):

- i. Discussion of matters related to Newberry County’s local floodplain management program and participation in the National Flood Insurance Program pursuant to SC Code of Laws Section 30-4-70(a)(2).

- Mr. Shealy made a motion to go into Executive Session; Mr. Hipp provided the second and the motion carried 7-0 at 5:31 p.m.
- Mr. Shealy made a motion to come out of Executive Session; Mr. Fulmer provided the second and the motion carried 7-0 at 6:01 p.m.

3. Adjournment.

- Mr. Hipp made a motion to adjourn; Mr. Sease provided the second and the motion carried 7-0.
- The meeting was adjourned at 6:01 p.m.

NEWBERRY COUNTY COUNCIL



Todd Johnson, Chairman



Andrew Wigger, Clerk to Council

Minutes Approved: 11-20-2024

§ 91.28 ROAD DEDICATIONS AND RESERVATIONS.

- (A) Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Joint Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.
- (B) Where a subdivision borders an existing narrow road or when the Master Plan or Official Map indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his own expense the areas for widening or realignment of the roads. The frontage roads and streets shall be improved and dedicated by the applicant at his own expense to the full width as required by these subdivision regulations.
- (C) When a subdivision contains a part or all of the proposed location of a new street shown in the County's major thoroughfare plan, the necessary right-of-way shall be reserved for this new street and the design of the subdivision shall reflect the future existence of this street.
- (D) Dedication of this right-of-way is not required. However, this reserved right-of-way shall not count in satisfying the setback and lot size requirements of this Chapter.
- (E) When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each block.

§ 91.29 POLICY STATEMENTS.

- (A) The final acceptance of a road by the County does not imply the road will be widened or stabilized at any time. The only type of road construction accepted by the County shall be asphalt.
- (B) No paving will be allowed on wet surfaces or when the temperature is below 45 degrees Fahrenheit, or shade temperature is 40 degrees Fahrenheit. Paving will only be permitted with approval from the Director of Public Works.
- (C) Roads in existing subdivisions that have already been paved to county standards, but that have less than the required width of right-of-way, may be accepted into the County System upon a further determination by County Council that special circumstances exist that justify the acceptance of the road right-of-way, and that the customary right-of-way width is not readily available for acquisition.
- (D) The developer of a subdivision may be required to sell 50% of the parcels of a subdivided tract before the county will accept the roads therein, but this requirement may be waived by County Council for good cause shown. The purpose of this provision is to keep the County from accepting financial responsibility for new roads that may be damaged by heavy truck traffic generally associated with the development of property and construction of new homes or businesses, and during or after which roads may need extensive, costly repairs after being exposed to such traffic.
- (E) In the event that there is any material difference between the requirements of this Chapter and the chapter providing standards for road acceptance and construction in subdivisions, the provisions of the subdivision regulations shall govern. The provisions of this Chapter shall govern in all other situations.

§ 91.30 NAMING OF ROADS.

In order to provide for the safety and security of all county residents, and to minimize confusion for citizens, law enforcement and emergency personnel in times of natural disaster, civil unrest, or other emergency, all roads in Newberry County, public or private, shall be named in accordance with the provisions of Chapter 94 of the Newberry County Code of Ordinances, as amended from time to time.

§ 91.31 ROAD CLOSING.

The County shall only abandon or close roads or portions of roads within the County System under the method prescribed in S.C. Code §§ 57-9-10 et seq., as amended. Members of the public desiring the closure of roads, or portions of roads, shall initiate such requests by this same method and at their own expense, except in cases where County Council determines it is in the interest of the County to effect such closings. The County Administrator, acting on behalf of and in consultation with County Council, shall make known to the court the County's position with respect to such closure requests.

§ 91.32 CUTTING OF TREES, BRANCHES, LIMBS, AND OTHER OBSTRUCTIONS.

- (A) Dead trees, low limbs, or branches in the right-of-way will be cut by county maintenance personnel and equipment, as well as weeds, grass, or brush that limit sight distance on county-maintained roads.
- (B) All limbs, branches, and other obstructions that hang over or into a county-maintained road will be abated to ensure safety and sight. The county will only cut or trim what is necessary to ensure the safety of the traveling public.
- (C) Every owner or tenant of lands lying within the unincorporated areas of Newberry County adjoining a roadway, whether the lands are within the road right-of-way or not, shall:
 - (1) Keep all brush, hedges and other plant life growing within ten feet of any roadway, and within 25 feet of the intersection of two roadways, cut to a height of not more than two and one-half (2.5) feet above the crown of the roadway where it shall be necessary and expedient for the preservation of the public safety; and
 - (2) Keep all tree limbs within ten feet of any roadway, and within 25 feet of the intersection of two roadways, cut and trimmed to a height of not lower than ten feet from the crown of the roadway so as not to obstruct the safe movement of vehicles or vision of the drivers on and around the roadways and intersections where it shall be necessary and expedient for the preservation of the public safety.

Article VI – Paving of Unpaved County Roads

§ 91.33 COUNTY ROADS ONLY

The road for which paving is requested must be a road already included in the county's road maintenance system, as determined by Director of Public Works.

§ 91.34 NECESSARY RIGHT-OF-WAY FOR PAVING REQUESTS.

- (A) The property owner initiating a paving request is responsible for securing rights-of-way/easements from all affected property owners. The County's role in the right-of-way/easement acquisition process is limited to the following items:
 - (1) Providing petitioners with official petition documents;

- (2) Generating property owner name and address information (as available through the County Tax Assessor's property records);
 - (3) Staking approximate rights-of-way for initial review by affected property owners;
 - (4) Commissioning property surveys to finalize right-of-way dimensions and location; and
 - (5) Assisting in the preparation/execution of required right-of-way/easement documents.
- (B)** The granting of right-of-way by property owners for county road paving projects is voluntary and requires unanimous agreement among the affected property owners (a mere majority will not suffice).
- (1) The County will condemn easements/rights-of-way only to address safety issues identified by Director of Public Works.
 - (2) In such cases, the County will condemn only the minimum property necessary to address the safety issues, not enough to accommodate a wholesale improvement of the roadway.

§ 91.35 APPLICATION PROCESS.

(A) Submission of request by property owner to county staff.

- (1) Any affected property owner (i.e., anyone who owns property adjoining an unpaved county road) may obtain from the County Administrator a Request for Road Paving Consideration form ("request form").
- (2) Once completed by the petitioning property owner, the form is forwarded to the Director of Public Works, who verifies that the road is a county road and determines if the requested road improvements require a right-of-way of 50 feet (for through roads) or a 50-foot radius (for cul-de-sacs), or more, based on topography, sight lines, road layout, safety conditions, and other criteria.
- (3) Outfall ditches and drainage easements may also be required.
- (4) The Director of Public Works will amend the request form with this information and arrange for the staking of the approximate right-of-way dimensions for initial review by affected property owners.

(B) Return of request form by county staff to property owner.

- (1) Staff returns the request form, as amended under section 91.34(A)(4), to the petitioning property owner.
- (2) Staff supplies the petitioning property owner with a list of all affected property owners and their contact information, consisting only of mailing addresses, as shown in public records of the County Tax Assessor, and an official petition form (Petition of Intent to Grant Right of Way form) to be used for indicating the intent of affected property owners to grant the necessary rights-of-way/easements for the project.

(C) Securing required signatures.

- (1) The petitioning property owner is responsible for establishing the unanimous intent of all affected property owners to grant the required right-of-way (as staked by the Director of Public Works for initial review) by having them properly sign the Petition of Intent to Grant Right-of-Way form.

- (2) No county road will be paved or otherwise significantly improved (other than regular scraping and the amending of an existing gravel base, where needed) unless the Petition of Intent to Grant Right-of-Way is signed by all affected property owners and the subsequent rights-of-way/easements are obtained and recorded.
- (3) There must be only one original petition circulated for signatures, which must be bound or stapled.
- (4) In order to guard against the making of copies, each page attached shall show "Page ___ of ___" (where the first blank represents the number of the current page; the second, the total number of pages in the petition).
- (5) Required signatures may only be from affected property owners and must include all owners of each affected parcel, no matter how slight the owner's interest, as shown on the deed recorded at the office of the Clerk of Court for Newberry County.

(D) Legal right-of-way/easement documentation.

- (1) The County Attorney prepares the easement forms to be properly executed by affected property owners granting the necessary rights-of-way/easements.
- (2) The petitioning property owner is responsible for coordinating/scheduling this work with the County Attorney.
- (3) Once unanimous consent granting all necessary rights-of-way/easements is executed and recorded, the easement/right-of-way documents and the county-commissioned survey/plat of the road are filed in the office of the Clerk of Court for Newberry County.
- (4) The Director of Public Works, County Attorney, and County Administrator then certify to the County Transportation Committee (CTC) and to County Council that the appropriate right-of-way is established.
- (5) If the petition omits any signature of any affected property owner, it is returned to the petitioning property owner for completion.

§ 91.36 NO GUARANTEE OF PAVING.

Neither the CTC nor County Council guarantees the paving of a road for which the required rights-of-way/easements have been successfully obtained and recorded. The funding appropriated for the paving of county roads is limited and is expended based on objectively determined priorities and criteria of the CTC. Commonly, there are more proposed projects than there are resources to fund them. However, it is certain that no county road will be paved unless the required rights-of-way/easements are properly obtained and recorded.