



**The Town of Hilton Head Island
Regular Public Facilities Committee Meeting**

**Monday, October 26, 2015
10:00 a.m.**

Benjamin M. Racusin Council Chambers

AGENDA

As a Courtesy to Others Please Turn Off All Cell Phones and Pagers during the Meeting

- 1. Call to Order**
- 2. Freedom of Information Act Compliance**
Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.
- 3. Committee Business**
 - Approval of Minutes:
 - April 27, 2015
 - Approval of Draft 2016 Meeting Dates
- 4. Unfinished Business**
 - Dedication of Private Road Rights of Way – portion of Main Street, from Whopping Crane Way to Wilborn Road, Central Avenue, Museum Street, Merchant Street and a portion of Meeting Street.
- 5. New Business**
 - Proposed Stormwater Ordinance for NPDES Compliance
 - Acquisition of Private Unpaved Road Rights of Way
- 6. Adjournment**

Please note that a quorum of Town Council may result if four (4) or more of Town Council members attend this meeting.

TOWN OF HILTON HEAD ISLAND PUBLIC FACILITIES COMMITTEE

Date: April 27, 2015

Time: 10:00 A.M.

Members Present: Lee Edwards, Kim Likins, Tom Lennox

Members Absent: None

Staff Present: Steve Riley, Scott Liggett, Charles Cousins, Brian Hulbert, Jennifer Ray, Jill Foster, Derrick Coaxum

Others Present: Marc Grant, *Councilman*, Greg Alford, Esquire, Chet Williams, Esquire, David Berry, Esquire, Curtis Coltrane, Esquire, Frank Soule, *Island Recreation Association*, David A. Erdman, *Hilton Head Island Crew*

Media Present: Zach Murdock, *The Island Packet*

1. Call to Order:

The meeting was called to order at 10:00 a.m.

2. FOIA Compliance:

Public notification of this meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Committee Business:

Approval of Minutes: Mr. Lennox moved to approve the Minutes of the March 23, 2015 meeting. Mrs. Likins seconded. The Minutes of the March 23, 2015 meeting were unanimously approved.

4. Unfinished Business: None

5. New Business

- **Memorandum of Agreement for the Construction and Operation of a Boat Storage Shed at the Rowing and Sailing Center at Squire Pope Community Park.** Scott Liggett, Director of Public Projects and Facilities advised staff recommends the Town enter into an agreement with Hilton Head Island Crew for the construction and operation of a boat storage shed located within the fenced storage yard at the Rowing and Sailing Center at Squire Pope Community Park.

Hilton Head Island Crew, which operates under the Palmetto Rowing Club, has proposed to fully fund and construct a covered boat storage shed within the fenced storage yard of the park to provide shelter for rowing shells, oars, small sailing vessels and other equipment. Once constructed, the Town will take over ownership and operation of the structure. Hilton Head Island Crew will pay the Town a monthly fee of \$150.00 to use a portion of the shed and shall be responsible for maintenance costs associated with that portion of the shed. The remaining space will be utilized and managed by the Island Recreation Center. This Memorandum of Agreement (MOA)

defines the roles and responsibilities of each party through construction and future use of the facility.

After a brief discussion, Mr. Lennox moved the Public Facilities Committee recommend to Town Council the Town enter into an agreement with Hilton Head Island Crew for the construction and operation of a boat storage shed located within the fenced storage yard at the Rowing and Sailing Center at Squire Pope Community Park. Mrs. Likins seconded. The motion unanimously passed.

- **Consideration of a request by Adventure Cove to purchase Town Property**

Charles Cousins stated staff recommends the Public Facilities Committee recommend to Town Council the sale of two Town parcels of land totaling .59 acres to the owners of Adventure Cove. Staff further recommends the sale of this property include a limitation that the property may only be landscaped and be used for signage if allowed by the LMO and no density allocation is included with the purchase.

The Town has received a request from the owners of Adventure Cove to purchase approximately .59 acres of Town land located between their development and US 278. The property under consideration is made up of two Town parcels. One parcel is .34 acres and the second is .25 acres for a total of .59 acres. The Adventure Cove owners are interested in landscaping both of these parcels and placing a sign for their development on US 278. They have no desire to acquire any of the development rights for these two parcels.

Mr. Cousins stated the Committee could go into Executive Session to discuss purchase price for this and the other two items.

- **Consideration of a request by Village at Wexford to purchase Town Property**

Charles Cousins stated staff recommends the Public Facilities Committee recommend to Town Council the sale of access right of way along Dunnagans Alley to the Village at Wexford.

The Town has received a request from the Village at Wexford to place signs on Town property at two of their rear entrances on Dunnagans Alley. The Town currently owns approximately 1.1 acres along the rear of the Village at Wexford. This land is predominantly occupied by parking for this shopping center, their dumpsters and three access drives onto Dunnagans Alley. The shopping center has easements on Town property permitting this use. Additionally, Santee Cooper has an easement for their power line on this property. This land was acquired by the Town when they purchased the right of way for the creation of this section of Dunnagans Alley.

- **Consideration of a request by David Berry to purchase Town Property**

Charles Cousins stated staff recommends the Public Facilities Committee recommend to Town Council not to sell a one acre Town parcel near the intersection of US 278 and Spanish Wells Road.

David Berry has contacted the Town expressing an interest in buying a one acre parcel of land in the Stoney area of the Town near the intersection of Spanish Wells Road and

US 278. Similar requests have been made in the past by Mr. Berry but the Town Council has not been in favor of these requests. This parcel offers the Town the opportunity to address some longer term issues of redevelopment in the immediate vicinity. The nearby parcels of the former Fairfield Square and the former boat sales site are currently for sale. This one acre parcel along with other nearby Town tracts have the potential to offer the Town leverage in the redevelopment of this area. For this reason, staff recommends against the purchase request by Mr. Berry. Mr. Berry has offered to close a curb cut. He has two curb cuts now on Spanish Wells Road. There is also a big, monumental oak tree which he has offered to protect. Mr. Berry has also offered to grant the Town a right of entry to put the mast arms that we need to put here. Mr. Cousins advised he has talked with Scott Liggett, Director of Public Projects & Facilities and Mr. Liggett advised he thought we did not need that easement any longer in order to put the mast arms there.

Mrs. Likins asked Mr. Cousins why the Town felt that in keeping that one piece it would somehow help us have control in that area. Mr. Cousins stated that the Town brought all of this land was to reduce the density levels in that area but also secondly to try and control what happens in that area.

Mr. Lennox stated it appeared to him that the control of the Stoney South two parcel in and of itself would be sufficient to control the development in that area. Chairman Edwards agreed.

Curtis Coltrane, Esquire stated he was here with David Berry who can also answer any questions you may have. Mr. Coltrane stated there is a large oak tree that is visible from the whole intersection and is a specimen tree. There is also a curb cut. Mr. Berry has a small piece of property and he is willing to do the things as Mr. Cousins stated. I think Mr. Berry's proposal gives the Town some benefits in getting rid of the traffic conflict with the near 278 curb cut and the protection of a monumental tree that is a sight that everyone who comes to and from Hilton Head Island gets to see.

Chairman Edwards asked if there were any plans for an additional building. David Berry introduced himself and stated yes, they would like to put another building and attach it to the one that is there. A high intensity or high density development is of no interest to me. I have deliberately not put asphalt on my parking lot so it drains. The tree is the reason I brought the property and I do not mind closing the curb cut. We want to do more landscaping between the building and the highway and beautify the corner. I can assure you that there is no better steward of the property.

6. **Executive Session**

At 10:35 a.m., Mr. Lennox moved to go into Executive Session to discuss contractual matters due to real estate acquisition and sale and legal advice. Mrs. Likins seconded. The motion was unanimously approved.

Chairman Edwards called the meeting back to order at 11:04 a.m.

Chairman Edwards asked if they had a motion regarding Adventure Cove. Mrs. Likins moved that the Public Facilities Committee recommend to Town Council that the Town

sell .59 acres subject to the deed restrictions as proposed by the purchaser that would allow the Town to modify or to close the existing curb cut and to reserve appropriate easements for future public works projects to the owners of Adventure Cove for \$50,000.00. Mr. Lennox seconded. The motion unanimously passed.

Chairman Edwards asked if there was a motion regarding Village at Wexford. Mrs. Likins moved that the Public Facilities Committee recommend to Town Council that the Town sell 1.1 acres to the Village at Wexford POA at the price to be negotiated by staff based on deed restrictions necessary to affect any future Town public works projects. Mr. Lennox seconded. The motion unanimously passed.

Chairman Edwards asked if there was a motion regarding the property at Spanish Wells and 278. Mr. Lennox stated it is the Committee's disposition to continue discussions regarding the sale of the property to David Berry. I move that the Public Facilities Committee recommend that Town staff obtain an appraisal of the 1 acre parcel adjacent to David Berry's property prior to making any further recommendations to Town Council. Mrs. Likins seconded. The motion unanimously passed. Chairman Edwards wanted to be clear that their intention is they would like to sell it but before making a recommendation to Town Council, would like to see what it is worth.

7. **Adjournment**

Mrs. Likins moved to adjourn. Mr. Lennox seconded. The meeting was adjourned at 11:06 a.m.

Respectfully Submitted,

Karen D. Knox
Senior Administrative Assistant

Town of Hilton Head Island, South Carolina

2016

**Public Facilities Committee
Meeting Dates**

Benjamin M. Racusin Council Chamber

**Fourth Monday of the Month
10:00 A.M.**

JANUARY 25

JULY 25

FEBRUARY 22

AUGUST 22

MARCH 28

SEPTEMBER 26

APRIL 25

OCTOBER 24

MAY 23

NOVEMBER 28

JUNE 27

The December 26th Meeting is cancelled due to Town Hall being closed for the holiday.

Memo



To: Public Facilities Committee

Via: Stephen G. Riley, Town Manager
Scott Liggett, Dir. of PP&F / Chief Engineer

From: Jeff Buckalew, Town Engineer

Subject: Dedication of Private Road Rights of Way - portion of Main Street, from Whooping Crane Way to Wilborn Road, Central Avenue, Museum Street, Merchant Street and a portion of Meeting Street

Date: August 28, 2014

Staff has been approached by Main Street Realty seeking to dedicate a portion of Main Street, from Whooping Crane Way to Wilborn Road, Central Avenue, Museum Street, Merchant Street and a portion of Meeting Street (see Exhibit B). Additionally, the applicant asserts to have assignable rights within the utility easements “to construct, erect, maintain and use sidewalks and pedestrian pathways, utilities, storm sewers and storm water runoff.” The utility easement is 10 feet wide and adjacent and parallel to the exterior boundary of each parcel. Conceivably these easements could assist in the future development of sidewalks and pathways.

Staff is seeking to determine what, if any, interest the Public Facilities Committee recommends Town Council have in accepting these roads. Currently, the roads are in poor condition. There are immediate maintenance needs including areas full depth pavement replacement, pothole patching, repair of heaved roadway and curb, repair of pavement subsidence plus installation of pavement markings and signage.

In accordance with the Policy for the Dedication and Acceptance of Private Road Rights of Way was revised by Town Council in July, 2014, Staff, in conjunction with the applicant has attempted to assess the following:

- A clear and compelling public purpose achievable through the dedication of right of way to the Town.
- A primary benefit to the community-at-large rather than the primary benefit of simply relieving the road owner of maintenance responsibilities and shifting the burden to the Town.

- The benefit to the public roadway network via interconnection of existing adjacent publicly owned streets.
- The creation of an alternate publicly owned route to William Hilton Parkway and other major and minor arterial streets.
- The provision of access to Town owned property or critical public facilities.

Of the roads in question, only Main Street is classified as a “collector” or higher.

Main Street (from Whooping Crane Way to Wilborn Road)

Clear and compelling public purposes for public acceptance of the Main Street road right of way are to provide consistency of ownership throughout the “Main Street” commercial corridor, provide potential opportunity to enhance pedestrian facilities in this commercial area that is important to the island’s economy and links to the public school campus. Future pathway and sidewalks projects could greatly improve safety conditions where pedestrians, many of which are school children, currently walk in the road or along narrow shoulders. Acquisition of this road may also facilitate a future CIP project to realign the road to oppose Bus Drive on Wilborn Road and create a safer and more efficient intersection for school traffic. Acquisition of this road right of way would also enhance the publicly owned alternate routes to William Hilton Parkway as a detour or to reduce congestion. The public would also benefit from the upgrades to standard traffic control measures along this road, including edge lines, center lines, and the use of breakaway AASHTO-compliant sign standards. Public ownership would ensure this heavily traveled road is properly maintained.

The road is classified as a minor arterial in the LMO and serves approximately 10,000 vehicles per day. Many of the users are thought to be “through” motorists, using the road as an alternate route to William Hilton Parkway and not necessarily have destinations on Main Street.

At its western terminus, this road connects to Wilborn Road which is owned by the South Carolina Department of Transportation. The Town currently owns the eastern portion of Main Street and is separated from the road in question only by the 200’ wide Whooping Crane Way right-of-way. Acquisition of this road right of way has the potential to enhance access to the Town’s storm water system (Main Street canal, upstream of the Jarvis Creek Pump Station).

There may not be sufficient room to provide a pedestrian facility in this existing right of way, but use of the aforementioned easements could facilitate sidewalk/pathway construction.

Museum Street

Staff finds there is a public benefit in accepting this road given that it includes a signalized connection with William Hilton Parkway, across from the heavily-traveled Pembroke Drive, and it contains access points that serve two high-volume restaurants and a hotel. This road sees more demand than the other side streets roads connecting Main Street to William Hilton Parkway, but the road does not meet the functional classification or right of way requirements of the policy.

If Main Street west of Whooping Crane were publicly owned, then accepting this road would provide a direct benefit to the public roadway network via interconnection of existing adjacent publicly owned streets and this this road would enhance an alternate publicly owned route to William Hilton Parkway.

There is not sufficient room to provide a pedestrian facility in this existing right of way, but use of the aforementioned easements could facilitate sidewalk/pathway construction.

Merchant Street

Staff finds that accepting this road would create an opportunity to rectify some existing traffic control deficiencies that would enhance public safety (i.e. there are no advanced crosswalk warning signs, no edge lines surrounding raised medians).

If Main Street west of Whooping Crane were publicly owned, then accepting this road would provide a direct benefit to the public roadway network via interconnection of existing adjacent publicly owned streets and this this road would enhance an alternate publicly owned route to William Hilton Parkway.

The Merchant Street road infrastructure encroaches upon and extends outside of the western right of way boundary. This is a concern.

There is not sufficient room to provide a pedestrian facility in this existing right of way, but use of the aforementioned easements could facilitate sidewalk/pathway construction.

Central Avenue

Staff finds that accepting this road would create an opportunity to rectify some minor existing traffic control deficiencies that would enhance public safety (i.e. there are no advanced crosswalk warning signs, no edge lines surrounding raised medians).

If Main Street west of Whooping Crane were publicly owned, then accepting this road would provide a direct benefit to the public roadway network via interconnection of existing adjacent publicly owned streets and this this road would enhance an alternate publicly owned route to William Hilton Parkway.

The Central Avenue road infrastructure encroaches upon and extends outside of the western right of way boundary. This is a concern.

There is not sufficient room to provide a pedestrian facility in this existing right of way, but use of the aforementioned easements could facilitate sidewalk/pathway construction.

Meeting Street

Staff finds no public purpose in accepting this road. This dead end road meets none of the subjective criterion of the policy and simply serves as a private driveway to two church properties that generate very little traffic during weekdays.



TOWN OF HILTON HEAD ISLAND
 ONE TOWN CENTER COURT
 HILTON HEAD ISLAND, S.C. 29928
 PHONE (843) 341-4500

Public Roads Parcels (No Unit Info)
 Private Roads

Town of Hilton Head Island
 EXHIBIT F: Public/Private Road Connectivity
 August 2014



1 inch = 559 feet



The information on this map has been compiled from a variety of sources and is intended to be used only as a guide. It is provided without any warranty or representation as to the accuracy or completeness of the data shown. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion or for any losses arising from the use of the map.

Date Created: Wednesday, August 27, 2014
 Project - Main Street Public/Private Road Connectivity.mxd

**TOWN OF HILTON HEAD ISLAND
PUBLIC FACILITIES COMMITTEE** **Approved**

Date: September 2, 2014

Time: 2:00 P.M.

Members Present: Kim Likins, John McCann, Marc Grant

Members Absent: None

Staff Present: Scott Liggett, Charles Cousins, Jeff Buckalew, Nicole Dixon, Julian Walls, Darrin Shoemaker, Brian Hulbert, Jill Foster

Others Present: George Williams, Bill Harkins, *Councilmen*, Frank Soule, *Island Recreation Association*, Lou Strayer, David Staley, *Main Street Realty*

Media Present: Dan Burley, *The Island Packet*

1. Call to Order:

The meeting was called to order at 2:00 p.m.

2. FOIA Compliance:

Public notification of this meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Committee Business:

Approval of Minutes: Councilman Grant moved to approve the Minutes of August 5, 2014. Councilman McCann seconded. The Minutes of August 5, 2014 were unanimously approved.

4. Unfinished Business: None

5. New Business

- **Memorandum of Understanding between The Town of Hilton Head Island and the Island Recreation Association – Amendment to include the Management of the Rowing and Sailing Center at Squire Pope Community Park**

Nicole Dixon, Senior Planner stated staff recommends the Memorandum of Understanding (MOU) between the Town of Hilton Head Island and the Island Recreation Association be amended to include the management and operation of the Rowing and Sailing Center at Squire Pope Community Park and that such Agreement be forwarded to Town Council with a recommendation of approval.

The Town owns the property known as the Rowing and Sailing Center at Squire Pope Community Park. The park is currently under construction, with an estimated construction end date of October, 2014. The Island Recreation Association will manage the operation of the park, which will involve the coordination of special events, scheduled rowing, sailing and other paddle craft programs and activities, as well as picnic pavilion usage.

After a brief discussion, Councilman Grant moved the Memorandum of Understanding (MOU) between the Town of Hilton Head Island and the Island Recreation Association be amended to include the management and operation of the Rowing and Sailing Center at Squire Pope Community Park and that such Agreement be forwarded to Town Council with a recommendation of approval. Councilman McCann seconded. The motion unanimously passed.

- **Private Road Rights-of-Way Acceptance Policy Status/Main Street Dedication**
Scott Liggett, Director of Public Projects & Facilities/Chief Engineer stated he had staff here to go over everything in detail, but would like to make some introductory remarks. The notion of a publicly owned Main Street has been discussed at various venues for years and years. Keeping in mind the Town currently owns the Eastern portion of Main Street. We are here today to talk about the Western portion of Main Street and its connecting roads. Most recently, we engaged in conversation with Main Street Realty, the entity who owns those roads in accordance with the Town Council policy that was developed earlier this year. An Application was submitted in that regard. You will recall that that policy was augmented with some additional more subjective language. A review of which is really why we are here today to try and gauge the interest that the Committee would recommend that Council has essentially if there is unanimity of thought that we go ahead and formally process that Application. That is what we are prepared to do or not – depending on the views of the Committee and Council. The roads in question are Main Street West as I had mentioned – the interconnecting roads that lead out to William Hilton Parkway. One of our tasks as we review this subjective criteria is to provide an assessment of how the acquisition of these roads may serve a grander public purpose - how the Town’s roadway network may be augmented as a result of that acquisition – how our infrastructure may be expanded and how we might better serve the community in that regard. I think it should be pointed out that the elephant in the room is the condition of the road. There are clearly some past due maintenance items and defects I think you will find staff would recommend be addressed prior to any acquisition if it comes to that.

Jeff Buckalew, Town Engineer stated staff has been approached by Main Street Realty to dedicate a portion of Main Street, from Whooping Crane Way to Wilborn Road, Central Avenue, Museum Street, Merchant Street and a portion of Meeting Street. Additionally, the Applicant asserts to have assignable rights within the utility easements “to construct, erect, maintain and use sidewalks and pedestrian pathways, utilities, storm sewers and storm water runoff.” The utility easement is 10 feet wide and adjacent and parallel to the exterior boundary of each parcel. Conceivably, these easements could assist in the future development of sidewalks and pathways.

Staff is seeking to determine what, if any, interest the Public Facilities Committee recommends Town Council have in accepting these roads. Currently, the roads are in poor condition. There are immediate maintenance needs including areas full depth pavement replacement, pothole patching, repair of heaved roadway and curb, repair of pavement subsidence plus installation of pavement markings and signage.

Some of the things we would ask the Applicant to provide if we go forward and make a proper recommendation to Town Council would be pavement corings to see what the

road structure consists of. We didn't have any certification that the roads were built according to DOT standards which is part of the Application and the underground storm water system – you have no way of knowing what you are getting. You can see some subsidence and issues on the surface, but we would like a video inspection of that system and those are performed by plugging the pipe ends and pumping out the water and running a camera up through it to inspect to see if there are any joints separated, any corrosion for metal pipes, etc. and to understand fully what we are getting.

We didn't fully prepare a cost estimate – Darrin Shoemaker, Traffic Engineer looked at signs and pavement markings and said it could cost up to \$50,000 to bring things up to standard. There are storm water issues we need to look at and the pavement also. We haven't fully vetted out every pothole, broken curb section, etc. as to what all the costs will be. We are more at a point of wanting to understand how Council wants to proceed before we fully vet those cost estimates.

Jeff Buckalew finished his presentation and Chairman Likins asked if the Applicant wanted to speak.

David Staley, Main Street Realty stated they were anxious to come to a resolution. Mr. Staley said that it says that Main Street Realty is seeking to dedicate the roads. Mr. Staley advised he was the President of Main Street Realty and owns the company, but they have never owned the roads. There has always been confusion about the exact ownership. The roads itself are owned by the Main Street Property Owners Association. One of the other important things to understand about the Main Street Owners Association is that we do have covenant/restrictions on the property and have annual assessments that we make to our property owners. The condition of the road is a direct result of failed businesses, people who do not pay who we file liens against. We charge on a basis of square footage of improved property for the fee for each property owner. Main Street has become very popular over the years for transportation between Hilton Head Plantation and the schools. A lot of traffic generates problems with the roads and we have tried to keep up best we could. We do have some monies in our annual budget and we do have the ability to maintain an ongoing fee of some kind that would be appropriate for everyone to help contribute to landscape maintenance or other things. We are anxious to see it turn into Town property as the other portion of Main Street did a number of years ago.

Jeff Buckalew mentioned something he forgot to add earlier – the compelling reason for the government/public to own these roads and the greatest one we have seen is the upkeep and condition of the roads of course. We looked at the connectivity and having an alternate public route to US 278 and the need for pedestrian facilities. That is a common comment or request we get – it sure would be nice to have sidewalks or pathways the full length of those roads. I think that is a great public benefit were we to own those roads and to put in the Capital Improvements Program a project to provide sidewalks and pathways. You have school children and lots of shoppers in the area along those roads and I think it would be a great public benefit if we were to own those roads and be able to do that.

Councilman McCann asked what the annual maintenance cost will be. Jeff Buckalew stated in the tens of thousands. If we programmed a certain amount like \$5,000-\$10,000 just for road maintenance to set aside for pot holes and curbing etc. The landscaping folks would have a few thousand,

Councilman McCann asked how large is this piece compared to the other piece of Main Street we already own. Mr. Buckalew said they are comparable in length. Councilman McCann asked what it costs to maintain the other part of Main Street that we already own. Mr. Buckalew said they program \$5,000/mile of road and do things as needed.

Councilman McCann asked if we were going to get the road in working condition or the way it is today. Mr. Buckalew stated that is an issue for Council to take up as to whether there would be a conditional acceptance or any requirements stated.

Chairman Likins asked from the POA's standpoint, can you tell me how much money has actually been put into these roads during the last five years? Mr. Staley stated their annual budget is approximately \$75,000. We have landscape maintenance, water for irrigation, electricity for the street lights and then general road repairs as best we could. If the Town is looking to the POA to bring them up to like new condition, curb and gutter replacement, tree root repair, we are in no position to do that. It would be well beyond anything we have even close to having available.

Councilman George Williams said he is concerned staff is asking us to figure this out before we know the costs, etc. I also have a concern that we have a homeowner's organization coming to us who have these needs and most of us live within these areas where we have budgets, special assessments, etc. It is obviously this particular group, has not done what they are quite frankly obligated to do.

Jennifer Bell, Indigo Run resident spoke to the Committee and advised she has a petition with close to 100 signatures encouraging the Town of Hilton Head to improve the safety and usability of Main Street. The three biggest concerns in our petition were 1) safety 2) economic development and 3) quality of life.

Councilman Grant stated he thought we should work with the School District to implement a safe passageway for children. I would support a way to assist Main Street to improve the road, adding a sidewalk and think about the policy going forward.

Councilman McCann said he could not presently support this the way it is for three reasons 1) I would like more numbers from the Town on the maintenance costs and what it would cost to bring the road up to standards 2) I would like some information as to what the annual costs would be after that and 3) would like some commitment from the owners as to what they are willing to give us on a yearly basis to maintain this road.

Chairman Likins stated she still has a little bit of concern about the qualifications. I understand that because Main Street has 75 feet that is ok, but the connecting roads are only 50 feet. I would assume to meet the qualifications of the policy everything should meet the qualifications – not just a component. Then when you look at the connectivity, Main Street doesn't meet the qualifications because of the connectivity to

Whopping Crane – rather than to a major arterial. Again, those are two areas along with the fact that we don't know if it has been built to DOT standards which is another qualification. At this point I would need to feel much more comfortable that these roads even qualify and then clearly understanding the cost of what it would be to fix the roads, bring them up to the standards that we would want them to be, to maintain them long term. Also, the whole piece of pedestrian walkway which I think is a wonderful idea and needed in that area – as a Council we have to go back and look at how we have established our priorities. This last year in our budget we decided to pull back on doing so many bike paths and we have clearly prioritized already the few that we do intend to do over the next several years and this wasn't even on the list to be discussed. I would hate to set the expectation with the public that we are willing to take these roads, fix them and put bike paths on them when we haven't even considered that in our capital expenses. It may be a great thing to do, but we still have to weigh that in comparison to everything else we have out there as well.

Councilman Grant moved that staff work with Main Street and come up with a feasible plan in terms of costs, how we can stay within budget and in terms of adding a sidewalk, road improvements and come back to Public Facilities Committee and verify that it meets the standards as well as come up with cost estimates and work with the POA in terms of what components they may be able to cover cost wise. Chairman Likins asked if there was a second. Having no second, the motion failed.

Scott Liggett stated the intent as I understand it of this two step process to review Applications like this was meant initially to gauge what interest, if any the Committee and ultimately Council may have. Is it a good idea for the road to be publically held despite any of the costs, the right of way or any of the technical more objective criteria? When you look at the map and see a lone little sliver of red privately owned road, does that make sense that it is surrounded by publically owned green road. If it doesn't, is there any interest that the Committee or ultimately Council may have to further negotiations and further discussions – keeping in mind that the Application process itself will force us to try and answer the questions that will ultimately take the form of our recommendation and will address cost issues, long term maintenance issues and right of way deficiency issues. The intent initially here with the subjective criteria was to try and answer the question does it make sense that this is publically owned. Is there any interest whatsoever in it being publically owned and if so let us go ahead and process the Application and return with a formal recommendation. If there is no interest in doing that we can both cut our losses now - both Town staff and the Applicant. There is no point in processing the application if at the end it doesn't make sense that this be publically owned road.

Councilman Grant moved that we process the Application. Councilman Likins seconded. The motion passed with a vote of 2-0. Councilman McCann was opposed.

Chairman Likins stated she would like to say that this in no way is an indication as a Committee we believe these roads should be accepted and have come to the agreement or understanding that there is significant public benefit to do so because I think clearly what we have stated is that we do not have enough information to determine that. We

are just giving you the go ahead to provide that information so that the decision can be made.

6. Adjournment:

Councilman Grant moved to adjourn. Councilman McCann seconded the motion. The meeting was adjourned at 3:02 p.m.

Respectfully Submitted,

Karen D. Knox
Senior Administrative Assistant



TOWN OF HILTON HEAD ISLAND

Public Projects and Facilities Management Department

TO: Stephen G. Riley, ICMA-CM, Town Manager
VIA: Scott Liggett, PE, Director of Public Projects & Facilities
Jeff Buckalew, PE, Town Engineer

FROM: Bryan McIlwee, PE, Assistant Town Engineer / Storm Water Manager
CC: Brian Hulbert, Staff Attorney

DATE: October 20, 2015
SUBJECT: Proposed Stormwater Ordinance for NPDES Compliance

Recommendation:

Staff recommends Town Council adopt a storm water ordinance for compliance with the State and Federal storm water permit requirements.

Summary:

This ordinance is critical towards achieving compliance with the National Pollution Discharge Elimination System (NPDES) permit. The ordinance provides the required legal enforcement mechanism to address the impacts on storm water runoff quality and nonpoint source pollution due to improper non-storm water discharges to the municipal separate storm sewer system. Furthermore, it will allow for the better management of the storm water systems and consequently the preservation and protection of the health, safety, and welfare of the general public and our natural environment.

Background:

The Town of Hilton Head Island has been designated a Municipal Separate Storm Sewer System (MS4) and thus is required by federal law [33 U.S.C 1342(p) and 40 CFR 122.26] to obtain an NPDES permit from the South Carolina Department of Health and Environmental Control (SCDHEC). The NPDES permit requires the Town to impose and enforce controls to reduce the discharge of pollutants in storm water to the maximum extent practicable, including the development or adoption of any new ordinances or other regulatory mechanism that provides adequate legal authority to control pollutant discharges into and from their MS4. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the NPDES permit for storm water discharges.

Engineering and Legal/Code Enforcement staff will be responsible for detecting and enforcing this ordinance and it shall be adjudicated through the Town court. No additional staff or resources are recommended at this time.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

PROPOSED ORDINANCE NO. 2015-22

ORDINANCE NO.:

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND BY CREATING CHAPTER 1 OF TITLE 14, ESTABLISHING REGULATIONS AND REQUIREMENTS RELATING TO STORM WATER MANAGEMENT IN THE TOWN OF HILTON HEAD ISLAND; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Town Council now finds that it is in the best interest of the people of this Town to protect the public health, safety, environment and general welfare of the Town of Hilton Head Island and therefore makes the following findings:

- (a) The Town of Hilton Head Island has been designated as a Municipal Separate Storm Sewer System by the South Carolina Department of Health and Environmental Control (SCDHEC) for storm water discharges from the Town of Hilton Head Islands stormwater system. This designation requires the Town to comply with the requirements of the National pollutant Discharge Elimination System (NPDES) permit to reduce the discharge of pollutants in stormwater to the maximum extent practicable using best management practices.
- (b) Discharges to the municipal separate storm sewer system that are not composed entirely of storm water runoff contribute to increased nonpoint source pollution and degradation of receiving waters; and
- (c) These non-storm water discharges occur due to spills, dumping, illegal pollutant discharges and improper connections to the municipal separate storm sewer system from residential, industrial, commercial or institutional establishments; and
- (d) These non-storm water discharges not only impact waterways individually, but geographically dispersed, small volume non-storm water discharges can have cumulative impacts on receiving waters; and
- (e) These non-storm water discharges have significant, adverse impacts on public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters of the Town of Hilton Head Island by transporting pollutants into receiving waters; and
- (f) These impacts can be minimized through the regulation of spills, dumping and discharges into the municipal separate storm sewer system; and

WHEREAS, Town Council now finds that it is in the best interest of the people of this Town to protect the public health, safety, environment and general welfare of the Town of Hilton Head Island. Therefore, Town Council declares that the purpose of this ordinance is to regulate non-storm water discharges to the municipal separate storm sewer system to the maximum extent practicable as required by federal law.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDERED ORDAINED BY AND UNDER THE AUTHORITY OF THE SAID TOWN COUNCIL, AS FOLLOWS:

Section 1. That Title 14, Chapter 1 – Stormwater Management Ordinance of the Municipal Code of the Town of Hilton Head Island, South Carolina, is hereby created as follows:

Chapter 1 – Stormwater Management

Article 1 – General Provisions

“Sec. 14-1-111. Title.”

This Chapter shall be known as the “Storm Water Management Ordinance of the Town of Hilton Head Island” and may be cited as Title 14, Chapter 1 of the Municipal Code of the Town of Hilton Head Island (1983), as amended.

“Sec. 14-1-112. Authority.”

This chapter is enacted pursuant to the authority of Title 5, Code of the State of South Carolina (1976), including, without limitation, section 5-7-10 of the Code of Laws of South Carolina (Supp. 1992), and section 5-7-30 of the Code of Laws of South Carolina (Supp. 1992), which provide, in relevant part, that municipalities may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the municipality and for the preservation of the general health, peace and order in the municipality.

Further, this Ordinance is adopted to ensure compliance with the requirements of the National Pollutant Discharge Elimination System (NPDES) Permit No. **SCR030000** issued in accordance with the Federal Clean Water Act, the South Carolina Pollution Control Act, and regulations promulgated there under.

“Sec. 14-1-113. Declaration of Purpose and Intent.”

(a) This Ordinance is enacted to protect, maintain, and enhance the environment of the Town of Hilton Head Island, South Carolina and to preserve the general health, safety, and welfare of the general public within the Town of Hilton Head Island, South Carolina through the regulation of the non-storm water discharges to the municipal

separate storm sewer system to the maximum extent practicable as required by Federal law.

(b) It is further the purpose of this Ordinance to comply with the Federal and corresponding state stormwater discharge (NPDES) regulations (40 CFR § 122.26 and SC Regulation 61-9.122.26) developed pursuant to the Clean Water Act and to assure the Town of Hilton Head Island has the authority to take any action required by it to obtain and comply with its NPDES permit for stormwater discharges. Among other things, these regulations require the Town of Hilton Head Island to establish legal authority which authorizes or enables the Town, at a minimum, to:

1. Prohibit illicit discharges and illegal connections to the municipal separate storm sewer system and receiving waters.
2. Control the introduction of pollutants to the municipal separate storm sewer system and receiving waters.
3. Address specific categories of non-storm water discharges and similar other incidental non-storm water discharges.
4. Control non-storm water discharges, generated as a result of spills, inappropriate dumping or disposal to the municipal separate storm sewer system and receiving waters.
5. Carry out all inspection, surveillance and monitoring, and enforcement procedures necessary to determine compliance and noncompliance with storm water permit (permit) conditions, including the prohibition of illicit discharges to the municipal separate storm sewer system and receiving waters.
6. Require temporary erosion and sediment controls to protect water quality to the maximum extent practicable during land disturbing activities, in accordance with current state regulations.
7. Ensure the proper installation, operation, and maintenance of construction site Best Management Practices (BMPs).
8. Ensure effective long-term operations and maintenance of best management practices (BMPs).

(c) This Ordinance is to be construed to further its purpose of controlling and reducing pollutant discharges to the municipal separate storm sewer system and to the Waters of the State to assure the obligations under its NPDES permit issued by the SCDHEC as required by 33 USC § 1342 (1251) and 40 CFR § 122.26.

“Sec. 14-1-114. Jurisdiction.”

This Chapter and the provisions contained herein shall apply to all lands within the incorporated areas of the Town of Hilton Head Island, South Carolina, as now or may be hereafter established, together with such adjacent unincorporated areas of Beaufort County which the Town Council and the Beaufort County Council may jointly agree to become governed by this Title.

“Sec. 14-1-115. Definitions.”

- (a) “Accidental Discharge” means a discharge prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.
- (b) “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (c) “Clean Water Act (CWA)” means Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. § 1251 et seq.. Specific references to sections within the CWA will be according to Pub. L. 92-500 notation. Formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972.

- (d) “Construction Activity” as defined at § 122.26(b)(14)(x) of South Carolina Regulation 61-9 and incorporated here by reference. Construction activity including clearing, grading, and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.

Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres and, in coastal counties within one-half (1/2) mile of a receiving water body (but not for single-family homes which are not part of a subdivision development), that result in any land disturbance less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

- (e) "Discharge" means any discharge or discharge of any sewage, industrial wastes or other wastes into any of the waters of the State, whether treated or not.
- (f) “Illicit Discharge” means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to an NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from firefighting activities.

- (g) “Illicit Connection” or “Illegal Connection” means either of the following:
- a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - b) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (h) “Industrial Activity” means activities subject to NPDES Industrial Permits as defined in 40 CFR, § 122.26 (b)(14).
- (i) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography that may cause erosion and contribute to sediment and alter the quality and quantity of storm water runoff. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, re-construction, clearing, grading, filling and excavation.
- (j) “Municipal Separate Storm Sewer System (MS4)” means a conveyance or system of conveyances owned or operated by the municipality for the collection and transportation of storm water, including roads with drainage systems, municipal streets, catch basins, inlets, curbs, gutters, ditches, channels, creeks and storm drains.
- (k) "National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of Clean Water Act.
- (l) “Non-Storm water Discharge” means any discharge to the storm drain system that is not composed entirely of storm water.
- (m) “Person” means any individual, public or private corporation, political subdivision, association, partnership, corporation, municipality, State or Federal agency, industry, co-partnership, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.
- (n) “Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous

liquid and solid wastes and yard wastes; sediment; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

- (o) "Point source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.
- (p) "Premises" mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (q) "Small Municipal Separate Storm Sewer System" means all separate storm sewers that are Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district, or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States and is not defined as "large" or "medium" municipal separate storm sewer system.
- (r) "State Waters" or "Waters of the State" means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.
- (s) "Storm water" means storm water runoff, snow melt runoff and surface runoff and drainage.
- (t) "Storm water runoff" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (u) "Structural Storm Water BMP" means a structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

(v) "Watercourse" means a topographic, natural, or manmade feature which conveys stormwater runoff from one property to another separately owned property. This may include, but is not limited to, a pond, lagoon, creek, channel, canal, ditch, swale, pipe, or flume.

(w) "Waters of the United States" or "waters of the U.S." means:

- i. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- ii. All interstate waters, including interstate wetlands;
- iii. The territorial seas;
- iv. All impoundments of a traditional navigable water, interstate water, the territorial seas or a tributary;
- v. All tributaries of a traditional navigable water, interstate water, the territorial seas or impoundment;
- vi. All waters, including wetlands, adjacent to a traditional navigable water, interstate water, the territorial seas, impoundment or tributary; and
- vii. On a case-specific basis, other waters, including wetlands, provided that those waters alone, or in combination with other similarly situated waters, including wetlands, located in the same region, have a significant nexus to a traditional navigable water, interstate water or the territorial seas.

“Sec. 14-1-116. Conflict with Other Laws, Ordinances or Regulations.”

Nothing in this section shall be deemed to amend or repeal any other ordinance, rule, regulation, other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

“Sec. 14-1-117. Other Town Requirements”

Whenever this Chapter imposes a more restrictive standard than required by any other Town ordinance or requirement, the provisions of this Chapter shall govern. Whenever any other Town ordinance or requirement imposes a more restrictive standard than required by this Chapter, the provisions of such Town ordinance or requirement shall govern.

Article 2 – Water Quality Regulations

“Sec. 14-1-211. Obstruction of Flows”

No person shall create, cause, or allow to occur the blockage of a watercourse that obstructs or materially impedes the natural flow of water without the written approval of the Town.

“Sec. 14-1-212. Waste Disposal Prohibitions.”

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the municipal separate storm sewer system, or Waters of the State, any refuse, rubbish, garbage, litter, vegetative debris including natural foliage, fecal matter, or other discarded or abandoned objects, articles, and accumulations so that the same may cause or contribute to pollution within the Municipal Separate Storm Sewer System.

“Sec. 14-1-213. Watercourse Protection”

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, obstruct, or materially impede the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

“Sec. 14-1-214. Prohibition of Illicit Discharges.”

(a) It is unlawful for any person to throw, drain, run, or otherwise discharge to any component of the Town’s municipal separate storm sewer system or to the Waters of the State, including streets, highways, right-of-ways, or to cause, permit or suffer to be thrown, drain, run, or allow to seep or otherwise discharge into such system, any organic or inorganic matter that shall cause or tend to cause pollution or blockages to such waters, as provided for in this Ordinance.

(b) The Town of Hilton Head Island Engineering Division shall develop procedures for detecting, tracking, and eliminating illicit discharge and improper disposal to the storm water system.

(c) Exceptions. The following discharges are exempt from the prohibition provision above:

- (1) Water line flushing (performed by a government agency)
- (2) Landscape irrigation

- (3) Diverted stream flows
- (4) Rising ground waters
- (5) Uncontaminated ground water infiltration
- (6) Uncontaminated pumped ground water
- (7) Discharges from potable water sources
- (8) Foundation drains
- (9) Air conditioning condensate
- (10) Irrigation water (not consisting of treated, or untreated, waste water)
- (11) Springs
- (12) Water from crawl space pumps
- (13) Footing drains
- (14) Lawn watering
- (15) Individual residential car washing
- (16) Natural flows from riparian habitats and wetlands
- (17) De-chlorinated swimming pool discharges
- (18) Street wash water
- (19) Discharges or flows from firefighting activities
- (20) The prohibition provision above shall not apply to any non-storm water discharge permitted under an NPDES permit or order issued to the discharger and administered under the authority of the State and the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the municipal separate storm sewer system.

(d) The Engineering Division shall take appropriate steps to detect and eliminate improper discharges. These steps may include the adoption of a program to screen illicit discharges and identify their source or sources, perform inspections, provide public education and public information, and issue notice of violations if not removed.

“Sec. 14-1-215. Prohibition of Illicit Connections.”

(a) It is unlawful for any person to connect any pipe, open channel, or any other conveyance system that discharges anything, except storm water or unpolluted water which is approved by the Town of Hilton Head Island, into the municipal separate storm sewer system or Waters of the State.

(b) It is unlawful for any person to continue the operation of any such illicit connection regardless of whether the connection was permissible when constructed. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to the satisfaction of the Town Engineer or his designee and any other federal, state, or local agencies or department regulating discharge.

(c) The construction, connection, use, maintenance or continued existence of any illegal connection to the municipal separate storm sewer system is prohibited.

- (1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person violates this ordinance if the person connects a line conveying sanitary sewage to the municipal separate storm sewer system, or allows such a connection to continue.
- (3) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the appropriate public service district.
- (4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Town requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be completed, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Town.

(d) The Engineering Division shall take appropriate steps to detect and eliminate prohibited (or unlawful) connections to the municipal storm water system, including the adoption of a program to screen illicit discharges and identify their source or sources, perform inspections, and issue notice of violations if not removed.

“Sec. 14-1-216. Prohibition of Water Pollution

(a) A person must not discharge, cause or allow to flow from a storage system or other container, any pollutant into the municipal separate storm sewer system or Waters of the State except in concentrations or quantities explicitly authorized by an approved National Pollutant Discharge Elimination System discharge permit, or by a plan for compliance, or that are consistent with the utilization of approved best management practices.

(b) A person must not connect any apparatus discharging any pollutant, in any quantity, to any part of the municipal separate storm sewer system or Waters of the State except as explicitly authorized by an approved National Pollutant Discharge Elimination

System discharge permit or by a plan for compliance, or as results from approved best management practices.

(c) A person must not improperly store, handle, or apply any pollutant in a manner that will cause its exposure to rainfall or runoff and discharge as point source pollution or nonpoint source pollution into the municipal separate storm sewer system or Waters of the State except in concentrations and quantities authorized by and approved National Pollutant Discharge Elimination System discharge permit or by a plan for compliance, or as results from approved best management practices.

“Sec. 14-1-217. Industrial or Construction Activity Discharges.”

Any person subject to an industrial or construction activity NPDES Storm Water Discharge Permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town Engineer or his designee prior to allowing discharges to the municipal separate storm sewer system.

“Sec. 14-1-218. Notification of Accidental Discharges and Spills.”

(a) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-storm water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into storm water, the municipal separate storm sewer system, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

(b) Immediately upon becoming aware of a discharge or spill, said person shall notify the authorized enforcement agency in person, by telephone, or facsimile within 24 hours of the nature, quantity and time of occurrence of the discharge. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for a minimum of three years. Said person shall also take all necessary immediate steps to ensure there is no recurrence of the discharge or spill.

(c) In the event of such a release of hazardous materials, Town of Hilton Head Island Fire and Rescue, Beaufort County Sheriff’s Office, and South Carolina Department of Health and Environmental Control shall be immediately notified.

(d) Failure to provide notification of a release as provided above is a violation of this ordinance.

“Sec. 14-1-219. Jurisdiction, Enforcement and Penalties.”

(a) The Municipal Court of the Town of Hilton Head Island shall have jurisdiction over the prosecution of violations of the provisions of this chapter.

(b) The Town Engineer, or his designee, and designated code enforcement officers of the Town shall administer, implement, and enforce the provisions of this chapter.

(c) Upon finding a violation of this Article, the Town may issue a notice of violation, stop order, or corrective order to any person causing or permitting the violation.

(d) Any person who violates any portion of this chapter shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to the penalties as set forth in section 1-5-10 of this Code. Each day's continued violation constitutes a separate offense.

(e) In the event the violation constitutes an immediate danger to public health and safety, or the environment, the Town is authorized to enter upon the subject private property without giving prior notice to abate the violation and restore the property. The Town is authorized to assess the costs of the abatement and recover them from the owner and responsible parties or both as outlined in Sections 9-1-115 through 9-1-118 of the Town Code.

(f) In addition to any other remedy allowed by law, the Town may seek injunction or other appropriate judicial relief to prevent or stop any violation of this chapter.

(g) Whenever the Town finds that a violation of this ordinance has occurred, the Town may order compliance by written notice of violation. The notice of violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,

(h) Such notice of violation may require without limitation:

- (1) That violating discharges, practices, or operations shall cease and desist;
- (2) The performance of monitoring, analyses, and reporting;
- (3) The elimination of illicit discharges and illegal connections;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of costs to cover administrative and abatement costs; and,
- (6) The implementation of pollution prevention practices.

“Sec. 14-1-220. Access and Inspection/Monitoring of Properties and Facilities.”

(a) For the purpose of enforcing the provisions of this chapter, the code enforcement officer or other authorized agent of the Town is empowered to enter upon the premises of any person subject to this chapter and to make regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to effectuate the provisions of this ordinance. Inspections shall be conducted at reasonable times.

(b) If the code enforcement officer or Town Engineer, or his designee, reasonably believes that discharges from the property may cause an immediate and substantial threat to public health and safety or the environment, the inspection may take place at any time and without notice to the owner of the property or representative of the site. The inspector shall present proper credentials upon reasonable request by the owner or representative.

(c) A person must not hinder, prevent, or unreasonably refuse to permit any inspection, investigation, or monitoring under this Article.

(d) The Town shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Town to conduct monitoring and/or sampling of discharges.

(e) If the Town determines that the property owner or responsible party has an illicit discharge on or originating from their property, the Town may require the owner or responsible party to install monitoring equipment as approved by the Town and perform monitoring as necessary, and make the monitoring data available to the Town. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

“Sec. 14-1-221. Violations Deemed a Public Nuisance”

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, welfare, and environment and is declared and deemed a public nuisance, and may be abated as set forth in Sections 9-1-115 through 9-1-118 of the Town Code, or by injunctive or other equitable relief as provided by law.

“Sec. 14-1-222. Costs of Abatement of the Violation”

The owner of the property, or responsible party, will be notified of the cost of abatement, including administrative costs. The property owner, or responsible party, may file a written protest with the Town Manager objecting to the assessment or to the amount of the assessment within 10 days of such notice. The property owner or responsible party may appeal a decision of the Town Manager to Town Council within 10 days of receipt of the final assessment by the Town Manager. A hearing by Town Council shall be heard within 45 days of receipt of the appeal. If the amount due is not paid within ten (10) days after receipt of the notice, or if a protest or appeal is taken, within ten (10) days after a decision on said protest or appeal, the charges shall become a special assessment against the property and the Town may file a lien on the property for the amount of the assessment.

“Sec. 14-3-223. Remedies Not Exclusive”

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable Federal, State or local law and the Town may seek cumulative remedies. The Town may seek to recover attorney’s fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 2. Severability. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that **invalidity shall not affect the other provisions of the Ordinance which can be given effect** without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. Effective Date. Ordinance shall become effective upon its adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS _____ DAY OF _____, 2015

By:_____

David Bennett, Mayor

ATTEST:

By: _____
Vicki Pfannenschmidt, Town Clerk

First Reading: _____

Second Reading: _____

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

Memo



To: Public Facilities Committee

Via: Scott Liggett, Dir. of PP&F / Chief Engineer

From: Jeff Buckalew, Town Engineer
James Cook, Engineering Technician

Subject: Acquisition of Private Unpaved Road Rights of Way

Date: October 20, 2015

Recommendation: Staff recommends the Public Facilities Committee endorse to Town Council, the priority ratings of the private unpaved roads for public acquisition of road rights of way, in accordance with the Capital Improvements Program (CIP). The top four (4) private roads in these ratings (see Attachment A) are, Alice Perry Drive, Pine Field Road, Bligen Lane, and Mitchellville Lane. Acquisitions shall be contingent upon subsequent budget amendment(s) as necessary.

Summary: Selected private unpaved road rights of way are to be acquired as part of the Town's Capital Improvements Program. Staff recommends these four (4) roads be acquired based on a ratings analysis of the existing private unpaved roads on Hilton Head Island. If these roads are successfully acquired, it is assumed they shall be the Town's responsibility for perpetual maintenance, as the County is not accepting new roads for maintenance.

Background: The primary objective of the program is to acquire rights of way on selected private roads. These acquisitions are prioritized based on a rating scheme which emphasizes public safety, the condition of the road, and the number of dwellings served. This recommendation and subsequent activities shall entail the survey and legal costs necessary for acquisitions and is not intended for physical improvements of the infrastructure. Condemnations costs and compensation to property owners shall be at the discretion of Town Council.

EXHIBIT A

DIRT ROAD ACQUISITION RATINGS - FY-16									
ROAD NAME	CONCIL DISTRICT	LENGTH (MILES)	# OF HOUSES SERVED	SECTION 1 ROAD USE	SECTION 2 MAINTENANCE	SECTION 3 EXISTING EASEMENTS	SECTION 4 BENEFIT / COST	TOTAL SCORE	RANK
Alice Perry Drive	6	0.148	9	20	20	2	0.76	45.79	1
Pine Field Road	1	0.118	10	10	25	8	0.49	45.44	2
Mitchellville Lane	6	0.275	11	11	15	15	0.22	42.09	3
Bligen Lane	1	0.250	18	18	20	0	0.36	39.82	4
Manatee Way	3	0.255	17	17	15	5	0.33	38.64	5
Butterfly Drive	1	0.049	5	5	30	0	0.47	37.36	6
Christopher Drive	1	0.187	9	9	25	2	0.23	37.15	7
Phillip Drive	1	0.109	4	4	30	2	0.18	36.88	8
Horse Sugar Lane	6	0.227	6	6	30	0	0.13	36.63	9
Orange Lane	1	0.121	14	14	20	0	0.53	36.63	10
Tansyleaf Drive	1	0.161	4	4	20	12	0.12	36.60	11
Eugene Drive	1	0.059	6	6	20	8	0.46	36.30	12
Rasta Drive	1	0.137	5	5	30	0	0.17	35.85	13
Sadie Common	1	0.076	4	4	30	0	0.24	35.19	14
Adell Lane	6	0.690	5	5	30	0	0.03	35.17	15
Red Tip View	1	0.153	8	8	25	0	0.23	34.15	16
Witch Hazel Drive	1	0.061	3	3	30	0	0.22	34.09	17
Amelia Drive	1	0.122	6	6	25	2	0.22	34.08	18
Blossom Place	1	0.041	6	6	25	0	0.60	34.02	19
Benjamin Drive	1	0.135	6	6	25	2	0.20	33.98	20
Miller Road	1	0.224	0	1	30	2	0.02	33.10	21
Mackeral Drive	1	0.120	9	9	20	2	0.31	32.56	22
Sassafras Lane	1	0.089	6	6	25	0	0.28	32.39	23
Lawyer Place	1	0.073	5	8	20	2	0.44	32.20	24
William Drive	1	0.106	6	6	25	0	0.23	32.17	25
Arandas Way	6	0.054	3	3	20	8	0.23	32.14	26
Snider Walk	1	0.030	4	4	25	0	0.52	31.60	27
Evelina Road	1	0.106	5	5	25	0	0.19	30.95	28
Diamond Back Road	1	0.112	5	5	25	0	0.18	30.90	29
William Way	1	0.057	4	4	25	0	0.27	30.35	30
Junior Trace	1	0.080	6	6	20	2	0.28	29.40	31
Amelia Court	1	0.135	6	6	20	2	0.17	28.83	32
Bryant Road	1	0.071	4	4	15	8	0.31	28.53	33
Mustang Lane	1	0.114	3	3	25	0	0.10	28.49	34
Joyce Lane	1	0.067	5	5	20	2	0.27	28.34	35
Grant Drive	1	0.094	7	7	20	0	0.27	28.34	36
Farmers Club Drive	1	0.056	6	6	20	0	0.37	27.87	37
Sam Frazier Retreat	1	0.061	8	8	15	2	0.44	27.20	38
Great Barracuda Lane	6	0.092	10	10	15	0	0.36	26.82	39
Tarpon Trail	6	0.055	5	5	20	0	0.30	26.52	40
Palm Tree Place	6	0.156	4	4	20	2	0.09	26.44	41
Cora Lee Lane	1	0.059	5	5	20	0	0.28	26.42	42
Amelia Common	1	0.061	1	1	25	0	0.06	26.29	43
Nina Drive	1	0.049	3	3	20	2	0.20	26.02	44
Duey Hill Drive	1	0.036	4	4	20	0	0.36	25.79	45
Georgianna Drive	1	0.018	3	3	20	0	0.50	25.52	46
Oakview Road	1	0.074	10	10	10	2	0.60	24.98	47
Cheryls Bluff	6	0.021	4	4	10	8	0.56	24.79	48

ROAD NAME	CONCIL DISTRICT	LENGTH (MILES)	# OF HOUSES SERVED	SECTION 1 ROAD USE	SECTION 2 MAINTENANCE	SECTION 3 EXISTING EASEMENTS	SECTION 4 BENEFIT / COST	TOTAL SCORE	RANK
Candy Doll Bluff	1	0.089	10	10	10	2	0.33	23.64	49
Indian Pipe Lane	1	0.069	7	7	15	0	0.30	23.48	50
Abraham Jones Road	1	0.477	3	3	20	0	0.02	23.10	51
Darling Road	1	0.050	3	3	15	4	0.18	22.88	52
Bronco Crossing	1	0.062	2	2	20	0	0.09	22.47	53
Freddies Way	1	0.079	2	2	20	0	0.07	22.37	54
Frazier Manor	1	0.095	2	2	20	0	0.06	22.31	55
Stingray Drive	1	0.277	2	2	20	0	0.02	22.11	56
Brinson Hill Drive	1	0.087	4	4	15	2	0.13	21.65	57
Triggerfish Trail	6	0.146	6	6	15	0	0.12	21.58	58
Screech Owl Lane	1	0.110	1	1	20	0	0.03	21.13	59
Holmes Lane	1	0.067	4	4	15	0	0.15	19.75	60
Carters Manor	4	0.048	6	6	10	0	0.27	17.33	61
Pauline Manor	1	0.086	4	4	10	2	0.10	16.50	62
Kirby Lane	1	0.065	1	1	15	0	0.03	16.16	63
Campbell Drive	1	0.154	5	5	10	0	0.07	15.33	64
Daniel Drive	1	0.049	4	4	10	0	0.23	15.15	65
Fetterbush Drive	1	0.040	4	4	10	0	0.19	14.93	66
Vanessa Lane	6	0.053	4	4	10	0	0.14	14.70	67
Conrad Court	6	0.029	3	3	10	0	0.18	13.89	68
Clifford Miller Drive	1	0.103	7	7	5	0	0.11	12.54	69
Demsey Lane	1	0.058	2	2	10	0	0.06	12.28	70
Matilda Drive	1	0.061	2	2	10	0	0.05	12.26	71
Clara Square	1	0.063	2	2	10	0	0.05	12.26	72
Kids Way	6	0.067	2	2	10	0	0.05	12.24	73
Sea Spray Lane	4	0.059	4	4	5	0	0.08	9.41	74
Sparkleberry Lane	?	0.152	2	2	5	0	0.01	7.06	75
Sapos Place	6	0.041	6	6	0	0	0.12	6.59	76
Hollowman Trace	4	0.048	1	1	5	0	0.02	6.08	77
Reggies Road	1	0.082	3	3	0	0	0.01	3.07	78
Allen Road - ACQ FAILED									
Outlaw Road - ACQ FAILED									

Total of all remaining private dirt roads 8.504 miles (not including FY15 ACQ, previous failed ACQ, and already ACQ roads)