

STATE OF SOUTH CAROLINA
BEFORE THE SUPREME COURT
CASE NUMBER: [NOT YET ASSIGNED]

The Palm Republic, LLCPetitioner

vs.

The State of South Carolina and
South Carolina Department of Transportation Respondents.

**PETITION FOR ORIGINAL JURISDICTION
AND EXPEDITED CONSIDERATION¹**

Petitioner Palm Republic LLC² respectfully requests that the South Carolina Supreme Court accept the attached complaint to be determined by this Court in its original jurisdiction pursuant to Rule 245, SCACR, S.C. Code Ann. 14-3-310, and S.C. Const. Art. V §5. A proposed complaint is attached and the notice required by Rule 245 is served upon Respondents contemporaneously with this filing. The facts are not in dispute. If this Court allows the filing of the complaint in its original jurisdiction, an Appendix will be supplied establishing the factual record.

Petitioner is informed and believes that the Complaint in this action cannot be heard in a lower court without material prejudice to the rights of the parties and, further, that this action challenges the legality of a legislative enactment signed into law that violates the South Carolina

¹ The facts are not in dispute. Upon grant of the Petition, Plaintiff will file an Appendix to accompany the Complaint with relevant documents referenced herein. This matter may be determined based on the legal issues presented without testimony and without appointment of a special referee.

² Palm Republic LLC is a privately-owned advocacy group owned, funded and operated by residents of the Isle of Palms (hereafter “IOP”), which exists to help protect the rights of the citizens and residents if IOP.

Constitution and otherwise violates the general laws of the State of South Carolina, such that original jurisdiction for adjudication of the issues presented here is warranted. Moreover, the issues presented are of state-wide importance and concern.

In this action, Petitioner seeks declarations:

- That S*0040 (Rat #0101, Act # 0089 of 2021³), amending S.C. Code §57-5-840 and enacting S.C. Code § 57-5-845, violates the South Carolina Constitution⁴ and existing statutory law; and
- That the South Carolina Department of Transportation (hereinafter “SC DOT”) is prohibited from unilaterally reconfiguring traffic lanes on the Isle of Palms Connector⁵ without the consent of the governing body of Isle of Palms. The Complaint also seeks an order requiring DOT to restore the configurations and markings that existed prior to the usurpation by DOT of the rights of IOP and its citizens.

HISTORY

The Isle of Palms (hereinafter “IOP”) was established as a municipality (city) in 1953.⁶ Shortly thereafter, in 1954, the General Assembly enacted the “Off-Street Parking Facilities Act”

³ S.40 was signed by Governor Henry McMaster on May 24, 2021, and became effective on that date as Act No. 89 (Session 124, 2021-2022).

⁴ All references to the Constitution hereinbelow refer to the South Carolina Constitution.

⁵ The Isle of Palms connector bridge, also called the Clyde Moultrie Dangerfield Highway, was constructed in 1990-1993 to connect SC Highway 703 on the Isle of Palms with Highway 17 in Mount Pleasant. <https://engineering.purdue.edu/CEM/people/Personal/Halpin/Sim/Examples/palms.htm>. It is 11,700 feet long and consists of two lanes. *Id.*

⁶ IOP later established itself as a council form of government in accordance with S.C. Code Ann. § 5-15-10 through § 5-15-40 after the adoption of Home Rule. In the 1972 general election, South Carolina voters voted for an amendment to the Constitution, Article VIII, which was then ratified in 1973. After its ratification, the Supreme Court of South Carolina weighed in on the effects Article VIII would have on enacted statutes in compliance with the new amendment to the Constitution. In *Knight v. Salisbury*, 262 S.C. 565, 569, 206 S.E.2d 875, 876 (1974) this Court noted that “Article VIII reflects a serious effort upon the part of the electorate and the General Assembly to restore local government to the county level.” The Supreme Court held State Constitutional laws are not grants of power to the

which, *inter alia*, reaffirmed the continuing exclusive right of municipalities to establish, monitor and regulate on-street parking, and established for municipalities the exclusive right to establish, construct, operate and maintain off-street public parking facilities. See 1954 Act No. 48, codified at 1962 Code § 59-566.1 and presently codified at S.C. Code §§ 5-29-30 and 40. Following implementation of the amendment to the State Constitution to provide for “Home Rule,”⁷ IOP further enacted ordinances regulating, *inter alia*, parking on and off the street within the municipality.⁸

Under the Constitution, “[n]o law shall be passed by the General Assembly... to use the streets.... without first obtaining the consent of the governing body of municipality in control of the states.” S.C. Const. art. VIII, § 15. “The provisions of the Constitution shall be taken, deemed, and construed to be mandatory. . .” *Id.* at Art. V, § 23.

In 2015, the SC DOT approved the parking structure from IOP “to manage resident and visitor parking demands well into the future.”⁹ **Exhibit A.**¹⁰ DOT Assistant Secretary Christy A. Hall, then Deputy Secretary of Engineering for SC DOT, recognized the “City’s right to institute this parking regulation and does not foresee an adverse impact on the state-maintained system within the City.” Additionally, Secretary Hall applauded the City’s plan to mark “parking offsets along routes as safety measures” and pledged to assist the City with permitting and to otherwise

General Assembly, but rather restrictions on what would otherwise be their absolute power. *Knight*, 262 S.C. at 570, 206 S.E.2d at 877.

⁷ The Home Rule act in 1973 was created to place control of management of county and municipal affairs in the hands of duly elected officials of the municipalities. *Hospital Association of South Carolina v. County of Charleston*, 320 S.C. 219, 225, 464 S.E.2d 113, 117 (1995).

⁸ The municipal power of the City of IOP is vested in the city council, in accordance with S.C. Code § 5-7-160, which consists of representatives elected by the collective electors of the IOP.

⁹ Letter from Christy A. Hall, Deputy Secretary of Engineering, SC DOT dated January 9, 2015 to Honorable Dick Cronin, Mayor, City of Isle of Palms.

¹⁰ All exhibits to this Petition will also be included with the Appendix, which will be filed upon the Court’s granting of this Petition.

“partner with” the city “as you embark on this important program.” Several months later, the then-Secretary of DOT “applauded” the City’s program to “address the issues of summer traffic while allowing a period of time to adjust to managing a program of such a sensitive nature” and characterized the City’s management of parking on the island as a “great undertaking.”¹¹ **Exhibit B.** The referenced plan recognized and allowed IOP exclusive authority to implement paid parking on public streets within the municipality, including parking provided for visitors to access the beach areas of the island.

In the initial phases of the onset of the COVID pandemic, all beaches in the state were closed for a short period of time. Executive Order 2020-16. Governor McMaster later issued Executive Order 2020-28 on April 20, 2020, which reopened public beaches, but imposed upon municipalities the responsibility to implement the opening and specific guidelines for beach access and parking within the IOP. Thereafter, as the State continued moving towards a return to a state of normalcy following state and federal COVID mandates, IOP enacted emergency ordinances, *inter alia*, slowly reopening municipal facilities to the public and facilitating the gradual reopening of the municipality more widely.

By Emergency Ordinance 2020-09, enacted on June 23, 2020, the IOP directed city staff to “eliminat[e] parking on the land-side of Palm Boulevard, from 22nd Avenue to 40th Avenue, to exclude adjacent property and landowners.”¹² The Emergency Ordinance also amended existing ordinances that adjusted the size of on- and off-street beach parking provided by IOP to visitors. *Id.* IOP Emergency ordinance 2020-11 was later passed on July 17, 2020, which restricted some

¹¹ Letter from Janet P. Oakley, Secretary of Transportation, SC DOT dated June 12, 2015 to Honorable Dick Cronin, Mayor, City of Isle of Palms.

¹² Under both the 2015 and 2017 reviews of the City of IOP plans, DOT had reaffirmed the City of IOP’s exclusive authority over parking facilities on the highways within the municipality.

on-street parking for use by residents only and visitors of local businesses. Subsequent emergency ordinances limited public on-street parking to “recreational department use only” and continued the earlier elimination of certain on-street parking facilities. Emergency Ordinance 2020-12; 2020-13.

UNCONSTITUTIONAL ACTS

Without notice to IOP or the other three municipalities affected by the proposed legislation, on or about December 9, 2020, Senator Larry Grooms introduced S*0040 during the 124th session of the General Assembly proposing to amend numerous state highway bills and statutes, including amendments to S.C. Code §§ 5-39-30 and 57-5-840, and to add § 57-5-845 that would mandate that “parking on state highway facilities located on barrier islands is free and any restrictions may only be made by the Department of Transportation.”

The effect of the proposed legislation would be to eliminate the existing authority of four specific municipalities, all located on barrier islands within the state (*i.e.*, Isle of Palms, Sullivan’s Island, Folly Beach and Edisto Beach) to regulate their on-street parking and to instead give such authority to the DOT while also shifting the burden of costs or providing municipal services within the city exclusively to the residents and property owners of IOP. The proposed legislation would, if enacted, therefore, directly violate the State Constitution and existing statutory law which codified the constitutional rights of municipalities to “establish on-street parking facilities...” and to regulate “the parking of motor vehicles on any street within the corporate limits of [the] municipalit[y], requiring the payment of a charge for the right to make use of any portion of any street set aside apart for motor vehicular parking.” S.C. Const. art. VIII, § 15; S.C. Code §§ 5-29-30 and 40.

In early 2021, SC DOT notified the governing authorities of IOP that SC DOT was revoking the city's right to regulate public parking on the island.¹³ City officials objected to the unilateral act of the DOT to revoke its constitutional and statutory rights to regulate parking within its municipal boundaries. Multiple efforts¹⁴ were made thereafter to amicably resolve what quickly became a public furor over the DOT's usurpation of the rights reserved constitutionally to the IOP and other beach municipalities and their citizens to govern their own street parking.

In an act of retaliation, under the cloak of darkness, and without notice to IOP governing authorities, DOT undertook construction to unilaterally change the lane configuration and striping on the Isle of Palms Connector to eliminate the emergency lane on the bridge and to add walking and bicycling paths on the connector, both of which had an immediate negative impact on ingress and egress to the island and endangered the lives and safety of both citizens of and visitors to the Island. These actions violate S.C. Code §§ 57-5-820 and 830, which require the consent of the municipality, which is governed by the elected representatives of the citizens of IOP, to modify the bridges on IOP (in the absence of access which has become functionally obsolete or structurally deficient).

The Isle of Palms Connector is located, in part, within the municipal jurisdiction of IOP and the placement of striping on the bridge is therefore within the jurisdiction of IOP. S.C. Code §§ 57-5-820 and 830.

¹³ It was later learned that Secretary Hall had issued Directive Number 28 on February 4, 2021 to “establish guidelines for inclusion of multimodal accommodations (walking, biking and transit) in projects undertaken on the State-owned highway system.” Directive No. 28 provided no requirement for assessing the needs of municipalities or for consulting with affected municipalities in implementing this directive. It also lacks any reference to permitting DOT to affect parking within those parts of the state highway system that lie within the geographical boundaries of a municipality.

¹⁴ See *e.g.*, Letter from Robert E. Perry at DOT dated February 23, 2021, responding to City Administrator Desiree Fragoso, attached as **Exhibit C**; Letter from Mayor Jimmy Carroll to Christy A. Hall, P.E. dated March 3, 2021, attached as **Exhibit D**; Letter from Mayor Jimmy Carroll to Christy A. Hall P.E. dated March 26, 2021, attached as **Exhibit E**; Letter from Christy A. Hall P.E. to Senator Chip Campsen dated April 13, 2021, attached as **Exhibit F**;

S*0040 passed the House unanimously on May 13, 2021. In a letter to Senator Grooms dated May 24, 2021, Governor McMaster asserted that “certain provisions of this legislation are particularly controversial. Although some have raised legal concerns regarding this legislation, the source of the controversy is not the law but rather the recent circumstances the bill was intended to address.” Governor McMaster recognized that the legislation “principally stems from actions by one or more coastal communities to limit beach parking... during the [COVID-19] pandemic.” **Exhibit G.** Governor McMaster disingenuously described the legislation he had just approved as “an effort to clarify existing law.” *Id.*¹⁵

CONCLUSION

As set forth in the Complaint in Original Jurisdiction, attached hereto, Petitioner seeks an order of this Court declaring S*0040 unconstitutional, and permanently enjoining the SC DOT from usurping the right of the Isle of Palms (and such other municipalities that may be affected by the unconstitutionality of S*0040), to exclusively establish and govern on-street parking within the municipal limits of the IOP.

Relatedly, Petitioner seeks an order enjoining, temporarily and permanently, the SC DOT from changing the lane configuration on the IOP Connector, in that such acts require approval of the governing authority of affected communities, and requiring DOT to return the IOP Connector within the municipal limits of IOP to its original configuration. DOT is accepting “input” from IOP, but insisting on its unilateral right to restripe the IOP connector without approval from the

¹⁵ The Governor also advised Senator Grooms that he had met with Assistant Secretary Christy Hall and “I conveyed to her that SCDOT shall explore any and all options and potential solutions to both preserve public access to our State’s beaches and protect the safety, identity and aesthetics of our treasured coastal communities. Secretary Hall is familiar with the tensions involved, and she understands the issues and expectations.” *Id.*

City and continues to abridge the rights of the citizens of IOP and the municipal government of IOP.

As required by Rule 245, attached hereto and incorporated herein is a proposed Complaint for Relief in the original jurisdiction of this Court, as well as a notice to Respondents regarding their right to respond to the Petition.

Respectfully submitted,

s/ Desa Ballard
Desa Ballard (S.C. Bar No. 498)
Harvey M. Watson III (S.C. Bar No. 74053)
Haley Hubbard (S.C. Bar No. 103195)

BALLARD & WATSON
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ATTORNEYS FOR PETITIONER

October 28, 2022



South Carolina
Department of Transportation

Deputy Secretary for Engineering
Christy A. Hall, P.E.
Phone: (803) 737-7900 Fax: (803) 737-5053

January 9, 2015

The Honorable Dick Cronin
Mayor, City of Isle of Palms
Post Office Drawer 508
Isle of Palms, South Carolina 29451

RE: Managed Beach Access Parking

Dear Mayor Cronin:

Thank you for your recent letter dated November 24, 2014, to the South Carolina Department of Transportation's (SCDOT) Secretary of Transportation, Janet P. Oakley, requesting the Department's concurrence with the City of Isle of Palms proposed beach access parking plan. The letter was referred to me for a response.

It appears that you, the City Council, and your staff have developed a plan that should help the City manage resident and visitor parking demands well into the future. SCDOT staff has reviewed your proposal and we find that it is within the purview of municipal authorities contained in the South Carolina Code section 5-29-30 to regulate on-street parking within your jurisdictional boundaries. The SCDOT recognizes the City's right to institute this parking regulation and does not foresee an adverse impact on the State-maintained system within the City. We also recognize that any public concern or equal protection challenges are the City's responsibility and the Department will not enter into any resulting actions.

The additional ideas of marking parking offsets along routes as safety measures and designating golf cart parking is acceptable. The Department's staff will assist you and your staff through permits and advice as you proceed with the various elements of implementation. It is a pleasure for SCDOT to partner with the City as you embark on this important program.

I wish you the best and we stand ready to assist you as needed.

Sincerely,

Christy A. Hall, P.E.
Deputy Secretary for Engineering

CAH:ths

cc: Janet P. Oakley, Secretary of Transportation
Thad Brunson, P.E., Chief Engineer for Field Operations
Robert T. Clark, District Six Engineering Administrator
File: D6/Charleston
CTS 3036039

955 Park Street
Columbia, South Carolina 29201



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June 12, 2015

The Honorable Dick Cronin
Mayor, City of Isle of Palms
Post Office Drawer 508
Isle of Palms, South Carolina 29451

RE: Managed Beach Parking Plan

Dear Mayor Cronin:

Thank you for your recent letter describing the revised plan for managed parking for beach access in the City of Isle of Palms. The new plan appears to provide an excellent way for the City to address the issues of summer traffic while allowing a period of time to adjust to managing a program of such a sensitive nature. I applaud you, City Council and staff for your tremendous efforts in developing a program that is so comprehensive.

As Deputy Secretary for Engineering Hall stated in her letter of January 9, 2015, the regulation of on-street parking is recognized by the South Carolina Department of Transportation (SCDOT) as a responsibility assigned to local governments by South Carolina Code. The revised plan appears to be consistent with that responsibility and we do not find any apparent adverse impacts to our system or our ability to maintain the state system within the City. I will also reiterate that any public concern or equal protection challenges are solely the City's responsibility and the SCDOT will not enter into any resulting actions.

I appreciate your efforts in keeping the Department informed of the City's efforts and plans. This is a great undertaking for the City and we will assist you as needed in the process.

Sincerely,


Janet P. Oakley
Secretary of Transportation

JPO:ths

cc: Christy A. Hall, P.E., Deputy Secretary for Engineering
Leland Colvin, P.E., Chief Engineer for Operations
R. T. Clark, District Six Engineering Administrator

File: D6/Charleston
CTS 3037330





South Carolina
Department of Transportation

Robert E. Perry, P E
Director of Traffic Engineering
803-737-1462 | 803-737-5053 Fax

February 23, 2021

Ms. Desiree Fragoso
City Administrator
City of Isle of Palms
1207 Palm Blvd
Post Office Box 508
Isle of Palms, SC 29451

Re: Isle of Palms Connector, Pavement Marking Project

Dear Ms. Fragoso:

I appreciate you and your staff engaging with the South Carolina Department of Transportation to discuss the pavement marking project on the Isle of Palms Connector. Following the dialogue that began between SCDOT staff and the City in mid-January, a draft set of plans were provided to the City, a meeting was held with you and me to discuss the project, and SCDOT staff participated in a virtual meeting hosted by the City. This generated some questions and concerns posed by the City. Below is additional information regarding the purpose and timing of the project, the design considerations and criteria, my conversation with Battalion Chief Hathaway, and additional signs requested by the City.

One of the questions asked by the City was when project development began and the purpose of the project. The timing and purpose of the project is tied to multiple factors that I am happy to share. First, SCDOT has been in the process of implementing a Complete Streets policy to help guide implementation of pedestrian and bicycle accommodations in future infrastructure projects. The Complete Streets policy became effective for SCDOT on February 4, 2021. Unfortunately, South Carolina has the highest fatality rate in the nation, and on average there are a thousand fatalities in our state annually. Pedestrian and bicycle fatalities make up sixteen percent of the total fatalities, and are on the rise both in South Carolina and across the country. It is my sincerest hope this policy will help in reducing fatal and serious injury crashes for pedestrians and bicyclists.

You may recall an article about one of these unfortunate fatalities in the Post and Courier last September that involved a bicyclist traveling on the East Coast Greenway. That fatality prompted SCDOT staff to review locations along the Greenway where transportation improvements were planned to ensure existing modal gaps were included in decision making during project development. This review identified that the pavement markings on the Connector were reaching the end of their useful life. Also, since the last pavement marking project, pedestrian and bicycle accommodations were implemented on both ends of the Connector.

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Columbia, SC 29202-0191



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Ms. Desiree Fragoso
February 23, 2021
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It should be noted that the Isle of Palms Connector has been identified in numerous local, regional and national bicycle and pedestrian plans. These include locally the Town of Mt. Pleasant's Comprehensive Plan, the Battery to Beach route from Folly Beach to Isle of Palms; regionally it is identified in the Berkley-Charleston-Dorchester Council of Government's Walk Bike Plan; and finally, it is part of the national East Coast Greenway, which runs from Maine to Florida.

In addition, during project development it was found that a municipal water improvement project was going to eliminate pedestrian and bicycle access between Sullivan's Island and Mt. Pleasant for several months this year. Hopefully this fully explains the questions of why this project is taking place. Contrary to speculation by some, the timing of this project is not associated with the parking issue associated with the state-owned highway system on the Isle of Palms.

We have also been asked to explain the engineering judgement used for the design of this project. SCDOT, like all transportation agencies, utilizes the Manual for Uniform Traffic Control Devices (MUTCD) adopted by the Federal Highways Administration when designing signing and marking projects. While this project is in compliance with design guidelines for buffered bike lanes included in the MUTCD, it is important to go into further detail based on the concerns received about emergency responders' use of the existing 10' wide median.

As previously mentioned, the Connector now has pedestrian and bicycle accommodations on both ends of the bridge which cannot be ignored as walking and bicycling are modes of transportation. To accommodate all modes of transportation currently using the Connector, the project will reduce the existing 10' wide median to 4' in width, continue to maintain two travel lanes for motorists, and now have a 3.5' marked buffer, a 4.5' bike lane, and a 5' wide bridge shoulder that pedestrians may utilize. While the median will be reduced by a total of 6', the shoulders are being increased in space to 13' in width that may be used by emergency responders as needed to cross the Connector. In addition, in this new configuration not only will emergency responders have 3' more space, they will no longer have to contend with two way traffic as they currently do utilizing the 10' median.

SCDOT considered several options for incorporating pedestrian and bicycle accommodations to include, only marking one side of the Connector for bicycles and pedestrians. However, there are currently shared use paths on both sides of SC 517 in Mt. Pleasant approaching the Connector. Marking one side of the Connector would require pedestrians and bicyclists to cross multiple lanes of opposing traffic on SC 517 to access the marked side of the Connector. For this reason, the request was ultimately dismissed as it would introduce major crash risks for motorists, pedestrians, and bicyclists on the Mt. Pleasant side of the Connector where speeds are likely higher.



Ms. Desiree Fragoso
February 23, 2021
Page 3

There have been multiple references to an emergency helicopter landing that took place on the Connector several years ago, and how the revised pavement marking plan may impact similar operations in the future. Any event that would require an emergency helicopter landing would result in the bridge being closed to all motorists, bicycles and pedestrians at the emergency landing location. The revised pavement markings will not impede this type of emergency response operation in the future.

City staff did bring forth concerns of visitors parking on the bridge shoulder to take pictures of the skyline which may disrupt emergency response use of the wider shoulders. SCDOT staff has reviewed this request, and will add new signs prohibiting parking on the bridge to assist with emergency response efforts.

In addition, SCDOT has offered to coordinate traffic incident management training with staff from the City, the Town of Mt. Pleasant, and state agencies to enhance planning efforts for emergency response. This training will address how to handle traffic during an event in order to create a safe work area for the first responders to operate.

I trust this information will be helpful. Thank you again for taking the time to express your interest in highway safety in South Carolina.

Sincerely,



Robert E. Perry, P.E.
Director of Traffic Engineering

REP:mmb

cc: Christy A. Hall, P.E., Secretary of Transportation
Leland D. Colvin, P.E., Deputy Secretary for Engineering



**CITY OF
ISLE
OF
PALMS
South Carolina**



Mayor:
Jimmy Carroll

City Council:
Randy Bell
Ryan Buckhannon
John Moye
Kevin Popson
Philip Pounds
Susan Hill Smith
Rusty Streetman
Jimmy Ward

March 3, 2021

Ms. Christy A. Hall, P.E.
Secretary of Transportation
South Carolina Department of Transportation
P.O. Box 191
955 Park Street, Room 309
Columbia, South Carolina 29202-0191
Via U. S. Mail and Email to: Hall, Christy A <HallCA@scdot.org>

Re: Isle of Palms Connector

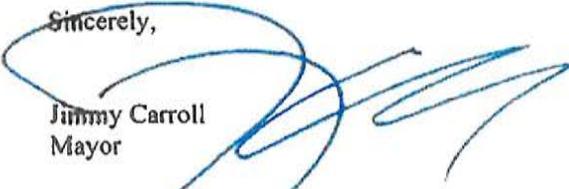
Dear Secretary Hall:

Thank you again for your willingness to work with the City to optimize safe beach parking and improve pedestrian and traffic safety in our community. We look forward to reaching a resolution with the result of improving safe beach access for all.

The City, however, continues to have significant concerns about the hazards created by the Department of Transportation's Connector restriping and lane reconfiguration plan. Isle of Palms strongly opposes and does not approve of this work on the Connector. The reduction of the center lane from 10' to 4' will limit emergency vehicles ability to quickly and safely navigate the Connector when traffic becomes gridlocked, as it frequently happens during peak season. As a result, the reconfiguration of the IOP Connector could significantly impact emergency response times on and off the island which, in critical situations, could cost lives. Charleston County EMS responds to an average of 450 emergency calls every year, of which more than 50% are from visitors. Therefore, emergency response delays not only impact island residents, but non-residents who may require emergency medical services while visiting our community.

As you know, South Carolina Code Section 57-5-820 requires ("must be with the consent and approval...") the consent of the City unless the work is on a bridge which DOT has declared is either functionally obsolete or structurally deficient. To date, we are not aware of any such declaration and believe there is no existing documentation to support this determination.

Sincerely,


Jimmy Carroll
Mayor

Cc: City Council
Desirée Fragoso, City Administrator
Ronald Hanna, Assistant Administrator
James Hinchey, City Attorney

P.O. Box 508 Isle of Palms, South Carolina 29451
(843) 886 6428 Fax (843) 886-8005 www.IOP.net



**CITY OF
ISLE
OF
PALMS
South Carolina**



Mayor:
Jimmy Carroll

City Council:
Randy Bell
Ryan Buckhannon
John Moyer
Kevin Popson
Phillip Pounds
Susan Hill Smith
Rusty Streebman
Jimmy Ward

March 26, 2021

Ms. Christy A. Hall, P.E.
Secretary of Transportation
South Carolina Department of Transportation
P.O. Box 191
955 Park Street, Room 309
Columbia, South Carolina 29202-0191

Via U. S. Mail and Email to: Hall, Christy A <HallCA@scdot.org>

Re: Isle of Palms Connector

Dear Secretary Hall:

Since we last wrote on March 3, 2021 we have watched with growing dismay and concern as the restriping and lane reconfiguration of the connector proceeds. As mentioned in the referenced letter, South Carolina Code Section 57-5-820 requires ("must be with the consent and approval...") the consent of the City unless the work is on a bridge which DOT has declared is either functionally obsolete or structurally deficient. No such declaration has been made and no approval was granted by the City.

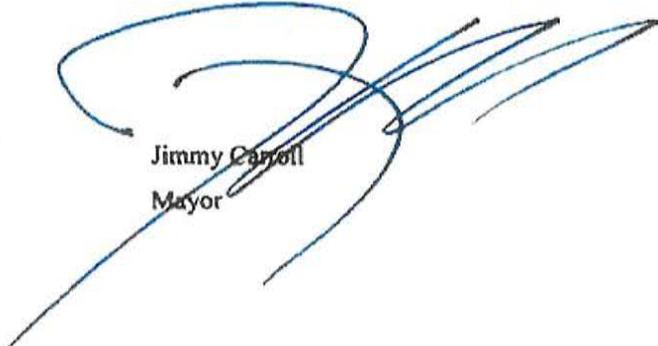
The restriping is, at best, confusing to vehicular and pedestrian traffic. Other than an occasional green box in one lane, there is no clear designation for the use of any of the new lanes. Council members have observed bikes in the intended pedestrian lane, walkers in the bike lane, bikes in both lanes side by side and a motorcycle in the bike lane. The newly created center median is very narrow and lane deviation is now a material risk to oncoming traffic. The undersized median lane no longer permits safe passage of emergency vehicles. The only way an emergency vehicle may now proceed is to rely on cars to pull to the



right and clear the travel lane. Unfortunately, performing this traditional maneuver now demands that cars pass through both the bike lane and the pedestrian lane. This path of movement will predictably encounter both bicyclists and pedestrians placing them at great risk of bodily harm and will certainly delay the passage of any emergency vehicle when every lost second could mean the difference between life and death. City Council fears that a loss of life will occur because of this redesign and the City again restates its strong opposition to this hazardous, ill conceived redesign undertaken without the permission of the City.

The City urges the Department to revert the lane design and striping to its previous, safe condition before we are mourning the death of a citizen of this state or a visitor to our City. Once restored, should the Department desire to consider alternative lane designs, we urge the Department to engage the communities serviced by the connector in public forums, develop data supportive of any change, publish the data, and secure the statutorily required permission of the City.

Sincerely,



Jimmy Carroll
Mayor

Cc: City Council
Desirée Fragoso, City Administrator
Ronald Hanna, Assistant Administrator
James Hinchey, City Attorney

P.O. Box 508 Isle of Palms, South Carolina 29451
(843) 886-6428 Fax (843) 886-8005 www.IOP.net

April 13, 2021

The Honorable Chip Campsen
The Senate of South Carolina
305 Gressette Office Building
Post Office Box 142
Columbia, South Carolina 29202

RE: Isle of Palms Connector and Traffic Issues

Dear Senator Campsen:

Thank you for meeting with me yesterday on the Isle of Palms to discuss traffic flow and other issues in and around the Isle of Palms Connector. As a follow-up to our conversation yesterday, I will move forward with engaging an outside expert to review your concerns with the current configuration of the Isle of Palms Connector from Mount Pleasant to the Isle of Palms. The review will include a study of the various modal travel patterns in the area, peak travel demand patterns and operational constraints of the current network. I will also request the development of potential solutions to facilitate more effective movement along the corridor, including, but not limited to additional lane configuration changes, signal synchronization, additional signalization, roundabout installation and innovative Intelligent Transportation Solutions such as reversible lanes. As part of this review, we will seek the engagement of the public and other stakeholders in the region, including the local governments.

Please do not hesitate to contact me again if you have any additional questions or concerns.

Sincerely,

Christy A. Hall, P.E.
Secretary of Transportation





HENRY McMASTER
GOVERNOR

May 24, 2021

The Honorable Lawrence K. "Larry" Grooms
203 Gressette Building
Columbia, South Carolina 29201

Dear Senator Grooms:

I have signed into law R-101, S. 40, which amends certain statutory provisions relating to state highways so as to prohibit a municipality from altering, or restricting the use of, any state highway facility or right of way without the prior approval of the South Carolina Department of Transportation ("SCDOT"). In addition to the foregoing, S. 40 addresses related issues associated with parking facilities in coastal communities by providing that for municipalities eligible to receive state beach renourishment funds, parking facilities on state highways must include free beach parking but may include some paid parking options. The bill also authorizes municipalities to utilize revenue from paid parking to offset the corresponding costs associated with maintaining public beach parking, providing traffic control and enforcement, and removing litter from public beaches.

To be sure, while S. 40 passed unanimously in the Senate and overwhelmingly in the House of Representatives, I recognize that certain provisions of this legislation are particularly controversial. Although some have raised legal concerns regarding this legislation, it is clear that the source of the controversy is not the law but rather the recent circumstances the bill was intended to address. *See Town of Hilton Head Island v. Coal. of Expressway Opponents*, 307 S.C. 449, 456, 415 S.E.2d 801, 805 (1992) ("Municipalities have no authority to set aside the structure and administration of any governmental service or function, the responsibility for which rests with the state government or which requires statewide uniformity. The planning, construction, and financing of state roads is a governmental service which requires statewide uniformity." (citing S.C. Const. art. VIII, § 14; S.C. Code Ann. §§ 57-3-10 to -30 (1976 & Supp. 1991))). Accordingly, it is necessary to provide a bit of background regarding the origins of the underlying dispute and the rhetoric it has generated.

It is undisputed that the controversy related to certain provisions of S. 40 principally stems from actions by one or more coastal communities to limit beach parking or access during the 2019 Novel Coronavirus ("COVID-19") pandemic. On the one hand, those who opposed these



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restrictions, and now support this legislation, have accused coastal municipalities of using emergency measures to limit the general public's ability to access the beach, effectively converting their communities into private islands, under the auspices of protecting public health. While on the other hand, certain opponents of this bill have publicly accused its sponsors of pandering, for political purposes, to a vocal minority of residents who were frustrated by their inability to access public beaches.

At bottom, the underlying issue is one of quality of life, not only for those South Carolinians who wish to access their shared, taxpayer-supported public beaches via state-maintained roads but also for those coastal residents who wish to ensure reasonable and reliable access to their private homes and communities, while simultaneously preserving public safety. Although I appreciate the significant, legitimate concerns of interested parties on both sides of these important issues, I believe that this legislation represents a reasonable effort to clarify existing law in a manner that will facilitate further cooperation and compromise. I encourage S. 40's opponents and proponents alike to refrain from resorting to heated rhetoric and to instead rededicate their energy, or redouble their efforts, toward fostering constructive communication and promoting meaningful collaboration.

I am confident that this legislation will allow SCDOT to accommodate the legitimate concerns of all involved and work cooperatively to achieve a solution that will address the underlying issues and avoid unnecessary controversy. To this end, I recently met with Secretary Christy Hall regarding this matter, and I conveyed to her that SCDOT shall explore any and all options and potential solutions to both preserve public access to our State's beaches and protect the safety, identity, and aesthetics of our treasured coastal communities. Secretary Hall is familiar with the tensions involved, and she understands the issues and expectations. I have asked Secretary Hall to keep me informed of SCDOT's progress.

For the foregoing reasons, I have signed S. 40 into law. I look forward to following SCDOT's ongoing efforts to foster constructive communication, collaboration, and compromise. I trust that all involved will work diligently to identify and implement a mutually beneficial solution and ensure that the public has a right to access its beaches in a manner that does not unduly burden coastal communities.

Yours very truly,



Henry McMaster

cc: The Honorable Christy A. Hall
Secretary of Transportation