

NOW, THEREFORE, BE IT ORDAINED THAT NEWBERRY COUNTY COUNCIL DOES HEREBY AMEND CHAPTER 91 OF THE NEWBERRY COUNTY CODE OF ORDINANCES SO AS SET FORTH HEREIN.

Add Section 91.37 to read as follows:

Notwithstanding and in addition to any other sections hereinabove, the following shall provide guidance for any request to pave an existing County-maintained roadway.

Procedures for Petitioning for the Paving of Roads in the Newberry County Road Maintenance System

(A) 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 Newberry County Public Works.

(B) Necessary Right of Way

The property owner initiating a paving request is responsible for securing rights of way/easements from all affected property owners. County staff'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 Newberry County Tax Assessor's property records)

- (3) Staking approximate right of way for initial review by affected property owners
- (4) Commissioning property surveys to finalize right of way dimensions and location
- (5) Assisting in the preparation/execution of required right of way/easement documents

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). Newberry County will condemn easements/rights of way only to address safety issues identified by Public Works. 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.

(C) The Application Process

- (1) Submission of Request by Property Owner to County Staff –any affected property owner, i.e., anyone who owns property adjoining an unpaved County road, may obtain from the County Administrator’s office a *Request for Road Paving Consideration* form (“Request Form”). Once completed by the petitioning property owner, this form is forwarded to the Public Works Director, who verifies that the road is a County road and determines whether the requested road improvements require a right of way of 40 feet (for cul de sacs), 50 feet (for through roads), or more, based on topography, sight lines, road layout, safety conditions, and other criteria. Outfall ditches and drainage easements may also be required. The Public Works Director amends the Request Form with this information and arranges for the staking of the approximate right of way dimensions for initial review by affected property owners.

- (2) Return of Request Form by County Staff to Property Owner – Staff returns the Request Form, as amended under paragraph C (1) immediately above, to the petitioning property owner. 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 Newberry 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.
- (3) Securing Required Signatures – 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 Public Works for initial review) by having them properly sign the *Petition of Intent to Grant Right of Way* form. 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. There must be only one original petition circulated for signatures, which must be bound or stapled. 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). 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.

(4) Legal Right of Way/Easement Documentation – The Newberry County Attorney prepares the easement forms to be properly executed by affected property owners granting the necessary rights of way/easements. The petitioning property owner is responsible for coordinating/scheduling this work with the County Attorney. 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. The Public Works Director, County Attorney, and County Administrator then certify to the CTC (County Transportation Committee) and to County Council that the appropriate right of way is established. If the petition omits any signature of any affected property owner, it is returned to the petitioning property owner for completion.

(D) The Consideration Process

The Newberry County Transportation Committee (“CTC”) maintains a list prioritizing the paving of those roads for which the necessary rights of way/easements have been acquired. Prioritization is based on a point system involving numerous criteria. Each road for which the required rights of way/easements are verified receives a total number of points based on these criteria. Public Works contacts the petitioning property owner once his or her road is officially assigned these points by the CTC. The petitioning property owner is provided a date-stamped list of roads meeting the right of way prerequisite, ranked according to the CTC’s ranking/prioritization system. This list will include, in ranked order, the County road that the petitioning property owner has requested be paved. At all times, the CTC’s ranking/prioritization document will remain a public document.

(E) No Guarantee of Paving

Neither the CTC nor 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 it 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. It is certain, however, that no County road will be paved unless the required rights of way/easements are properly obtained and recorded.

(F) Method of Paving

The type of paving surface and specification used in paving any County road with CTC-appropriated funding is entirely at the discretion of the CTC, based upon the recommendations of the CTC's engineer.

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AND IT IS SO ORDAINED by Newberry County Council this 15th day of April, 2009, in meeting duly assembled at Newberry, South Carolina.

(SEAL)

NEWBERRY COUNTY COUNCIL

By: _____

Henry H. Livingston, III, Chairman

Attest:

Laurie N. Renwick, Clerk to Council

First Reading: March 18, 2009

Public Hearing: April 15, 2009

Second Reading: April 1, 2009

Third Reading: April 15, 2009

Reviewed and approved as to form:

A.J. Tothacer Jr., County Attorney

Wayne Adams, County Administrator