

**MINUTES  
ORANGEBURG COUNTY COUNCIL  
SPECIAL CALLED MEETING  
JUNE 1, 2010  
5:30 P.M.**

**Pursuant to the Freedom of Information Act, the news media was notified and notice was posted on the bulletin board 24 hours prior to the meeting.**

**MEMBERS PRESENT:**

**Janie Cooper, Vice Chairman  
Clyde B. Livingston  
Heyward H. Livingston  
Willie B. Owens  
Johnny Ravenell**

**MEMBERS ABSENT:**

**Johnnie Wright, Sr., Chairman  
Harry F. Wimberly**

**OTHERS PRESENT:**

**Bill Clark, County Administrator  
D'Anne Haydel, County Attorney  
Jacqueline P. Turner, Clerk to Council**

**CALL TO ORDER**

**Janie Cooper, Vice Chairman**

**MOMENT OF SILENCE**

**Moment of silence observed**

**PUBLIC COMMENTS    AGENDA ITEMS**

**NO COMMENTS**

**PUBLIC COMMENTS    OTHER MATTERS**

**NO COMMENTS**

**Vice Chairman Cooper presided in the absence of Chairman Wright. The representative from USDA, Michelle Cardwell, was to make a presentation before Council regarding financial matters relative to extending sewer services west of the Edisto Drive was running late; it was decided to proceed with the second agenda item until Ms. Cardwell arrived.**

**1.    AUTHORIZATION TO SUBMIT A TECHNICAL ASSISTANCE GRANT APPLICATION TO THE USDA/RUS BROADBAND PROGRAM**

**Bill Clark gave a synopsis, indicating several months ago a presentation was made to Council from Mr. William Metts, Principal Engineer with Metts Engineering, Branchville, S.C., asking for Council's authorization to proceed with an application on behalf of the County for**

broadband funding from the stimulus program. The application was made to USDA. The results of this application will not be known until September 2010. Mr. Metts, wants to submit a supplemental application. He is applying for a planning grant referred to as a Technical Assistance Grant the purpose of which would be to design an extension of the broadband service to other areas of the county, apart from the south central area Bowman, Branchville, Rowesville area initially proposed. Technical Assistance Grants can be up to \$200,000, 100% grants so there would be no local match or any financial commitment the County requires to proceed. Metts Engineering will draft the application and present it for Council's signature as it would be submitted on behalf of the County.

It is on the agenda today because the deadline for submission for the Technical Assistance Grant falls before the next regularly scheduled meeting of Council. If Council desires to have the application filed, it has to give its authorization today so the application can be signed later this week. Mr. Clark stated he has no reason not to recommend the application go forward since there is no financial obligation required on Council's behalf nor any staff time required, other than the time to read the application before signatures are attached to it. The plan needs to be submitted by Friday of this week

Vice Chairman Cooper solicited questions, if any, from Council. Councilman Owens asked if the County has two competing applications, a proposal for a wireless application and a proposal for a ground application. Both will be well and both may not cost anything, but I think in terms of serving the public, a wireless application would cover a larger area than the one competing, not that he's opposed to this one. Councilman Clyde Livingston asked if the Councilman was saying support one as the primary and the other as a secondary, or support the one he recommends and not support the other? Councilman Owens stated his preference would be a wireless service. Councilman Clyde Livingston asked if it would be appropriate to make a motion stating Council's preference to the wireless as stated by Councilman Owens, and also to go forth with secondary support for another approach.

Vice Chairman Cooper inquired of Mr. Clark whether the sentiments expressed by Council members Heyward Livingston (whose remarks were not audible) and Owens, have any bearing on Council authorizing this particular service at this time. Bill Clark said no; he would support what Councilman Heyward Livingston was saying. The decision on which grant is going to be awarded, if either, will be made by the USDA, and it really is not going to have much bearing either way on what indicating a preference is, because we have already endorsed two applications to go in. As competitive as the grant is the likelihood that there would be two awards to the same county in the same state is probably very remote. If the County is fortunate enough to be awarded one or the other, then the County can decide how to proceed at that point. This is equated to have two lines in the water instead of one. If both can continue on the tracks they are, this is probably the wisest thing. The criteria USDA uses to evaluate probably will support the wireless application just as a matter of cost; the cost to construct wireless is 50% of the cost to build the wire base application. With scarce dollars and vast competition, cost will be one of the factors in evaluating the grants.

**Motion made by Councilman Owens, that County Council approve the authorization to submit a Technical Assistance Grant application to the USDA/RUS Broadband Program, seconded by Councilman Ravenell. Motion passed unanimously.**

**Bill Clark introduced Michelle Cardwell, USDA/Rural Development and inquired if she had a presentation she needed to make to Council prior to Council taking action on the resolution.**

**RESOLUTION AUTHORIZING THE PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING SEWER SERVICES**

**The County Attorney asked whether the forms being used and appearing on USDA website changed since the County's Branchville project. Ms. Cardwell indicated no. The County Attorney wanted to make it clear that it is her understanding all of the grant loans handled by USDA are form documents on the website. The documents generally don't change and they are generally take it or leave it type of documents. If for example the County has a problem with a particular term in the documents, its take it or leave it. She highlights this before Council starts, because the County has in fact signed off on these agreements before in the past 12 years, and there are terms in this agreement that Council would never accept, accept as take it or leave it circumstance. This is the broad overview she would use in talking about this multi million dollar project; it's pretty much take it or leave it, which is a political decision on Council's behalf.**

**Ms. Cardwell went over the letter originally directed to Chairman Wright, but directed today to Vice Chairman Cooper. She would entertain questions when she finished. The project is for the sewer project in the west Edisto service area for Phases 2 and 3, involving the sewer service being extended out to that area. The project is \$2,088,000 from a loan and \$5,904,100 from a grant. After all the documents have been signed, she will be sending the papers to Columbia; the County will receive a letter back saying the loan and grant are approved in separate letters of notification. On page 2 is a funding breakdown for construction and for land and rights and legal fees, engineering, inspections and construction interest for a total amount of USDA funding at \$8,492,100. On page 3 is applicant contribution of \$500,000 from the County and other parts of loan and grants for a total of \$8,492,100. Page 2 also reflects if there are any changes in the scope of the project or sources of funds, USDA needs to be notified so they can revise the Letter of Conditions. Page 3 is about disbursement of funds; once plans are developed and it is under construction, the County would notify them in writing, along with pay selection and invoices they would need to approve over a 30 day period. Page 4 uses the same security as other Edisto projects, secured by a Sewer System**

**Improvement Bond and secured by a revenue and statutory lien on the sewer system.**

**Item 5, page 4 reflects loan repayment over a 38 year term loan where the first 2 years will consist of interest only payments with an interest rate of 2.5%, with monthly payments of \$7,100. Councilman Owens asked when would USDA anticipate payments beginning? Ms. Cardwell replied when you start construction you will get an interim loan, and when the interim loan is used up once the \$2million is extended, probably about when the project is about 30%, one year after that you will pay interest only payments, so she would think when construction is about 30% complete it will close the permanent loan and then the interest only payment will come due after that time, so you have time to build up your revenue and get your sewer users connected.**

**Bill Clark addressed Councilman Owens, indicating C. Livingston had one cent money dedicated for this sewer project which could be committed, but also in putting together your project list for the third one cent sales tax that might be relevant to whatever decisions you might make in regard to that.**

**Councilman Clyde Livingston stated he knew exactly what was being asked about, "I think we got it covered for the second one cent, but we absolutely have to covered for the third."**

**Councilwoman Cooper asked what happens if the current penny is not going to continue, what happens? Councilman Clyde Livingston said it would have to come out of the money from the second penny. Councilman Owens asked how is the \$500,000 covered? Councilman Clyde Livingston answered it would come out of capital project sales tax funds.**

**There is no penalty to pay the loan off early. Item 6 page 5 – reserve requirement – Ms. Cardwell stated with this loan you are required to establish a reserve account and every month you have to deposit 10% of your payment, \$710 per month once monthly payments start. Item 7, you have to provide evidence you have at the end of the construction, that you have at least 930 sewer users signed up which includes existing ones you have in Phase 1 and the new ones coming on from Phases 2 and 3. USDA has estimated 60% of the customers in this service area will be tied on and they are included in this number. Page 6 is a sewer user agreements – whatever was used last time by the County is acceptable here. Item 8 talks about again the number of sewer users they are looking for the total service area which is 930 customers. Councilwoman Cooper asked Councilman Clyde Livingston if this will complete the service area in Edisto. Councilman C. Livingston stated it will complete the main line; there are still lines to go into small subdivisions or down streets with limited space.**

USDA nor the engineers recommended a rate increases; the rates are what is in effect now, and DPU will incorporate the three agreements that you have with them now for the treatment, the administrative, the operation and maintenance charges. The rate is the total of all the rates they charge to you; there is no anticipated rate increase because they usually go up on their rates every two or three years. Item 10, page 7 talks about whenever there is a shortfall and if you start making payments and don't have enough to make the monthly from the revenues that come from the existing customers, the County normally subsidizes the payment to DPU and USDA would make their payment as well, so USDA is in agreement with this as well, and it was included in the Letter of Conditions as well. USDA has estimated as of today the County will have to put in \$60,000 per year to cover expenses to DPU and whatever operating expenses are on the pump stations, and to make the monthly payments.

Item 12, page 7 is about Operation and Maintenance Expenses the County will be required at yearly budgeting sessions consider the sewer system and expenses that it take to run the sewer system as well. Once you come up with this budget it needs to be submitted to Rural Development for review as well. Item 12 also talks about the proposed operating budget and rate structure; RD asks the County in budget sessions to consider the sewer system as well when looking at the budget.

Number 14 is Insurance and Bonding Requirements - they have evidence on file now what the County has for insurance and bonding. They are asking the fidelity bond coverage be re-verified to make certain there is enough coverage; she thinks there is enough. However, number "c" will have to be re-verified.

Number 15 – Sewage Treatment Contract - USDA would also like to receive any changes from DPU so it can be on file as well. Number 16 – The County is already having its audits and budgets done by a CPA; they would like to have a copy of this when it has been approved by Council.

Number 17 – Legal Service – You need an agreement with the County Attorney; the Attorney will hire the bond counselor; prior to closing USDA needs a certification from the Attorney certifying the County does not have any judgments or litigations against them that would effect the sewer system. RD also needs preliminary title opinion and Right-of-Way Certificate and Opinion Relative to Right-of-Way. Once these are received RD can order closing instructions for the loan portion. Also need right-of-way map from County Engineer; once he gets the plans and specs done, he needs to immediately work on the right-of-way map.

Page 13 – Engineering Services – The County already has an agreement with their Engineer that has been approved by Rural Development. Number 20 -

**RD needs a resume from the engineering firm for the Resident Inspector. Number 21 – All environmental mitigations that were agreed upon from the County and things the contractor would need to abide by when he's doing the construction as well. All these items are in the environmental report approved before RD made the loan.**

**Pages 13, 14, part of 15 – Page 22 RD needs a recent copy of Vulnerability Assessment or certification one is in place. Number 23 – They still need a compliance review because this requirement has not changed. The County has to keep up with the racial breakdown for the users; every 3 years they come out a verify that the County is keeping a record, so they can check off if the County is complying with the Civil Rights Act of 1964 and Rehabilitation Act.**

**Page 17, number 24, they will need before the plans and specs are completed, they will need a permit from DHEC, the Engineer will be taking care of this. Number 25 – The Engineer will be developing plans and specifications so once the Letter of Conditions is signed, final plans are submitted to RD for approval. Number 26 – American Recovery and Reinvestment Act of 2009 – Page 18, the County will have to register at [www.FederalReporting.gov](http://www.FederalReporting.gov); this needs to be done within the next several weeks to start quarterly reporting. The County will receive reminders from Ms. Cardwell as to what to do next.**

**Page 17 – Item “d” Buy American – Is a requirement for the Engineer to make certain it is adhered to for stimulus projects. Item “e” Wage Rate Requirements must be kept up with as part of the stimulus project, and file reports.**

**Page 20 – Bid Authorizations – Once the plans and specifications are approved by RD and been reviewed by DHEC, the County would coordinate its bid date with RD to keep up with the 30 day advertisement requirement. Any cost overruns will be re-submitted to RD for the County can cover the overage that's fine. RD can fund cost overruns if there is one. Cost overruns usually take precedence over all projects RD has on the books for funding. Use the remaining funding if it comes under then you would need to figure what you would want to do with the additional money or you can return it to RD.**

**Number 30 lists all the forms Ms. Cardwell brought with her to be executed so they can be turned back in for the County to receive its congratulations letter. Number 31 talks about special events; if a special event is planned, RD needs to know so they can inform the State Director and coordinate with RD.**

**The County is given 12 months to learn conditions. If an extension is needed, it would be done in writing. RD will go over stimulus requirements with the contractor and also the lead person who will be assisting her in helping the**

**County meet declared conditions. Ms. Cardwell completed her presentation, and asked if anyone had any questions.**

**Vice Chairman Cooper asked Bill Clark if this was part of the shovel ready package of stimulus money; Bill Clark replied no, but this particular project benefited greatly from the fact that the engineering work was done considerably in advance, and the County had local money available.**

**Councilman Owens, prefacing his question with the fact that he was new on Council, asked Ms. Cardwell if the County fails to get 930 residential sewer users what happens? Ms. Cardwell replied when RD looked at it they only took into consideration that the County will get 60% of the 930. They looked at what the County did in Phase 1 and basically 100% of the people signed up without even pressuring them; once the line comes out, people usually sign on. If they don't get it then RD would look at it and reconsider the loan portion; the loan will not be forgiven, the project may have to be reduced so it may come of the loan part or the grant part. The total project would be revised if you can't get the 930. Councilman Owens stated this would be after the project had been completed and you can't redesign after it is completed. Ms. Cardwell stated not necessarily; the customers would have to have a commitment to RD before you start construction.**


**The Vice Chairman asked the County Administrator if he had anything to add; he stated no, the County was prepared to deliver on the requirements as stipulated, as the County has done before. He is very grateful for the opportunity to see an almost six million dollar grant confirmed and more favorable than anything out in the private market. It is his recommendation Council move forward.**

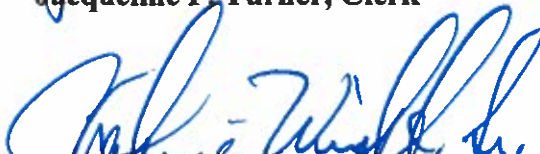
**Motion by Councilman Owens to approve the resolution authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving, and/or extending sewer services. Motion seconded by Councilman Clyde Livingston. Motion passed unanimously.**

**Vice Chairman Cooper extended her congratulations to Councilman Clyde Livingston for extending the sewer lines to the Edisto Drive area at the bequest of his constituents. She also extended an invitation to the public to attend the ribbon cutting ceremony on Friday, June 4<sup>th</sup>. Councilman Clyde Livingston thanked USDA Rural Development for all the help they have given. He also thanked Harold Young, Deputy Administrator, Community Development.**

**Motion to adjourn made by Councilman Clyde Livingston, seconded by Councilman Heyward Livingston. Motion passed unanimously.**

**Meeting adjourned.**

  
Jacqueline P. Turner, Clerk

  
Joannie Wright, Sr., Chairman