



**MINUTES**  
**ORANGEBURG COUNTY COUNCIL**  
**PUBLIC WORKS COMMITTEE**  
**May 7, 2018**  
**SPECIAL CALLED MEETING**  
**4:30 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:**

**Johnny Ravenell**  
**Harry F. Wimberly**  
**Heyward Livingston**  
**Janie Cooper-Smith**  
**Willie Owens**  
**Ray W. Sabalis**  
**Johnnie Wright, Sr.**

**MEMBERS ABSENT:**

**OTHERS PRESENT:**

**Connie Portee, Clerk to Council**  
**Henry Summers, Public Works Supervisor**  
**Marion Lloyd, Deputy County Administrator**  
**D'Anne Haydel, County Attorney**

**CALL TO ORDER**

**Johnny Ravenell, Chairman**

**Chairman Johnny Ravenell called to order a special session of the Orangeburg County Public Works Committee on May 7, 2018 at 4:35 p.m.**

**MOMENT OF SILENCE**

**Moment of silence observed**

**APPROVAL OF MINUTES**

**APRIL 2, 2018**

**Chairman Johnny Ravenell asked for a motion on the minutes. Councilman Harry Wimberly motioned that the minutes of the sessions of the Orangeburg County Council on the above dates be approved as written. Councilman Heyward Livingston seconded the motion. Motion carried. (3-0-0).**

## 1. IRRIGATION SYSTEMS RULES AND REGULATIONS

Chairman Johnny Ravenell advised the committee of the agenda item.

Chairman Johnny Ravenell yielded to County Attorney D'Anne Haydel to give a summary on the rules and regulations of irrigation systems. Attorney Haydel advised the question was does the County of Orangeburg have a policy in place and the answer is almost which would only take an amendment to the existing ordinance but there are many different things the County can do about a situation where these irrigation systems are crossing over County maintain road. There are a couple of ordinances and all of them fall short except one. Sec. 28-71 which deals with Encroachments the Attorney Haydel believe the committee could make the argument which this ordinance but she would still recommend the committee amend the ordinance. The closes ordinance would be the one that alter the water flow. (a) Pursuant to S.C. Code 1976, §§ 57-7-60 and 57-7-70, where it is necessary or desirable for any individual, corporation, firm and/or their contractors and agents to install or construct utility lines, service and appurtenances within a county right-of-way or to pursue any construction operation or make any excavation, tunnelling or boring for any purpose in or across any road in the county system, or within three feet of a roadbed on a county right-of-way, or altering the water flow in creeks, ditches or drainage fields or any roads or drainage systems maintained by the county, they shall make and file with the county public work department an application seeking permission to make such excavations and/or encroachment. There is a policy set up that says no one can interfere with the road, unless someone gets an encroachment permit. An encroachment permit is to allow a use, an encroachment is like a real estate legal right and an obstruction is when someone just take someone else right without saying anything to them. So the County already has an ordinance that Attorney Haydel believe the County can start enforcing, however she recommend that it be amended to make it absolutely clear that it includes irrigation systems. The ordinance says that the individual could apply for a permit if the County decides it's an obstruction verse a permit the County doesn't have an ordinance that deals with obstruction but there is a State Law that deals with obstructions that basically says you bring a law suit against people that have their obstructions on a public road removed. If the roads the County are discussing prescriptive easement or are they dirt roads, every ones right is a matter of equity to be determine by a judge. If the County states it has a prescriptive easement on this dirt road and the irrigation system now comes through an obstructs it for more than five (5) minutes, the State Law says for more than five (5) minutes it's an obstruction. Then the County can send a cease and desist order that says the County maintain the road and according to State Law if there is an obstruction the County can move in court to have the obstruction stopped but the County is going to give you an opportunity to cease and desist, in order to get everything cleared up. This is what the County's right are.

Chairman Ravenell asked with the existing ordinance if the Committee decision to amend the policy or ordinance we can do that without any problems.

Attorney D'Anne Haydel advised the Committee did not have to do it but it depends on if the committee want it in a policy, in an ordinance, or just go with State Law. The Committee can amend the ordinance but just have a section that is separate stating obstructions because this would make it clearer.

Chairman Ravenell advised he and Councilman Johnnie Wright spoke with a couple of farms and found the farms are willing to cooperate with adjusting their irrigation systems.

Councilman Harry Wimberly advised when reading about the encroachment side and everyone know there are different circumstances with pivots some of them go across a dirt road no one travels twice with a week and then some across a dirt road that people travel ten times a day. So there are different situations for each pivot but when a farmer allows their whole system go across the road and make a circle, a farmer can't block the road for two days. If we have isolated instance where the public those not give the County a problem with the pivot crossing the road maybe we can do an encroachment permit for those individuals and give them permission with a fee to cross the road. However, the end guns can be cut off, the end guns can keep the water off the roads but when the metal system has to cross the road that is a little different circumstance because every situation is a different situation.

Councilman Johnnie Wright advised he agreed with Councilman Wimberly that every situation is different because with one farmer his irrigation takes three minutes to cross the road and the another farmer irrigation system takes twenty-hours to cross the road.

Henry Summers advised one request from one of the farmers was whatever the rules are they but for every farmer not one set of rules for one farmer and rules for another farmer because that would not be affair.

David Jones came before the Committee to express his concerned about a pivot on an irrigation system off of warthog road. The irrigation system washes the road out and the end gun sprays over the road on to the fences on the property. He stated he put signs up on the fences but nothing has been done. The pivot comes to the edge road but the end guns shoots across the road on the gate.

Chairman Ravenell advised Mr. Jones between Councilman Owens because it is in his district and Henry Summers the Director of Public Works the Committee should get you some answers.

Councilman Willie Owens advised he believe the Committee should stay consistent in whatever the Committee decides to do. What applies in one area needs to apply to all areas and Mr. Jones should have to deal with that kind of damage on this property because someone failed to regulate sprinkler system. There got to be a way to regulate a sprinkler system so something has to be done.

Councilman Heyward Livingston advised he could understand if a pivot is doing damage to a County road then the County has a say so but will the County have a say so on private property wouldn't that be left to the land owner and a judge to handle.

Attorney D'Anne Haydel advised that was correct.

Councilman Harry Wimberly asked Attorney Haydel could the County put a rule and regulation on an end gun on an irrigation system stating that end gun cannot shoot water and cross another owner's property.

Attorney D'Anne Haydel advised when discussing regulating land uses you have to look to Zoning, if it is dealing with private rights.

Councilman Harry Wimberly advised the farmer can control an end gun, he may not have it on there but he can put it on there. The end gun can be controlled and that is where the majority the problems on the roads and on private property are the end gun. The sprinkler itself shoots a little water out but that end gun blasting water fifty foot. The County need to regulate end guns on other people's property unless the property owner agrees and if he doesn't the farmer has to turn that end gun off. The County has to regulate end guns on County dirt roads or paved roads it does not matter all County roads and end guns shooting on other people's property. That is where the problem is end gun.

Councilman Johnnie Wright advised 75% of the problem is the end gun.

Councilman Harry Wimberly asked Attorney D'Anne Haydel there are some systems that's been going across a County dirt road for twenty years have the County lost any rights by allowing it to go across and haven't stop it.

Attorney D'Anne Haydel advised if the County has known to twenty years it would hard to enforce prescriptive easement when someone has taken part of it by adverse possession for twenty years.

Henry Summers advised the farmer has been running his system across the road longer then the County has been owning the road.

Councilman Harry Wimberly advised this is what he meant that every situation is different and it is almost impossible to have the same rules and regulation for every farmer to do the same thing because it's different but end guns can be control.

Henry Summers asked Attorney D'Anne Haydel since the County has known for twenty years about this irrigation system crossing the road for twenty years and hasn't done anything about it and someone has an accident in the night because this irrigation system is crossing the road will the County be liable.

Attorney D'Anne Haydel advised that is always a question of fact, if the obstruction is on the road indicate that the person who obstruction the road is the one who would have to pay for the damage and that is a State Law.

Councilman Heyward Livingston advised he agreed with Councilman Wimberly if the County deal with the end guns that would take care of the biggest part of the problems then the Committee can come back and deal with the blockage of the roads.

Chairman Ravenell ask the committee for a recommendation.

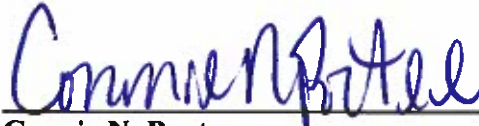
Councilman Harry Wimberly made the motion for the Public Works Committee would look into whatever it takes to cut off the end guns of irrigation systems that are shooting water on a County road. Councilman Heyward Livingston second the motion. Motion carried (3-0-0).

**2. VOTE FOR ADJOURNMENT**

**Chairman Ravenell asked for a motion for adjournment. Councilman Heyward Livingston motioned that Orangeburg County Council Public Works Committee of May 7, 2018, be adjourned. Councilman Harry Wimberly second the motion. Motion carried (3-0-0).**

**3. ADJOURNMENT**

**Meeting adjourned at 5:21 p.m.**



**Connie N. Portee  
Clerk to Council**



**Johnny Ravenell  
Chairman  
Public Works Committee**