

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: April 7, 2008

SUBJECT: Public hearing on permanently closing of easement

ATTACHMENTS: (1) Resolutions adopted February 20, 2008
(2) North Carolina General Statute 153A-241
(3) Orders closing easements on said properties

SUMMARY OF REQUEST: North Carolina General Statute 153A-241 requires that a public hearing be held for the permanent closing of a public road or easement. The public hearing was set February 20, 2008 for the purpose of closing easements on the East Flat Rock First Baptist Church property at 2227 Spartanburg Hwy, Albert M Moreno "et al." property at 13 Sapling Dr and the Minute Man Anchors Inc property at 305 W King St, all in East Flat Rock, North Carolina.

BOARD ACTION REQUESTED:

Recommend approving permanent closure of easements on the said properties and upon approval signing attached Orders of Closures for recording with the County registrar.

Suggested Motion:

I move for the Board to approve closure of the easements and certify Orders of Closures.

§ 153A-241. Closing public roads or easements.

A county may permanently close any public road or any easement within the county and not within a city, except public roads or easements for public roads under the control and supervision of the Department of Transportation. The board of commissioners shall first adopt a resolution declaring its intent to close the public road or easement and calling a public hearing on the question. The board shall cause a notice of the public hearing reasonably calculated to give full and fair disclosure of the proposed closing to be published once a week for three successive weeks before the hearing, a copy of the resolution to be sent by registered or certified mail to each owner as shown on the county tax records of property adjoining the public road or easement who did not join in the request to have the road or easement closed, and a notice of the closing and public hearing to be prominently posted in at least two places along the road or easement. At the hearing the board shall hear all interested persons who appear with respect to whether the closing would be detrimental to the public interest or to any individual property rights. If, after the hearing, the board of commissioners is satisfied that closing the public road or easement is not contrary to the public interest and (in the case of a road) that no individual owning property in the vicinity of the road or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the board may adopt an order closing the road or easement. A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county.

Any person aggrieved by the closing of a public road or an easement may appeal the board of commissioners' order to the appropriate division of the General Court of Justice within 30 days after the day the order is adopted. The court shall hear the matter de novo and has jurisdiction to try the issues arising and to order the road or easement closed upon proper findings of fact by the trier of fact.

No cause of action founded upon the invalidity of a proceeding taken in closing a public road or an easement may be asserted except in an action or proceeding begun within 30 days after the day the order is adopted.

Upon the closing of a public road or an easement pursuant to this section, all right, title, and interest in the right-of-way is vested in those persons owning lots or parcels of land adjacent to the road or easement, and the title of each adjoining landowner, for the width of his abutting land, extends to the center line of the public road or easement. However, the right, title or interest vested in an adjoining landowner by this paragraph remains subject to any public utility use or facility located on, over, or under the road or easement immediately before its closing, until the landowner or any successor thereto pays to the utility involved the reasonable cost of removing and relocating the facility. (1949, c. 1208, ss. 1-3; 1957, c. 65, s. 11; 1965, cc. 665, 801; 1971, c. 595; 1973, c. 507, s. 5; c. 822, s. 1; 1977, c. 464, s. 34; 1995, c. 374, s. 1.)

**AN ORDER CLOSING ALL EASEMENTS ON THE PROPERTY OF EAST
FLAT ROCK FIRST BAPTIST CHURCH, PARCEL IDENTIFICATION
NUMBER 9577862171**

WHEREAS, the Henderson County Board of Commissioners on February 20, 2008 adopted a resolution of intent to consider closing the easements located on the East Flat Rock First Baptist Church property, parcel identification number 9577862171, and a public hearing thereon was held April 7, 2008; and

WHEREAS, the closing of easements on the East Flat Rock First Baptist Church property would not be contrary to the public interest; and no individual owning property in the vicinity of the easements would be deprived of reasonable means of egress to his or her property by the closing of said easements.

NOW, THEREFORE BE IT RESOLVED by the Henderson County Board of Commissioners hereby adopts this order pursuant to North Carolina G.S. 153A-241, permanently closing the easements located on the property of East Flat Rock First Baptist Church, which shall be shown on a plat to be provided by the party requesting the easement closure.

BE IT FURTHER RESOLVED that said plat shall be recorded by the requesting party, with the Henderson County registrar, upon approval by the County.

This the _____ day of _____ 2008.

**AN ORDER CLOSING ALL EASEMENTS ON THE PROPERTY OF
ALBERT M MORENO JR. "ET AL.", PARCEL IDENTIFICATION
NUMBER 9577758714**

WHEREAS, the Henderson County Board of Commissioners on February 20, 2008 adopted a resolution of intent to consider closing the easements located on the Albert M Moreno Jr. "Et al." property, parcel identification number 9577758714, and a public hearing thereon was held April 7, 2008; and

WHEREAS, the closing of easements on the Albert M Moreno Jr. "Et al." property would not be contrary to the public interest; and no individual owning property in the vicinity of the easements would be deprived of reasonable means of egress to his or her property by the closing of said easements.

NOW, THEREFORE BE IT RESOLVED by the Henderson County Board of Commissioners hereby adopts this order pursuant to North Carolina G.S. 153A-241, permanently closing the easements located on the property of Albert M Moreno Jr. "Et al.", which shall be shown on a plat to be provided by the party requesting the easement closure.

BE IT FURTHER RESOLVED that said plat shall be recorded by the requesting party, with the Henderson County registrar, upon approval by the County.

This the ____ day of _____ 2008.

**AN ORDER CLOSING ALL EASEMENTS ON THE PROPERTY OF
MINUTE MAN ANCHORS INC, PARCEL IDENTIFICATION NUMBER
9577753655**

WHEREAS, the Henderson County Board of Commissioners on February 20, 2008 adopted a resolution of intent to consider closing the easements located on the Minute Man Anchors Inc. property, parcel identification number 9577753655, and a public hearing thereon was held April 7, 2008; and

WHEREAS, the closing of easements on the Minute Man Anchors Inc. property would not be contrary to the public interest; and no individual owning property in the vicinity of the easements would be deprived of reasonable means of egress to his or her property by the closing of said easements.

NOW, THEREFORE BE IT RESOLVED by the Henderson County Board of Commissioners hereby adopts this order pursuant to North Carolina G.S. 153A-241, permanently closing the easements located on the property of Minute Man Anchors Inc., which shall be shown on a plat to be provided by the party requesting the easement closure.

BE IT FURTHER RESOLVED that said plat shall be recorded by the requesting party, with the Henderson County registrar, upon approval by the County.

This the _____ day of _____ 2008.