

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: November 16, 2005

SUBJECT: Public Hearing for abandonment of
Paradise Road / State Road 1845 (portion of)

ATTACHMENTS: 1 Petition Letter
2 North Carolina General Statute 136-63
3 NCDOT Map
4 Abandonment petition

SUMMARY OF REQUEST: Public hearing on the abandonment of a portion of SR 1845. Mr. and Mrs. Brent Easler have requested a portion of SR 1845 be abandoned.

The amount requested to be abandoned is approximately 20 feet and is entirely on property recently purchased by the Easlars. A gate is currently in place at the entrance to the property. County Staff recommends approval of this abandonment petition.

AUG 30 2005

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August 30, 2005

Mr. William L. Moyer, Chairman
Henderson County Board of Commissioners
100 North King Street
Hendersonville, NC 28792

Re: Abandonment of a Portion of S.R. 1845, Paradise Road

Dear Chairman Moyer:

I write on behalf of my clients, Brent and Darby Easler, to request that the Board of Commissioners request that the North Carolina Department of Transportation abandon a portion of the Paradise Road, S.R. 1845 pursuant to the Board's authority granted in N.C.G.S. § 136-63, copy included. I have also included maps for your reference to illustrate the portion of Paradise Road for which abandonment is sought.

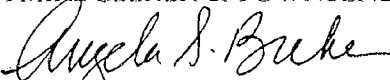
Mr. and Mrs. Easler purchased the entire acreage surrounding the portion of Paradise Road that they are seeking to have removed from the State's maintenance system in July, 2005. County land records maps on the GIS still show the acreage as owned in the name of the Robert and Amy Beasley, Trustees for the Beasley Family Trust.

Please place this request on the Board's agenda at your earliest convenience for consideration.

Thank you for your assistance.

Sincerely,

WHITMIRE BEEKER & TOWNSEND


Angela S. Beeker

Cc: Brent and Darby Easler

ENCLOSURE 1

C

West's North Carolina General Statutes Annotated Currentness
Chapter 136. Roads and Highways

Article 3. State Highway System

Part 3. Power to Make Changes in Highway System

→ § 136-63. Change or abandonment of roads

(a) The board of county commissioners of any county may, on its own motion or on petition of a group of citizens, request the Board of Transportation to change or abandon any road in the secondary system when the best interest of the people of the county will be served thereby. The Board of Transportation shall thereupon make inquiry into the proposed change or abandonment, and if in its opinion the public interest demands it, shall make such change or abandonment. If the change or abandonment shall affect a road connecting with any street of a city or town, the change or abandonment shall not be made until the street-governing body of the city or town shall have been duly notified and given opportunity to be heard on the question. Any request by a board of county commissioners or street-governing body of a city refused by the Board of Transportation may be presented again upon the expiration of 12 months.


(b) In keeping with its overall zoning scheme and long-range plans regarding the extraterritorial jurisdiction area, a municipality may keep open and assume responsibility for maintenance of a road within one mile of its corporate limits once it is abandoned from the State highway system.

Amended by Laws 1957, c. 65, § 8; Laws 1965, c. 55, § 13; Laws 1973, c. 507, § 22 1/2; Laws 1975, c. 19, § 45; Laws 1977, c. 464, § 25; Laws 1993, c. 533, § 14, eff. July 24, 1993.

CROSS REFERENCES

Powers of department of transportation, see § 136-18.

LIBRARY REFERENCES

Highways  75 to 78, 79.1, 79.7.


Westlaw Key Number Searches: 200k75 to 200k78; 200k79.1; 200k79.7.

C.J.S. Highways § § 113 to 129.

NOTES OF DECISIONS

Abandonment of road 5
Construction and application 2
Neighborhood roads 6
Notice and hearing rights 7
Powers of counties and municipalities 3
Powers of state transportation authority 4
Validity 1

1. Validity

The statute authorizing state highway commission not only to abandon road where advisable, but, upon relocation, to substitute one section for another, is valid as an exercise of "police power" of the state through an appropriate agency. Mosteller v. Southern Ry. Co., 1941, 17 S.E.2d 133, 220 N.C. 275. Highways  71

EXCERPT FROM NCDOT ROAD MAP SHOWING SR 1845, PARADISE ROAD

