



**County Council of
Beaufort County
Executive Committee
Meeting**

Chairman
JOSEPH PASSIMENT

Vice Chairman
BRIAN FLEWELLING

Committee Members
ALICE HOWARD
LAWRENCE MCELYNN
STU RODMAN
PAUL SOMMERVILLE

County Administrator
ASHLEY M. JACOBS

Deputy County Administrator
CHRIS S. INGLESE, ESQ

Clerk to Council
SARAH W. BROCK

Administration Building
Beaufort County Government
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Executive Committee Minutes

Monday, March 23, 2020 at 5:00 PM

Council Chambers, Administration Building Beaufort County
Government Robert Smalls Complex 100 Ribaut Road, Beaufort

ATTENDANCE:

Present: Chairman Joseph F. Passiment, Council Member D. Paul Sommerville, Vice Chairman Brian Flewelling, Council Member Stu Rodman, Council Member Alice Howard

Absent:

Ex-officio: Council Member Michael Covert, Council Member York Glover
Council Member Chris Hervocho, Council Member Mark Lawson, Council Member Lawrence McElynn

1. CALL TO ORDER: 5:00 p.m.
2. PLEDGE OF ALLEGIANCE
3. *[Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act]*
4. APPROVAL OF AGENDA

Motion: It was moved by Council Member Chris Hervocho, seconded by Council Member Alice Howard to approve the agenda. Voting Yea: Chairman Passiment, Council Member Sommerville, Council Member Covert, Vice Chairman Flewelling, Council Member Glover, Council Member Rodman, Council Member Hervocho, Council Member Howard, Council Member Lawson, Council Member McElynn

5. APPROVAL OF MINUTES

Motion: It was moved by Council Member McElynn, Seconded by Council Member Rodman to approve minutes from March 9, 2020. Voting Yea: Chairman Passiment, Council Member Sommerville, Council Member Covert, Vice Chairman Flewelling, Council Member Glover, Council Member Rodman, Council Member Hervocho, Council Member Howard, Council Member Lawson, Council Member McElynn

ACTION ITEMS

6. Discussion of an Ordinance authorizing the conveyance of real property associated with boundary of 50' Right of Way known as Fiddler Drive located on Lady's Island. Chris Inglese, Deputy County Administrator.

Beaufort County paved Fiddler Drive as part of paving contract 31. During this time period, County Maintained roads were considered prescriptive Right of Way and although the County does not have a clear instrument of ownership, plats dating back to the 1970's and prior Beaufort County Tax

maps designate Fiddler Drive as a ROW. The County has maintained the road for over 25 years. County paving plans are dated May 12, 2006 with County Council approval of the paving contractor on June 26, 2006. County Council also approved restriping of the road on October 27, 2014. The County has invested a lot of time and money into improving and maintaining the road. Title research reflects the County's interest in the road. Surveys and plats of surrounding subdivisions and parcels include the 50' ROW so there does not appear to be a conflict of ownership with other adjacent properties.

Green Heath, LLC is trying to clear up acreage discrepancies associated with parcel R200 010 000 0022 0000 which abuts Fiddler Drive on Lady's Island. Green Heath, LLC is requesting a Quit Claim Deed and Certificate of Abandonment associated with a "GAP" area outside the platted 50 ROW. Green Heath, LLC has provided a Quit Claim Deed for any interest they have in Fiddler Drive. By the County accommodating Green Heath, LLC, the County will also have recorded documents that can be used in support of the County's claim on the ROW.

Council Member Sommerville: Fiddler drive is like a Z if you look at it on a map. Not all of it bumps up to Green Heath, the last part runs up into Brickyard Point Drive. Is that the only part that doesn't have the right of way?

Chris Inglese: I think so, I will confirm with Mr. Tedder, his client is the seller of the Green Heath parcel so in this quit claim the County will get the adjacent rights of way that we have thought we have had for many years but there will still be some work to do to the remaining portions in the future.

Mr. Tedder: (on phone) That is correct. The property aligns to the other side away from Green Heath, there isn't an issue there. This area that is adjacent to Green Heath and there is a 6-foot break in distance across there and that is what is the County is quit claiming to us. We are quit claiming the right of way as claimed by the County is its 2006 engineering drawings. I don't believe there are other areas specifically impacted by this but will look further.

Council Member Sommerville: I am asking specifically about the section that runs between Green Heath and Brickyard. Is the ownership of that still in question?

Mr. Tedder: Not to my knowledge are of those lots were subdivided and they have their own individual plats like they did on the Royal Pines side.

Chris Inglese: We have plats of our rights of way that exist, we just don't have perfect title to some of those.

Vice Chairman Flewelling: How much is paved.

Chris Inglese: All of Fiddler Drive is paved.

Council Member Lawson: By making this a County Road, does this open it up for more development above and beyond what it is currently intended for?

Chris Inglese: No

Motion: It was moved by Vice Chairman Flewelling, seconded by Council Member Sommerville to forward Ordinance authorizing the conveyance and acceptance of real property associated with boundary of 50' Right of Way known as Fiddler Drive located on Lady's Island to County Council for first reading on March 22, 2020. Voting Yea: Chairman Passiment, Council Member Sommerville, Council Member Covert, Vice Chairman Flewelling, Council Member Glover, Council Member Rodman, Council Member Hervochon, Council Member Howard, Council Member Lawson, Council Member McElynn

Recommendation: First reading to be held at County Council meeting today at 6pm.

7. Discussion of a resolution amending County Council's Rules and Procedures by establishing standards for electronic meetings as authorized by The Freedom of Information Act SC Code of Laws 30-4-10 et. seq. for County Council and County Council Committee Meetings during a State of Emergency – Chris Inglese, Deputy County Administrator

This only applies during an emergency as declared by adoption of an Emergency Ordinance approved by 2/3 of members present at a duly assembled meeting of county council. This is for the necessity of announcing who the speaker is each time a speaker addresses the body so that the Clerk can properly record minutes. We will want to be proactive to ensure public hearings provide the public multiple forum to submit written comments for consideration. Public comments received should be read into the record by the Chairperson or Clerk to Council.

Council Member Sommerville: Are we taking the boiler plate language out of the freedom of information act saying that we are approving what we are doing or are there going to be some significant changes?

Chairman Passiment: The proposed resolution has been attached.

Chris Inglese: The freedom of information act simply references meetings of the body by electronic equipment. The resolution goes much further than that by establishing parameters and procedures

Chairman Passiment: There has already been some suggestions made to this packet, I can read what has been suggested.

Council Member Covert: Chris, did you put this together?

Chris Inglese: It was a team effort.

Council Member Covert: Section 1G; *with respect to any electronic meeting, any public comment periods provided for by local ordinance, resolution, policy, or bylaws are hereby suspended. Members of the public may submit written public comments which shall be distributed to the members of the Governing Body.* Am I reading too much in to that or is that saying that we won't take public comment if we are operating in an electronic fashion.

Chris Inglese: I don't read it that way. Maybe it would be clearer to say " may be suspended" but members of the public for this particular meeting today, we have made available several forms for submitting comments directly to the clerk.

Council Member Covert: Which I agree with, it's fantastic. "Are hereby suspended", got me a little worried.

Vice Chairman Flewelling: I want to make a motion to amend.

Chairman Passiment: There are going to be several other changes so that is going to be one the we are going to want to insert.

Vice Chairman Flewelling: Regarding that particular comment. My only concern, is that when we say "may" I would like notice at the beginning of the meeting that public comment is suspended for some particular reason. No electronic activity was able to be received from some technical reasons. If there is something that prohibits the public from making that comment, I want to know at the beginning of the meeting so that we can make arrangements for appropriate public comment or deferring action that public comment would have been helpful on for a later time.

Chairman Passiment: It is my opinion at this time, what we are doing here for the next 60 days but it is going to be encompassing not only what County Council is doing at its meetings but going to affect our boards and commissions. We need to temper those words to do what we need to do.

Vice Chairman Flewelling: Do we have the ability to receive video or audio public comment from the public at any meeting? Could we publish a number during a particular period of time that the public could call in and we could receive that comment?

Chris Inglese: Short answer, yes. Public comment and public hearings we need to deal with separately. For public comments that is an optional item that council has honored for many years and we have set up several forms for submitting public comment. There is no technical legal requirement for it so everything we do to

set up public comment for meetings is sufficient. For Public Hearings that have statutory requirements, we need to do everything we can to accept comments for those required public hearings. One form we would like to set up is a phone in number to call in. You would call in during the meetings and call would be screened in for the record and the nature of their comments and you could hear them live via phone. Another thing that has been discussed is setting up a live video feed and they could skype in or somehow see their face. That may be hard with the building closed to the public. The phone lines are something that is feasible and that we can have for those meetings that are required to receive public hearing. All other efforts to receive public comments and addition to the phone lines we will have to keep thinking about it and it would likely comply with public hearing statutory requirements considering the circumstances we are operating in.

Council Member Covert: Is today's meeting and subsequent meetings and the County Channel is carrying it, is this also being covered on Facebook Live.

Chris Inglese: Yes, that is my understanding for today's meeting.

Council Member Covert: Will we be able to receive or will the citizens be able to type in a questions or comment?

Chris Inglese: They are able live type their comments and the Chairman is able to see that and monitor them as they come in.

Council Member Covert: The only other thing, this is germane to this subject the transparency committee in our final report, talking about electronic communications in other areas of the County that are not able to get here, that is one of our initiatives.

Chairman Passiment: I'm on Facebook live right now, the video is showing various members here and there is a box where I can see comments as they come in and deal with that as we go along

Council Member Howard: Is there a phone number where they can call in now?

Councilman Flewelling: Can you share that?

Scott Groom: 843-255-2041. That number goes to my control room, someone is answering it and sending it to me and we can call back from this speaker phone and put on the mic.

Council Member Rodman: My sense over all these years. Most of the public comments are non-related items like public hearing for ordinance, an option could be, submitting a written comment and it could be read on their behalf. They resolution, it does seem to me the ability to have an electronic meeting a call meeting to have in a state of emergency because we all me scattered.

Chairman Passiment: item 1A; *"the beginning of any electronic meeting, the presiding officer shall poll the members of the Governing Body to confirm attendance,"* I would like to add by name to this because we may be in a situation when we are not in the same room. Therefore, again, I am thinking about not only the Council meetings but the committee meetings that could be done telephonically and need to take action at these meetings and if that is acceptable, to add that. Also *"and any member of the Governing Body attending by way of electronic media shall be considered present for the purpose of constituting a quorum"*. add, all other staff in attendance should be named by name and title that way the public will know exactly who all is in this meeting.

Vice Chairman Flewelling: Both present physically and electronically?

Chairman Passiment: Yes

Vice Chairman Flewelling: Maybe clarify that is should be only staff that is official attendance because if it is just a member of administrations there are a thousand people in the county that work for the county and we should just name those who are present in an official capacity.

Chairman Passiment: 1C *"any vote of the Governing Body must be conducted by individual voice vote of the members of the Governing Body, who shall verbally indicate their vote on any matter by stating 'yay' or 'nay'. All individual votes shall be recorded by the clerk, secretary, or presiding officers, as appropriate.* We may be taking votes telephonically, we may have to insert, any vote of the governing body must be conducted by individual voice vote, who by name shall verbally indicate their vote.

Vice Chairman Flewelling: In this specific emergency. It seems to me our best course of action is to use this room exclusively. The burden of staff to go to remote location and sterilizing it. We should amend our calendar.

Chris Inglese: We can do that with no problem at any time.

Council Member Lawson: Will we have the capability of someone videoing themselves and sending it to us and it can be played, used as their three-minute comment.

Scott Groom: Yes, it can be sent as a mpeg4 and emailed to Sarah and she can play it back on the screen.

Council Member Lawson: That isn't only something we can do for an emergency situation but anyone can do for their three-minute comment.

Chairman Passiment: As we speak I am getting comments. When it comes time for public comments, I can read that tonight.

Vice Chairman Flewelling: I don't want to speak for Councilman Covert but specifically for item G, wanted to change in the second line where it says, "public comment periods provided for by local ordinance resolution bylaws may be suspended"

Council Member Covert: To avoid any hypotheticals add -not only suspended but generally be accepted. So strike and remove are by suspended and add may be suspended but will generally be accepted.

Chairman Passiment: I would also add- generally accepted by means because of the mentioning of writing.

Council Member Howard: Going back to previous comment you can also add by writing or video.

Chairman Passiment: Is everyone agreeable to those changes? They can now specifically apply to us and how we conduct business as a Committee and Boards and Commissions.

Chris Inglese: This resolution doesn't specifically apply to boards and commission. We still want to work on that because that is a big change for 30+ boards and commissions.

Council Member Rodman: What Councilman Covert was talking about, if we are going to suspend something it should be voted on it.

Vice Chairman Flewelling: At the beginning of that meeting?

Council Member Rodman: Suspended by a majority vote of members present.

Vice Chairman Flewelling: That resolves my concerns about there being notice of suspension of public comment. I don't want to vote on something that the public can't talk to me about it. It seems like it's a secret move and I don't like it. We do all have phone numbers and email address on the website. The public does have access to contact us.

Council Member Rodman: Will you include the suggestion to include the special call meeting to be considered during the state of emergency.

Chairman Passiment: This is an item on the regular agenda item #12. We will move to approve to regular council meeting and read the changes again.

Council Member Covert: Just to clarify 1C When we vote it will all be by roll call while on the phone.

Chris Inglese: If you are all on the phone, the clerk will hear your name and your vote.

Council Member Covert: Only if we are on the phone?

Chris Inglese: It would be prudent that if you are on the phone and do a roll call on the phone that everyone would be called by name and vote.

Vice Chairman Flewelling: I can't see any provision in Robert's Rule of Law for a partial roll call vote. It is either roll call everything or nothing.

Motion: It was moved by Vice Chairman Flewelling, seconded by Council Member Covert to forward to council a resolution amending County Council's Rules and Procedures by establishing standards for electronic meetings as authorized by The Freedom of Information Act SC Code of Laws 30-4-10 et. seq. for County Council and County Council Committee Meetings during a State of Emergency .

Voting Yea: Chairman Passiment, Council Member Sommerville, Council Member Covert, Vice Chairman Flewelling, Council Member Glover, Council Member Rodman, Council Member Hervochon, Council Member Howard, Council Member Lawson, Council Member McElynn

Recommendation: Forward to Council

CITIZEN COMMENTS

8. CITIZEN COMMENTS:

Public Comments from Facebook live read aloud by Chairman Passiment.

Will Council be discussing a ban on yard waste burning? Shutting down resort and vacation rentals? No one has responded to emails and phone messages regarding dirty air situation. Private business operating? County doesn't have jurisdiction about private businesses and how they operate.

9. ADJOURNMENT: 5:33 pm