



Administration and Finance Committee

Joyce Dickerson	Paul Livingston	Greg Pearce (Chair)	Jim Manning	
District 2	District 4	District 6	District 8	

April 26, 2016 - 6:00 PM

2020 Hampton Street

Call to Order

Approval of Minutes

- 1 Administration and Finance Committee Meeting: March 22, 2016 [PAGES 4-8]

Approval of Agenda

Items for Action

- 2 Finance Department: Departments Projected to be over budget for FY16 [PAGES 9-12]
- 3 Council Motion Regarding Hospitality Tax Revenue [PAGES 13-17]
- 4 Emergency Services Department – Fire Tanker Truck Purchase [PAGES 18-21]

- 5 Conservation Department: Project Agreement with City of Columbia for Owens Field Park Construction [PAGES 22-51]
- 6 Conservation Department - Conservation Easement Acquisition Costs [PAGES 52-55]
- 7 Conservation Department - County Acquisition of Forfeited Land Parcel [PAGES 56-60]
- 8 County Administration Building and County Public Health Building Flooring Contract [PAGES 61-64]
- 9 Council Motion Regarding the Release of Funds [PAGES 65-97]
- 10 Council Motion Regarding the Human Resources Director reporting to the County Administrator [PAGES 98-110]

Items Pending Analysis: No Action Required

- 11 Motion to Expand Staff Recruitment Efforts [PAGES 111]
- 12 Changes to Policy on Requiring Employees to Sign Documents [PAGE 112]

Adjournment



Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.

RICHLAND COUNTY COUNCIL SOUTH CAROLINA

ADMINISTRATION & FINANCE COMMITTEE

March 22, 2016
6:00 PM
County Council Chambers

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building

CALL TO ORDER

Mr. Pearce called the meeting to order at approximately 6:01 PM

APPROVAL OF MINUTES

Regular Session: February 23, 2016 – Mr. Livingston moved, seconded by Mr. Manning, to approve the minutes as distributed. The vote in favor was unanimous.

ADOPTION OF AGENDA

Mr. Manning moved, seconded by Ms. Dickerson, to adopt the agenda as published.

Mr. Pearce requested to move Item #10: "Council Motion Regarding the Human Resource Director reporting to the County Administrator" and make it Item #9 to allow both of the Executive Session items to be taken up at the same time.

Mr. Manning moved, seconded by Ms. Dickerson, to adopt the agenda as amended. The vote in favor was unanimous.

ITEMS FOR ACTION

Council Motion Regarding the Utilization of a Special Tax District – Mr. Pearce stated he is bringing forward a request from the Upper Rockyford Lake Homeowners' Association to assist with repairing the dam. This is not intended to be a solution for all the dams in Richland County. It is an option that could be presented for those homeowners' associations who wish to participate.

Basically this would create a special tax district consisting of identified parcels, which the homeowners' association would identify. The residents would present an Election Commission certified petition to Council requesting that a referendum be conducted. Council will then vote to allow the referendum. If the referendum passes, Council will take another vote on whether or not to set up the special tax district. If the special tax district is approved, a commission will be established and initiate a MOU to cover the costs. All costs are to be covered by the homeowners' association.



Council Members Present

Greg Pearce, Chair
District Six

Joyce Dickerson
District Two

Paul Livingston
District Four

Jim Manning
District Eight

Others Present:

Bill Malinowski
Norman Jackson
Torrey Rush
Julie-Ann Dixon
Tony McDonald
Kevin Bronson
Warren Harley
Brandon Madden
Michelle Onley
Larry Smith
Roxanne Ancheta
Daniel Driggers
Kim Roberts
Brad Farrar
Valeria Jackson
Ismail Ozbek
Quinton Epps
Nancy Stone-Collum
Liz McDonald

Administration & Finance Committee
Tuesday, March 22, 2016
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Mr. Manning inquired if the referendum would be voted on by the whole County.

Mr. Pearce stated only those identified parcels would be able to vote on the referendum.

Mr. Manning inquired if this item parallels Representative Bernstein and Representative Finlay's proposed bill.

Mr. Lawrence Flynn, Upper Rockyford Lakes homeowners' association's attorney, stated he had met with Representative Bernstein and the proposed bill is substantially similar to the legislation to be utilized for the special tax district. Mr. Flynn requested Representative Bernstein to adjourn debate on the bill. The debate on the bill was adjourned, but the adjourned status has subsequently been removed because there is possibly a funding mechanism.

Ms. Dickerson inquired if this is based on the distress of the particular parcels.

Mr. Flynn stated the residents are trying to figure out a funding mechanism to repair their dam. A member of the Upper Rockyford Lake Homeowners' Association approached Mr. Flynn to assist them with figuring out a way to finance the reconstruction of their dam.

The Upper Rockyford Homeowners' Association has come in as a petitioner in order to create this special tax district. Under State law it allows a group of interested petitioners to create a "special taxing district" for limited government purposes. The limited government purpose they intend to do is to put on taxes, in order to rebuild their dam. Of the 61 parcels, 15% of the registered votes are required to petition Council to authorize a referendum to be held on the decision on whether or not to create the district.

On April 5th, the Upper Rockyford Homeowners' Association will be requesting a resolution on Council to authorize a special referendum to be held on the question of whether or not to create a special tax district solely for the benefit of these 61 homes. The 61 homes are the only people authorized to vote for the petition and it will only appear on their tax bills.

Mr. Pearce stated this is not being brought up as something unique for his district. If the concept works, it could be utilized countywide.

Mr. Rush inquired about the costs to go through this process.

Mr. Flynn stated the specific costs have not been identified. An upper limit of approximately \$10,000 has been established for the election, but he feels it will be significantly lower than that. The legal representation also has an upper limit of \$10,000.

Mr. Rush stated his concern is some communities do not have adequate financial backing; therefore, they may not be able to benefit from a program like this.

Mr. Malinowski inquired about utilizing (H4745) that was passed several years ago. The bill stated the County or municipality could create a special taxing zone. The properties do not have to be contiguous and would allow for building or rebuilding of infrastructure.

Ms. Dickerson expressed concern that not all communities may be able to afford to utilize this plan; therefore, one part of County will be treated differently than other parts of the County because they are less fortunate.

Mr. Manning requested clarification that if the referendum passed and a homeowner on the lake had not supported the referendum they are still required to pay the special tax.

Mr. Flynn answered in the affirmative.

Mr. Manning stated in essence through bonding the 61 homeowners are utilizing government bonding to borrow the money instead of utilizing a financial institution.

Mr. Flynn stated there are two tracts the homeowners are taking: (1) Pursuing the SBA loan and using the tax dollars to pay the SBA loan; or (2) Procuring a loan from a local lender and appropriate the tax dollars for that loan repayment. If the homeowners wanted to issue a bond in the name of the special tax district secured solely by the taxes that would have to come back to Council for approval.

Mr. Manning moved, seconded by Mr. Livingston, to forward to Council with a recommendation to approve the concept, with any specific application of the concept to be determined by the Council on a case by case basis. The vote was in favor.

Mr. Manning moved, seconded by Mr. Livingston, to take up the time sensitive items first and if time permits to come back to the other items. The vote in favor was unanimous.

Department of Natural Resources – Letter of Support – Mr. McDonald stated the Department of Natural Resources has purchased property off of Garners Ferry Road that has been utilized as a private shooting range and their intent is to open the shooting range up to the public. In order to do that the Department of Natural Resources has to receive approval from the local governing body to proceed.

Mr. Manning moved, seconded by Ms. Dickerson, to forward to Council with a recommendation to approve the request for a letter of support for the acquisition of approximately 131 acres in the County for the development of a public shooting range. The vote in favor was unanimous.

Conservation Department: Transfer of Grant Funds – Ms. Nancy Stone-Collum stated the Conservation Commission had given a grant to the Gills Creek Watershed Association. It was determined in early 2016 the funds were not going to be utilized for various reasons. The Owens Field project is in need of funding to get started; therefore, the Conservation Commission would like to transfer the funds from the Gills Creek Watershed Association to the Owens Field Project.

Mr. Manning moved, seconded by Mr. Livingston, to forward to Council with a recommendation to approve the request to transfer \$20,000 from FY16 grant funds for GCWA to Professional Services to use in funding trail and stormwater improvements at Owens Field in the Gills Creek watershed. The vote in favor was unanimous.

Motion to Consider Allocating Additional Funding to the Board of Voter Registration & Elections – Mr. Manning moved, seconded by Ms. Dickerson, to table this item. The vote in favor was unanimous.

Bus Shelter Easement Request – Mr. Livingston moved, seconded by Mr. Manning, to forward to Council with a recommendation to approve the request to grant an easement to the Central Midlands Regional Transit Authority (CMRTA) for the purpose of installing a bus shelter. The vote in favor was unanimous.

*The Committee went into Executive Session at approximately 6:42 p.m.
and came out at approximately 6:50 p.m.*

Conservation Department: Purchase of Parcel [EXECUTIVE SESSION] – Mr. Manning moved, seconded by Ms. Dickerson, to forward to Council with a recommendation to move forward as discussed in Executive Session. The vote in favor was unanimous.

Council Motion Regarding Adherence to County Policies [EXECUTIVE SESSION] – Mr. Manning moved, seconded by Ms. Dickerson, to forward to Council without a recommendation. The vote in favor was unanimous.

Council Motion Regarding the Human Resource Director reporting to the County Administrator – Mr. Manning moved, seconded by Mr. Livingston, to defer this item to the April committee meeting and to have staff provide a current organizational chart, as well as, a proposed organizational chart with the requested change. The vote in favor was unanimous.

Council Motion Regarding Outside Agencies using a Fiscal Agent when Receiving Hospitality Grant Funds – Mr. McDonald stated this item originated with a motion by Councilmen Malinowski and Livingston. During the budget process when Council awards Hospitality or Accommodations Tax funding, the organizations receiving the funding must be a 501(c)(3) or obtain a fiscal agent that is a 501(c)(3) to receive the funds for them.

The motion is beginning in 2018, an organization can only utilize a fiscal agent for one year. In the following year the organization must have obtained their 501(c)(3) status to be eligible to receive funding.

Mr. Manning moved, seconded by Ms. Dickerson, to forward this item to Council with a recommendation to approve the policy that beginning in 2018 all organizations that use a fiscal agent to administer grant funded project through the Hospitality Tax grant program can only do so for one fiscal year, after which they must have a 501(c)(3) tax exempt status to receive future Hospitality Tax grant funds from the County. The vote in favor was unanimous.

Council Motion Regarding the Allocation of Funding to Organizations for Multiple Years – Mr. McDonald stated the intent of the motion is outside organizations that request one-time funding are not eligible for funding for the same request in subsequent years.

Mr. Manning moved, seconded by Ms. Dickerson, to forward to Council with a recommendation to approve a policy that organizations that request discretionary funds from Council for one-time funding not be refunded for the same thing in subsequent years. The vote in favor was unanimous.

ITEMS PENDING ANALYSIS: NO ACTION REQUIRED

Finance Department: Departments Projected to be over budget for FY16 – This item was held in committee.

Changes to Policy Requiring Employees to Sign Documents – This item was held in committee.

Council Motion to Expand Staff Recruitment Efforts – This item was held in committee.

Council Motion Regarding Hospitality Tax Revenue – This item was held in committee.

ADJOURNMENT

The meeting adjourned at approximately 7:00 PM.

The Minutes were transcribed by Michelle M. Onley, Deputy Clerk of Council

Richland County Council Request of Action

Subject:

Finance Department: Departments Projected to be over budget for FY16

Richland County Council Request of Action

Subject: Finance Department: Departments Projected to be over budget for FY16

A. Purpose

Richland County Finance Department requests County Council to advise and offer direction on department budgets that are projected to exceed the appropriated amounts. The list below does not mean that other funds will not be necessary, it only includes the funding concerns that we are aware of as of this report. The departments have been contacted and each below have requested additional funds be appropriated by Council.

B. Background / Discussion

1100240000 Coroner – Projections currently show that the Coroner’s Office will be over budget **(\$600,000)**. More specifically \$250,000 of the total over budget projection is contributed to the Postmortem Pathology account. The Personnel/Retirement account is currently showing a negative balance totaling (\$9,470.16) including a projection for personnel to be over budget by (\$122,000). Coroner’s Office has requested that Council appropriated addition budget amounts to cover the shortfall.

1100210000 Detention Center – The Department has communicated that they anticipate the following deficits by yearend; Water and Sewer cost - \$200,000, Professional Services - \$218,000 and Salary - \$402,000. The total anticipated shortfall is **\$820,000**. The department did indicate that they have not been able to complete an analysis of personnel costs that may require additional funds.

1100102000 Council Services – Projections currently show that Council Services will be over budget **(\$108,000)**. The need for the request is Personnel accounts. We have seen consistent negative balances this fiscal year. The Budget department has followed up to request that budget transfers be completed to offset the negative balances. Council Services has been informed of the shortfall.

C. Legislative / Chronological History

These are staff-initiated requests. Therefore, there is no Legislative history.

D. Financial Impact

Impact is: Coroner	- \$ 600,000
Detention Center	- \$ 820,000
Council Services	- <u>\$ 108,000</u>
	\$1,528,000

Approval of additional funds would require the use of General Fund - Fund Balance as a funding source.

E. Alternatives

1. Approve the request of additional funding
2. Approve request at the amended level
3. **Do not approve the request to advise and offer direction to the departments.**

If this alternative is chosen the negative balances and the over budget patterns shown over the initial six months of FY16 will adversely increase. Furthermore, these shortfalls will eventually negatively affect payroll, benefit contributions as well as timely payments to vendors and costs for operations/services.

F. Recommendation

To approve or reject based on Council's discretion.

Recommended by: Daniel Driggers

Department: Finance

Date: February 3, 2016

G. Reviews

(Please replace the appropriate box with a ü and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendations. While "Council Discretion" may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 3/24/16

✓ Recommend Council approval

Recommend Council denial

Comments regarding recommendation: The attached ROA is a request for additional budget funds within Council discretion. The recommendation is based on our understanding is that the additional funds are required for current commitments for the departments therefore delaying until FY17 is probably not an option. Approval would require a budget amendment and would use fund balance as a funding source.

Coroner

Reviewed by: Gary Watts

Date: 3/24/16

✓ Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Council Services

Reviewed by: Michelle Onley

Date: 3/24/16

✓ Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Detention Center

Reviewed by: Ronaldo Myers

Date: 04/18/16

✓ Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Elizabeth McLean

Date: 04/19/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision left to Council's discretion.

Administration: Tony McDonald

Date: 04/19/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: I concur with the Finance Director's comments.

Approval is recommended.

Richland County Council Request of Action

Subject:

Council Motion Regarding Hospitality Tax Revenue

Richland County Council Request of Action

Subject: Council Motion Regarding Hospitality Tax Revenue

A. Purpose

County Council is requested to consider a Council motion regarding the manner in which Hospitality Tax revenue can be used.

B. Background / Discussion

At the February 9, 2016 Council meeting, Council member Malinowski brought forth the following motion:

“That Richland County request the state Legislature to eliminate the unnecessary restrictions on how Hospitality Tax revenue can be used. The Legislature has dictated that revenue from this 2 % tax on prepared meals be restricted to projects related to “tourism”. That means local governments can’t apply these funds to more pressing needs, such as road improvements. Richland County certainly faces some major infrastructure challenges, especially in the aftermath of the recent floods. If we are going to pull money from hard-working taxpayers, we should at least be able to spend it where it’s most needed. In the absence of such legislative action I move we abolish the Hospitality Tax so citizens can keep more of their money. The combined burden of the Hospitality Tax and the Transportation Tax is too much to ask people to shoulder. Certainly a proposal as this will likely stir strong feelings both for and against, but at the very least, we should have a meaningful discussion about the issue”

Article 7, Local Hospitality Tax, of South Carolina Code of Laws applies to the uses of the revenue generated by the Hospitality Tax – see below:

Article 7

Local Hospitality Tax

SECTION 6-1-700. Short title.

This article may be cited as the "Local Hospitality Tax Act".

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-710. Definitions.

As used in the article:

- (1) "Local governing body" means the governing body of a county or municipality.
- (2) "Local hospitality tax" is a tax on the sales of prepared meals and beverages sold in establishments or sales of prepared meals and beverages sold in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine.

(3) "Positive majority" means a vote for adoption by the majority of the members of the entire governing body, whether present or not. However, if there is a vacancy in the membership of the governing body, a positive majority vote of the entire governing body as constituted on the date of the final vote on the imposition is required.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-720. Imposition of local hospitality tax.

(A) A local governing body may impose, by ordinance, a local hospitality tax not to exceed two percent of the charges for food and beverages. However, an ordinance imposing the local hospitality tax must be adopted by a positive majority vote. The governing body of a county may not impose a local hospitality tax in excess of one percent within the boundaries of a municipality without the consent, by resolution, of the appropriate municipal governing body.

(B) All proceeds from a local hospitality tax must be kept in a separate fund segregated from the imposing entity's general fund. All interest generated by the local hospitality tax fund must be credited to the local hospitality tax fund.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-730. Use of revenue from local hospitality tax.

(A) The revenue generated by the hospitality tax must be used exclusively for the following purposes:

(1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

(2) tourism-related cultural, recreational, or historic facilities;

(3) beach access and renourishment;

(4) highways, roads, streets, and bridges providing access to tourist destinations;

(5) advertisements and promotions related to tourism development; or

(6) water and sewer infrastructure to serve tourism-related demand.

(B)(1) In a county in which at least nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, the revenues of the hospitality tax authorized in this article may be used for the operation and maintenance of those items provided in (A)(1) through (6) including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed fifty percent of the

revenue in the preceding fiscal year of the local hospitality tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.

HISTORY: 1997 Act No. 138, Section 9; 1999 Act No. 93, Section 14; 2006 Act No. 314, Section 2, eff June 1, 2006; 2010 Act No. 290, Section 36, eff January 1, 2011.

The Hospitality Tax, funded through a fee that was implemented in FY04, is a 2% tax on gross proceeds of sales on prepared meals and beverages, used for the dedicated purpose of improving services and facilities for tourists. Collections reflected a strong positive trend over the first few years before leveling off in FY08. Council previously suspended half of the tax; however, the 1% returned, bringing the hospitality rate back to 2%.

Amendments to the abovementioned Article could be accomplished through the State's legislative process.

C. Legislative / Chronological History

- February 9, 2016 – Motion made by Council member Malinowski

D. Financial Impact

The financial impact of this motion on the County can occur on multiple levels.

The Hospitality Tax fund is used for the payment of debt, to fund capital projects (e.g., waterpark, pinewood lake) and supports our grant program.

Amending current State law on the uses of the Hospitality Tax revenue as outlined in the motion would not necessarily have a negative fiscal impact on the County; however, abolishing the Hospitality Tax may create budget shortfalls in multiple County operations that Council will have to consider.

E. Alternatives

1. Consider the motion and proceed accordingly.
2. Consider the motion and do not proceed accordingly.

F. Recommendation

This is a policy decision for Council.

Recommended by: Bill Malinowski

Department: Council District 1

Date: 2/9/16

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While “Council Discretion” may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 4/13/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

This is a policy decision for Council of seeking legislative change.

Legal

Reviewed by: Elizabeth McLean

Date: 4/14/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision left to Council's discretion.

Administration

Reviewed by: Roxanne Ancheta

Date: April 14, 2016

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Widening the scope of allowable uses of Hospitality Tax revenues would provide the County with greater flexibility, which could prove useful in funding other items not specifically outlined in the current legislation.

It is not recommended, however, that the Hospitality Tax be abolished, as the County currently uses those revenues to fund applicable organizations, pay debt service and fund the grants program. If this source of revenue was removed, the County would have to find other sources of revenue to pay the costs associated with many of these items.

Richland County Council Request of Action

Subject:

Emergency Services Department – Fire Tanker Truck Purchase

Richland County Council Request of Action

Subject: Emergency Services Department – Fire Tanker Truck Purchase

A. Purpose

The purpose of this request is to obtain Council approval award the bids for the purchase of four (4) demo/stock tankers to Spartan (Peirce) in the amount of \$886,052. Funding will come from the Emergency Services budget. No additional funds are needed.

B. Background / Discussion

County Council provided funding in the 2015-2016 budget for replacement tanker trucks. During the flood, six “dry hydrants” were lost in the rural areas. Dry hydrants are pipes that have been placed into ponds and streams to provide a water source used for fighting fires. These are critical to our ISO public protection classification rating. It is important to provide a short-term solution to move water to areas hit by the flood, or in areas that do not have a water system or standard fire hydrants. A component of our recovery strategy is to increase the number of tankers in these areas until dry hydrants are re-established.

In November 2015, Richland County began the procurement process to purchase tanker trucks. The bid request asked for alternative bids for demos and stock vehicles to reduce costs and reduce the delivery time. The industry standard for delivery of new vehicles built to specifications can be up to 300 days. (10 months). After reviewing the bids, the lowest responsible and responsive bidder was Spartan (Pierce). As an alternative bid, they proposed four (4) stock/demo tankers with immediate delivery. The five manufacturers that placed bids are listed below. The advantage of selecting the stock/demo truck option is that it provides a quick delivery time for less money per truck. The trucks are available on a first come - first purchase basis. This purchase is time sensitive.

Ferrara

Custom Built...309,950.00
Stock.....281,067.00

Fire Line

Custom Built...282,099.00
Stock.....258,000.00

Safe Ind.

Custom Built....240,772.50
Stock.....235,000.00

Rosenbauer

Custom Built...242,124.00
Stock.....None

Pierce / Spartan

Custom Built....285,573.00
Stock.....221,213.00 (4 Available)

C. Legislative / Chronological History

- 07/01/2012 Current Fire Intergovernmental Agreement became effective.
- 07/01/2015 Funding provided in 2015-2016 Budget.
- 10/04/2015 Flood resulted in damage to “dry hydrants”/ water shortage in some areas.
- 11/06/2015 Specifications put out for Bid
- 01/21/2016 Bid responses received
- 03/14/2016 Bid review completed
- 03/28/2016 ROA prepared for Council Committee

D. Financial Impact

This purchase was planned and the funding to purchase the four (4) tankers is available in the Emergency Services Department budget so no additional funds are needed. (ESD 1206220000-531300)

The total cost of the four demo/stock tankers:

\$ 884,852	Four Tankers	(\$221,213 x 4)
\$1,200	Tax	(\$300 x 4)
<hr style="border-top: 1px dashed black;"/>		
\$ 886,052	Total	

E. Alternatives

1. Approve the request to award the bids for the purchase of the four (4) demo/stock tankers to Spartan (Peirce).
2. Do not approve the request purchase demo/stock trucks, and purchase trucks using the specifications in the bid.
3. Do not approve the request to award the bids and re-initiate the purchasing process.

F. Recommendation

It is recommended that Council award the bid to Spartan (Pierce) for four (4) demo/stock tankers in the amount of \$886,052. Due to the limited availability of the trucks, Council is asked to “clinch” this action.

Recommended by: Michael A. Byrd, Director
 Department: Emergency Services
 Date: March 28, 2016

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Finance

Reviewed by: Daniel Driggers

Date: 3/31/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Funds are appropriated as stated and request is consistent with budget.

Procurement

Reviewed by: Cheryl Patrick

Date: 4/8/2016

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Elizabeth McLean

Date: 4/8/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision left to Council's discretion.

Administration

Reviewed by: Kevin Bronson

Date: 4/8/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Richland County Council Request of Action

Subject:

Conservation Department: Project Agreement with City of Columbia for Owens Field Park Construction

Richland County Council Request of Action

Subject: Conservation Department: Project Agreement with City of Columbia
for Owens Field Park Construction

A. Purpose

Council is requested to approve a Project Agreement with the City of Columbia for the transfer of \$240,065 from the Conservation and Stormwater Department budgets as well as \$170,000 of SCDHEC reimbursable funds to the City of Columbia for construction of the Owens Field Park project.

B. Background / Discussion

Richland County Conservation Commission (RCCC) first became involved with the Rosewood Community's efforts to improve the walking trails at Owens Field Park in 2012. Upon evaluation, it became clear that without major stormwater improvements the trails would continue to erode and deteriorate.

Bids were requested and Fuss & O'Neill was selected to design Stormwater Best Management Practices (BMPs) and trail improvements. Gills Creek Watershed Association (GCWA) applied to SC Department of Health and Environmental Control (SCDHEC) with the support of RCCC and was awarded a \$170,000 grant for stormwater improvements.

Although owned by the county, Owens Field Park, (TMN 13702-01-30), is leased to the City of Columbia. Portions of the project are also located on Richland School District One property. Agreements were signed between the district and county on November 11, 2014 and between the city and county on December 3, 2014, specifying the trail and stormwater work to be done (in Appendix).

Last year the city announced plans to add a Miracle Field, new parking, and turf improvements at the park. It seemed beneficial to join forces on the project so that one contractor would handle both projects at the park, thus saving time and money. A request for bids was issued jointly in December.

The low bid for the county portion of the project was \$70,000 more than RCCC had budgeted. Staff explored ways to reduce the scope of work and reallocate funds. On April 5, 2016 County Council approved a request to transfer grant funds in the amount of \$20,000 that were already allocated to GCWA into this project.

The bid expired because all of the city and county approvals were not in place within the time allowed. A new bid will be re-issued soon with the agreed upon changes in the scope and materials to reduce the cost. The additional funding and changes in the scope of the project will provide sufficient funds for the trail and stormwater segment of the project. Due to numerous delays, project timing is critical as the work on the BMPs must be completed and invoiced to SCDHEC before January 2017 or the \$170,000 from this grant will be lost.

Based on a Transportation Penny project agreement between the city and the county for the Vista Greenway Phase II, a project agreement (in Appendix) for the city to procure the contractor and to administer the funds for the county portion of the Owens Field Park project has been developed by city, GCWA, and county staff. Legal departments of both city and county have been given the agreement with approval contingent upon their review. The agreement calls for the city to procure the contractor and administer the \$485,065 county portion of the project. Of that amount, \$240,065 will come from Richland County – \$160,085 from RCCC and \$80,000 from Stormwater. GCWA will provide \$75,000 and the SCDHEC grant fund reimbursement will be transferred to the city. A summary of the funding sources is provided below in Section D. Financial Impact.

C. Legislative / Chronological History

- August 16, 2013 - Bid from Fuss & O’Neill accepted
- November 13, 2013 - Award of 319 Grant from SCDHEC to GCWA
- November 11, 2014 - Agreement signed between County and School District One
- December 3, 2014 - Agreement signed between County and City
- December 2015 - Joint bid issued
- February 18, 2016 - Conference with lowest bidder
- March 2016 - Bid expired
- April 5, 2016 - Council approved transfer of GCWA grant funds to Owens Field project

D. Financial Impact

Funding sources for the project in the FY2016 Budget are outlined below:

Funding	Source
\$160,065.00	RC Conservation Commission
\$ 80,000.00	RC Stormwater (from City of Cola)
\$ 25,000.00	GCWA (from RC Stormwater)
\$ 50,000.00	GCWA (from City of Cola)
\$170,000.00	DHEC 319 Grant
\$485,065.00	TOTAL

The financial impact of this request to the County is \$240,065. No new funding is being requested as these funds have already been allocated to the impacted Departments.

Staff is requesting these funds be transferred to the City to be utilized for the completion of the County’s portion of this project.

E. Alternatives

1. Approve a Project Agreement with the City of Columbia for the transfer of \$240,065 from the Conservation and Stormwater Department budgets as well as \$170,000 of SCDHEC reimbursable funds to the City of Columbia for construction of the Owens Field Park project. Approval would be contingent upon Legal review of the agreement.

2. Do not approve a Project Agreement with the City of Columbia for the transfer of \$240,065 from the Conservation and Stormwater Department budgets as well as \$170,000 of SCDHEC reimbursable funds to the City of Columbia for construction of the Owens Field Park project. Denial will jeopardize the project, the \$170,000 DHEC grant, as well as threaten the funds already expended on the design phase.

F. Recommendation

It is requested Council approve a Project Agreement with the City of Columbia for the transfer of \$240,065 from the Conservation and Stormwater Department budgets as well as \$170,000 of SCDHEC reimbursable funds to the City of Columbia for construction of the Owens Field Park project.

Recommended by: Quinton Epps

Department: Conservation

Date: April 7, 2016

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While “Council Discretion” may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 4/14/16

✓ Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Recommendation is based on previous project approval. County funding of \$240,065 is available as mentioned.

Procurement

Reviewed by: Cheryl Patrick

Date: 0-4/15/2016

✓ Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Elizabeth McLean

Date: 04/22/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision left to Council’s discretion.

Legal has suggested changes to the document including outlining the responsibilities of the three parties. We ask that if this is approved, that Legal be allowed to continue

to work with Conservation on the agreement to make sure that it protects the County's interests.

Administration

Reviewed by: Warren Harley

Date: 4/22/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Appendix

PROJECT AGREEMENT

This Agreement entered into this ____ day of _____, 2016, by and between Richland County, South Carolina (the "County"), the City of Columbia, South Carolina (the "City"), and the Gills Creek Watershed Association (the "GCWA"), South Carolina.

WITNESSETH THAT:

WHEREAS, the County owns Owens Field Park, tax map number R13702-01-30, which it leases to the City for a park and has entered into an agreement dated December 3, 2014 to collaborate on trail improvements and stormwater best management practices; and

WHEREAS, the County and GCWA partnered with the City to procure one contractor to handle both City and County projects at Owens Field in order to reduce project costs; and

WHEREAS, the County and GCWA wish to authorize the construction and improvements of the aforesaid Project in accordance with the plans prepared for the County (the "Project Plans") as illustrated in Attachment A; and within the budget (the "Project Budget") as shown on Attachment B;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants herein set forth, the County, GCWA, and the City agree as follows:

1. The County and GCWA hereby acknowledge that the Project Plans will be bid through the City's procurement process. Once the bidding process is completed no further action or approvals are needed with the exception of final award approval from the City Council for construction. The County further acknowledges that the Project Budget is accurate and sufficient to complete the Project Plans.

2. The County and GCWA hereby consent to the construction of or improvements to the aforesaid Project within the City corporate limits in accordance with the Project Plans and within the Project Budget. The foregoing consent shall be the sole approval necessary from the County for the City to complete the Project under the Project Plans and within the Project Budget and also constitutes a waiver of any and all other requirements with regard to this construction and improvements within the City's limits. The foregoing waiver and consent shall also apply to the construction companies engaged in constructing the Project in accordance with the Project Plans and within the Project Budget.

3. The County and GCWA can provide up to \$485,065.00 toward the cost of the Project from the budget sources detailed in Attachment B. The City, does not guarantee completion of the Project within the Project Budget. If actual construction costs as reflected in the low bid are over budget, the City will work with the County and GCWA to revise the Project Plans as necessary to bring the cost within the funds currently allocated for the project.

4. If, after contractor award or during construction, circumstances arise or conditions are discovered which cause the Project Budget to be insufficient to complete the Project, the City shall not be responsible for obtaining and providing additional funding. In such case, the City will cooperate with the County and GCWA in revising the Project Plans as necessary to complete the Project within the Project Budget. In no event will the City be required to provide any funds over and above the amount reflected in the Project Budget.

5. The City may, in its sole discretion, authorize change orders that it deems necessary to complete the Project so long as such change order is within the scope of the Project Plans and the Project Budget after Notice of Proceed is issued.

6. Upon completion of the Project, and inspection of the Project proving the new facilities are in accordance with plans and specifications, the City will accept the Project and all improvements associated therewith and shall permanently operate and maintain the Project as a public park within the City. The County has no obligation to operate or maintain the Project after its acceptance by the City.

7. The parties hereby acknowledge that they have reviewed this Agreement and concur that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of any provision of this Agreement.

8. If any provision of this Agreement or any obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, obligation, or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

9. This Agreement may be executed in several counterparts, all or any of such shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

10. This Agreement and the December 3, 2014 agreement represents the entire and integrated agreement between the County and the City and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to the Project.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Printed Name: W. Anthony McDonald
Title: County Administrator

City of Columbia, South Carolina

By: _____
Printed Name: Teresa Wilson
Title: City Manager

Gills Creek Watershed Association

By: _____
Printed Name:
Title:

STATE OF SOUTH CAROLINA) AGREEMENT BETWEEN RICHLAND
) COUNTY, SC AND CITY OF
RICHLAND COUNTY) COLUMBIA, SC

(Owens Field Area Stormwater Management)

THIS AGREEMENT entered into this 3rd day of DECEMBER, 2014, is by and between Richland County, South Carolina (hereinafter "County") and the City of Columbia, South Carolina (hereinafter "City").

RECITALS

WHEREAS, the parties have collaborated to improve the trail and stormwater management system in the areas of the Memorial Stadium and Owens Field Park; and

WHEREAS, the parties have agreed to enter into a collaborative agreement in which the County will be the lead agency and named applicant and the City will be a partner in this project; and

WHEREAS, the parties hereto desire to enter into an Agreement setting forth the services and responsibilities to be provided by the collaboration;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Description of the Stormwater Best Management Practices to be implemented through this Agreement.
 - a. Two above ground bioretention areas shall be constructed on the Richland District One's Memorial Stadium property (TMS R13703-01-01A) to intercept stormwater being discharged from the property. Grassed swales will capture and convey the stormwater at several existing pipe ends to bioretention basins to improve stormwater quality and reduce the total volume of runoff via increased infiltration. Overflow during large rainfall events will be discharged via outlet structures to the existing drainage (ditch) system on the adjacent Owens Field Park parcel owned by the County (TMS R13702-01-30). A third above ground bioretention area will be constructed on County property for infiltration and conveyance of stormwater to the City's existing detention basin at the park entrance on Jim Hamilton Blvd.
 - b. Grassed swale #1 will be located at the edge of the property line between TMS R13703-01-01A and TMS R13702-01-30. The swale will be approximately 3 feet in depth, 20 feet in width, and 550 feet in length.
 - c. Bioretention Area #1 will consist of a grassed basin approximately 5 feet in depth, 80 feet in width, and 300 feet in length adjacent to the Softball Field. Bioretention Area #1 shall be enclosed by a chain link fence no less than 6 feet in height with a gate to allow maintenance access.

d. Bioretention Area #2 will consist of a grassed swale and basin approximately 4 feet in depth, 40 feet in width, and 700 feet in length adjacent to the Baseball Field and the existing gravel driveway.

e. Bioretention Area #3 will consist of a grassed basin approximately 3 feet in depth, 30 feet in width, and 1100 feet in length adjacent to the existing gravel road and the soccer fields.

2. Description of Trail and Road Improvements to be implemented through this Agreement.

a. The existing gravel access drive behind the Baseball Field terminating at the Boys Club of Greater Columbia parcel (TMS R13703-01-02B) will be re-graded and paved to minimize sediment delivery to Bioretention Area #2.

b. The existing Trail #1 from the Memorial Stadium parking lot to Owens Field Park will be improved and rerouted to provide ADA access. A new Trailhead #1 will be re-graded and paved with an ADA-compliant surface. Surface flow from the Memorial Stadium parking lot and trailhead #1 will be re-directed into Grassed Swale #1 and conveyed to Bioretention Area #1. A new Trailhead #2 shall be constructed adjacent to the skate park parking lot to provide ADA access to Trail #1.

c. The remaining existing trails from the skate park to the Boys Club to Trailhead #3 near South Ott Road shall be improved with steps on slopes where necessary. It shall consist of natural trail surfacing with approximately seven wooden bridges to span both drainage swales and Bioretention Area #3.

3. The County shall:

Contract with a vendor to design and construct the BMPs, as described in paragraph 1 above and as shown on the attached plan (Figure 1), as well as the trail and road improvements described in paragraphs 2.b. and 2.c., above. The County shall be solely responsible for the funding required to implement the design and construction required in this paragraph 4.

At the completion of construction, as determined by the County, the County shall notify the other parties that construction is complete, that the County's responsibilities under the Agreement have been satisfied, and that all maintenance responsibilities described herein shall commence immediately. Provided, however, that such maintenance responsibilities will not commence until such time as the County has provided to the City as-built drawings for the completed project and the City has approved, in writing, that the construction has been completed in accordance with the plans.

4. The City shall:

Maintain any and all structural components of the BMPs, trails and trail accessories described herein and shown in the highlighted and cross-hatched area in Figure 1, which is attached hereto and incorporated by reference herein, such that they function properly for their useful physical life. Such maintenance responsibilities of the City shall immediately cease in the event the City no longer owns, leases, or subleases the property described herein, or in the event the property described herein is no longer owned by Richland School District One or the County.

5. Timeline.

The anticipated timeline for the design and construction is January 2014 through June 2016. The County shall promptly notify the City of any substantial deviation from the anticipated timeline.

6. Representations, Warranties and Covenants.

Each party to this Agreement represents and warrants that:

- a. it has full legal right, power and authority to enter into this Agreement and to perform and consummate all other transactions contemplated by this Agreement.
- b. it has duly authorized the execution, delivery and performance of its obligations under this Agreement and the taking of any and all actions as may be required on the part of each party to perform and consummate the transactions contemplated by this Agreement.
- c. this Agreement constitutes a legal, valid and binding obligation of each party, enforceable in accordance with its terms.
- d. there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, public board, or body, pending or, to the best of the knowledge of each party, threatened against any party, nor to the best of the knowledge of each party is there any basis therefore, which in any manner questions the powers of each party to this Agreement, or the validity of any proceedings taken by either party or its governing body in connection with this Agreement or wherein any unfavorable decision, ruling, or finding could materially adversely affect the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforcement of this Agreement (or of any other instrument required or contemplated for use in consummating the transactions contemplated thereby and hereby).

7. Miscellaneous Provisions.

IN WITNESS WHEREOF, WE THE UNDERSIGNED have signed and sealed on the date first above written.

RICHLAND COUNTY

Tony McDonald

Its: County Administrator

WITNESSES:

Ashley C. Myers

Gregory Wise

CITY OF COLUMBIA

Teresa Wilson

Its: City Manager

WITNESSES:

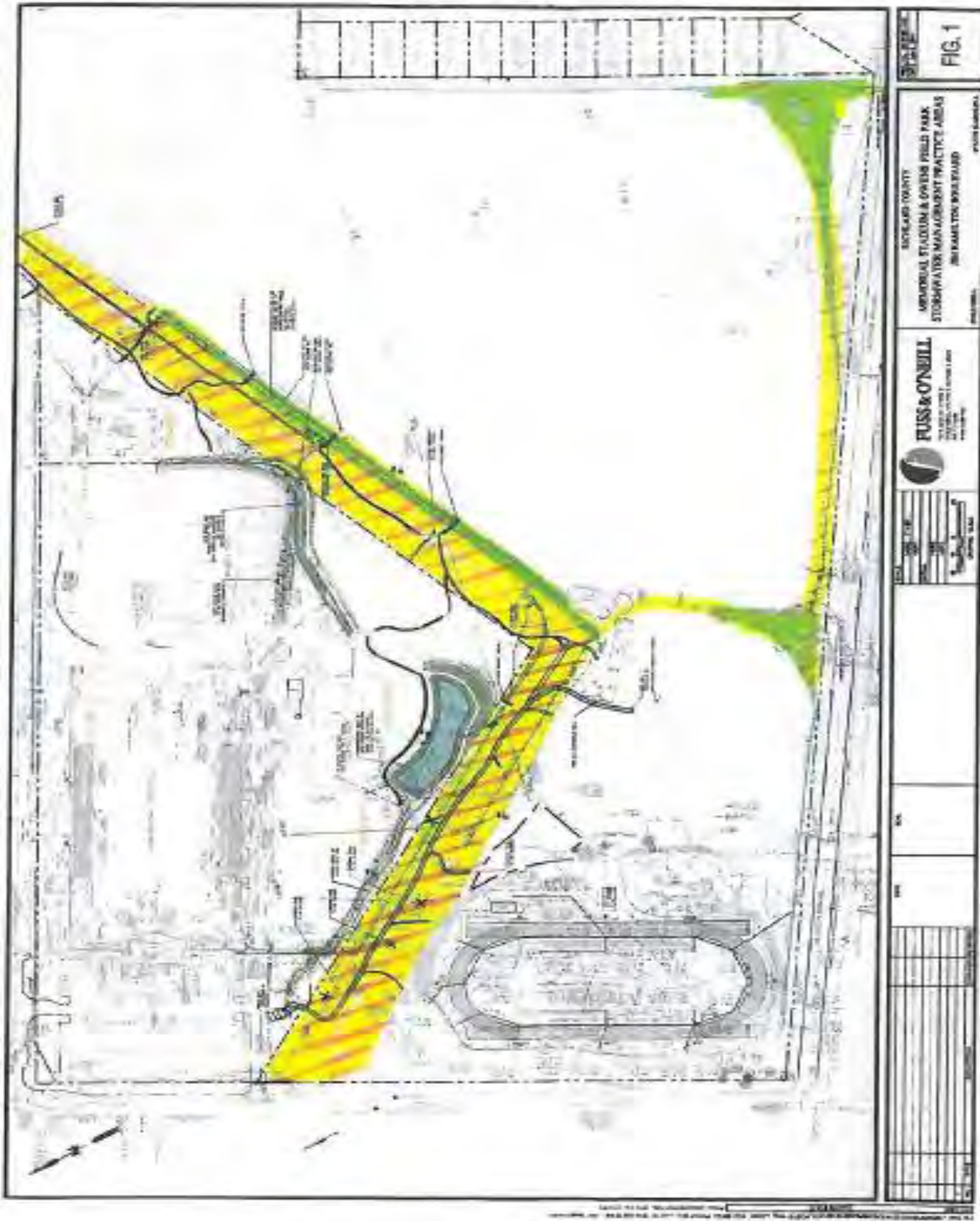
Ashley C. Myers

Gregory Wise

Richland County Attorney's Office

B. J. Brown 10/29/14

Approved As To LEGAL Form Only
No Opinion Rendered As To Content



STATE OF SOUTH CAROLINA) AGREEMENT BETWEEN RICHLAND
) COUNTY, SC AND RICHLAND COUNTY
) SCHOOL DISTRICT ONE

RICHLAND COUNTY

(Owens Field Area Stormwater Management)

THIS AGREEMENT entered into this 11th day of November, 2014, is by and between Richland County, South Carolina (hereinafter "County") and Richland County School District One (hereinafter "District).

RECITALS

WHEREAS, the parties have collaborated to improve the trail and stormwater management system in the areas of the Memorial Stadium and Owens Field Park; and

WHEREAS, the parties have agreed to enter into a collaborative agreement in which the County will be the lead agency and named applicant and the District will be a partner in this project; and

WHEREAS, the parties herein desire to enter into an Agreement setting forth the services and responsibilities to be provided by the collaboration;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Description of the Stormwater Best Management Practices to be implemented through this Agreement.
 - a. Two above ground bioretention areas shall be constructed on the District's Memorial Stadium property (TMS R13703-01-01A) to intercept stormwater being discharged from the property. Grassed swales will capture and convey the stormwater at several existing pipe ends to bioretention basins to improve stormwater quality and reduce the total volume of runoff via increased infiltration. Overflow during large rainfall events will be discharged via outlet structures to the existing drainage (ditch) system on the adjacent Owens Field Park parcel owned by the County (TMS R13702-01-30). A third above ground bioretention area will be constructed on County property for infiltration and conveyance of stormwater to the City's existing detention basin at the park entrance on Jim Hamilton Blvd.
 - b. Grassed swale #1 will be located at the edge of the property line between TMS R13703-01-01A and TMS R13702-01-30. The swale will be approximately 3 feet in depth, 20 feet in width, and 550 feet in length.
 - c. Bioretention Area #1 will consist of a grassed basin approximately 5 feet in depth, 80 feet in width, and 300 feet in length adjacent to the Softball Field. Bioretention Area #1 shall be enclosed by a chain link fence no less than 6 feet in height with a gate to allow maintenance access.

- d. Bioretention Area #2 will consist of a grassed swale and basin approximately 4 feet in depth, 40 feet in width, and 700 feet in length adjacent to the Baseball Field and the existing gravel driveway.
 - e. Bioretention Area #3 will consist of a grassed basin approximately 3 feet in depth, 30 feet in width, and 1100 feet in length adjacent to the existing gravel road and the soccer fields.
 2. Description of Trail and Road Improvements to be implemented through this Agreement.
 - a. The existing gravel access drive behind the Baseball Field terminating at the Boys Club of Greater Columbia parcel (TMS R13703-01-02B) will be re-graded and paved to minimize sediment delivery to Bioretention Area #2.
 - b. The existing Trail #1 from the Memorial Stadium parking lot to Owens Field Park will be improved and rerouted to provide ADA access. A new Trailhead #1 will be re-graded and paved with an ADA-compliant surface. Surface flow from the Memorial Stadium parking lot and trailhead #1 will be re-directed into Grassed Swale #1 and conveyed to Bioretention Area #1. A new Trailhead #2 shall be constructed adjacent to the skate park parking lot to provide ADA access to Trail #1.
 - c. The remaining existing trails from the skate park to the Boys Club to Trailhead #3 near South Ott Road shall be improved with steps on slopes where necessary. It shall consist of natural trail surfacing with approximately seven wooden bridges to span both drainage swales and Bioretention Area #3.
 3. The District shall:
 - A. Permit the construction of the property/stormwater enhancements as described in paragraphs 1 and 2 above (approximately 1.75 acres) and as shown on the attached plan entitled Figure 1 dated July 9, 2014, to be used for Stormwater Best Management Practices (BMPs), including an above ground bioretention system along with accompanying swales and slopes, as well as trails and trail accessories. The actual construction and final product shall be as defined in the final approved plans.
 - B. Maintain the herein described BMPs and other features located within the District's property boundaries such that they function properly at all times, to include mowing of grass in and surrounding the Stormwater Management Areas, for their useful physical life.
 - C. Regrade and pave the gravel access drive, as described in paragraph 2.a. above, prior to the construction and installation of Bioretention Area #2.
 4. The County shall:

Contract with a vendor to design and construct the BMPs, as described in paragraph 1 above and as shown on the attached plan (Figure 1), as well as the trail and road improvements described in paragraphs 2.b. and 2.c., above. The County shall be solely responsible for the funding required to implement the design and construction required in this paragraph 4.

At the completion of construction, as determined by the County, the County shall notify the District that construction is complete, that the County's responsibilities under the Agreement have been satisfied, and that all maintenance responsibilities described herein shall commence immediately.

At the completion of construction, all structural components installed, pursuant to this Agreement, on property owned by the District, shall immediately become the property of the District. The County agrees to execute any documents necessary to transfer ownership of such structural components, if so requested by the District.

- a) To the extent permitted by state law and subject to the provisions of the South Carolina Tort Claims Act, the County agrees to indemnify and hold harmless the District from any and all liability, damage, expense, causes of action, suits, claims or judgment arising from injury to person(s) or personal property or otherwise which arises out of the act, failure to act, or negligence of the County and its employees, in connection with or arising out of the activities encompassed by this Memorandum of Agreement.

5. Timeline.

The anticipated timeline for the design and construction is January 2014 through June 2016. The County shall promptly notify the District of any substantial deviation from the anticipated timeline.

6. Representations, Warranties and Covenants.

Each party to this Agreement represents and warrants that:

- a. it has full legal right, power and authority to enter into this Agreement and to perform and consummate all other transactions contemplated by this Agreement.
- b. it has duly authorized the execution, delivery and performance of its obligations under this Agreement and the taking of any and all actions as may be required on the part of each party to perform and consummate the transactions contemplated by this Agreement.
- c. this Agreement constitutes a legal, valid and binding obligation of each party, enforceable in accordance with its terms.
- d. there is no action, suit, proceeding, inquiry or investigation at law or in equity

before or by any court, public board, or body, pending or, to the best of the knowledge of each party, threatened against any party, nor to the best of the knowledge of each party is there any basis therefore, which in any manner questions the powers of each party to this Agreement, or the validity of any proceedings taken by either party or its governing body in connection with this Agreement or wherein any unfavorable decision, ruling, or finding could materially adversely affect the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforcement of this Agreement (or of any other instrument required or contemplated for use in consummating the transactions contemplated thereby and hereby).

7. Miscellaneous Provisions.

a. This Agreement contains the entire agreement of the parties, and no prior agreements, oral or otherwise, among the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon all of the parties hereto unless such amendment is in writing and executed by all parties hereto.

b. This Agreement may be executed in multiple counterparts, the signature pages of which may be compiled to constitute one original Agreement.

c. This Agreement is intended to be performed in compliance with all applicable laws, ordinances, rules and regulations. If any of the provisions of this Agreement or the application thereof shall be invalid or unenforceable, then the remainder of this Agreement shall not be affected thereby but shall be enforced to the greatest extent permitted by the law.

d. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina without giving effect to any choice or conflict of law provision or rule of any jurisdiction that would cause the application of the laws of any jurisdiction other than the State of South Carolina.

e. The parties hereto expressly agree that this Agreement in no way creates any agency relationship between the parties or any relationship which would subject either party to any liability for any acts or omissions of the other party to this Agreement.

8. Notices.

Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been fully given as of the date and time the same are sent by facsimile transmission, nationally recognized overnight delivery service or

registered or certified mail, return receipt requested, and addressed to the parties as follows:

To Richland: Richland County Administrator
 PO Box 192
 Columbia, SC 29202

To District: Richland School District 1 Superintendent
 1616 Richland Street
 Columbia, SC 29201

IN WITNESS WHEREOF, WE THE UNDERSIGNED have signed and sealed on the date first above written.

RICHLAND COUNTY

Tony McDonald

Its: County Administrator

WITNESSES:

Adrienne Gentry

Wynne Wise

RICHLAND COUNTY
SCHOOL DISTRICT ONE

Ashton Bishop

Its: Board Chairman

WITNESSES:

Ed [Signature]
[Signature]

Cynthia Cash-Greene

Its: Interim Superintendent

Ed [Signature]
[Signature]

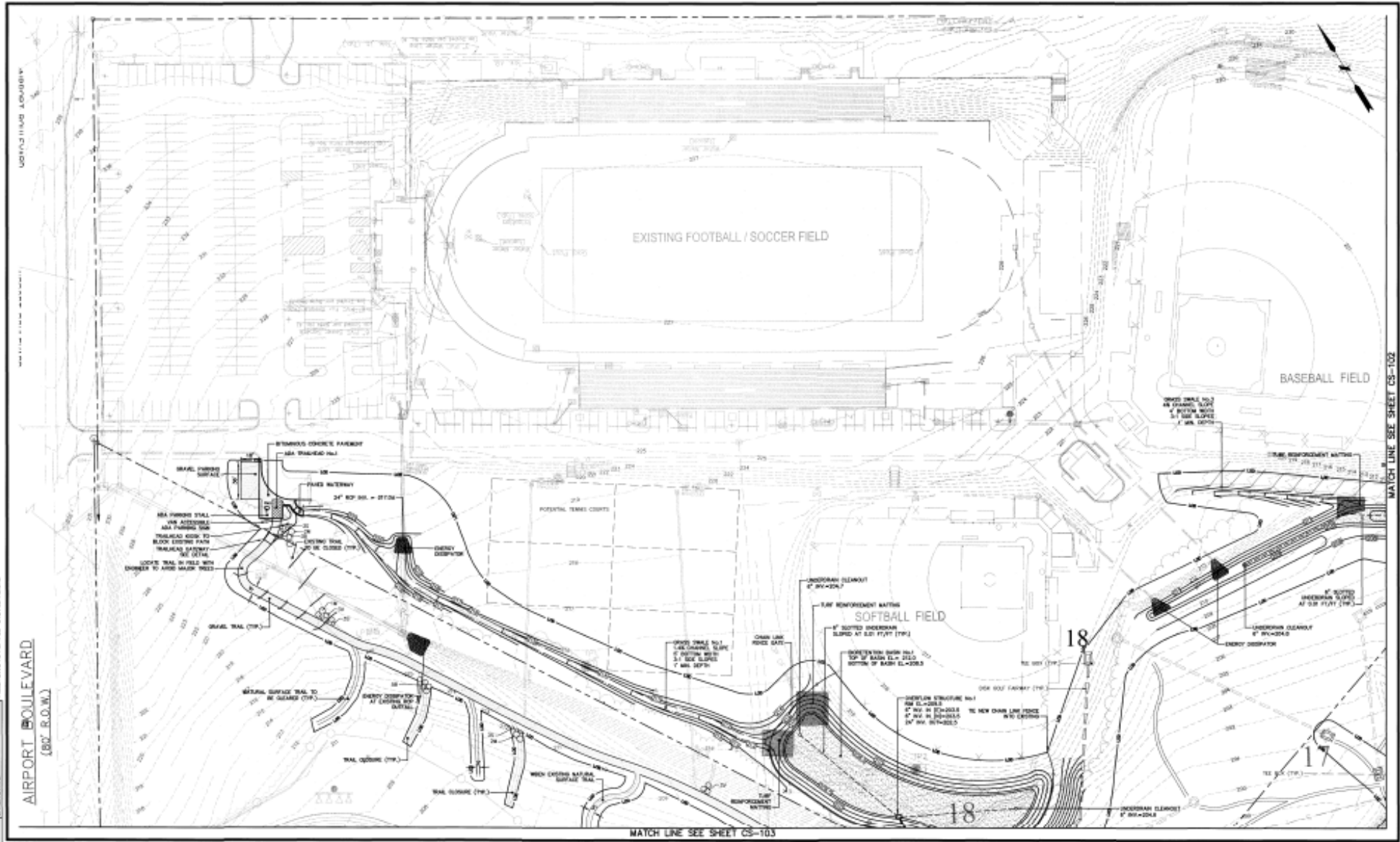
Richland County Attorney's Office

[Signature] 10/22/14

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

ATTACHMENT A

Project Plans For Owens Field Trail Improvements and Stormwater Best Management Practices



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 CS-101

NO.	DATE	DESCRIPTION	DESIGNER	REVIEWER
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2	8/15/2013	ISSUED FOR PERMITTING	AGF	BSH
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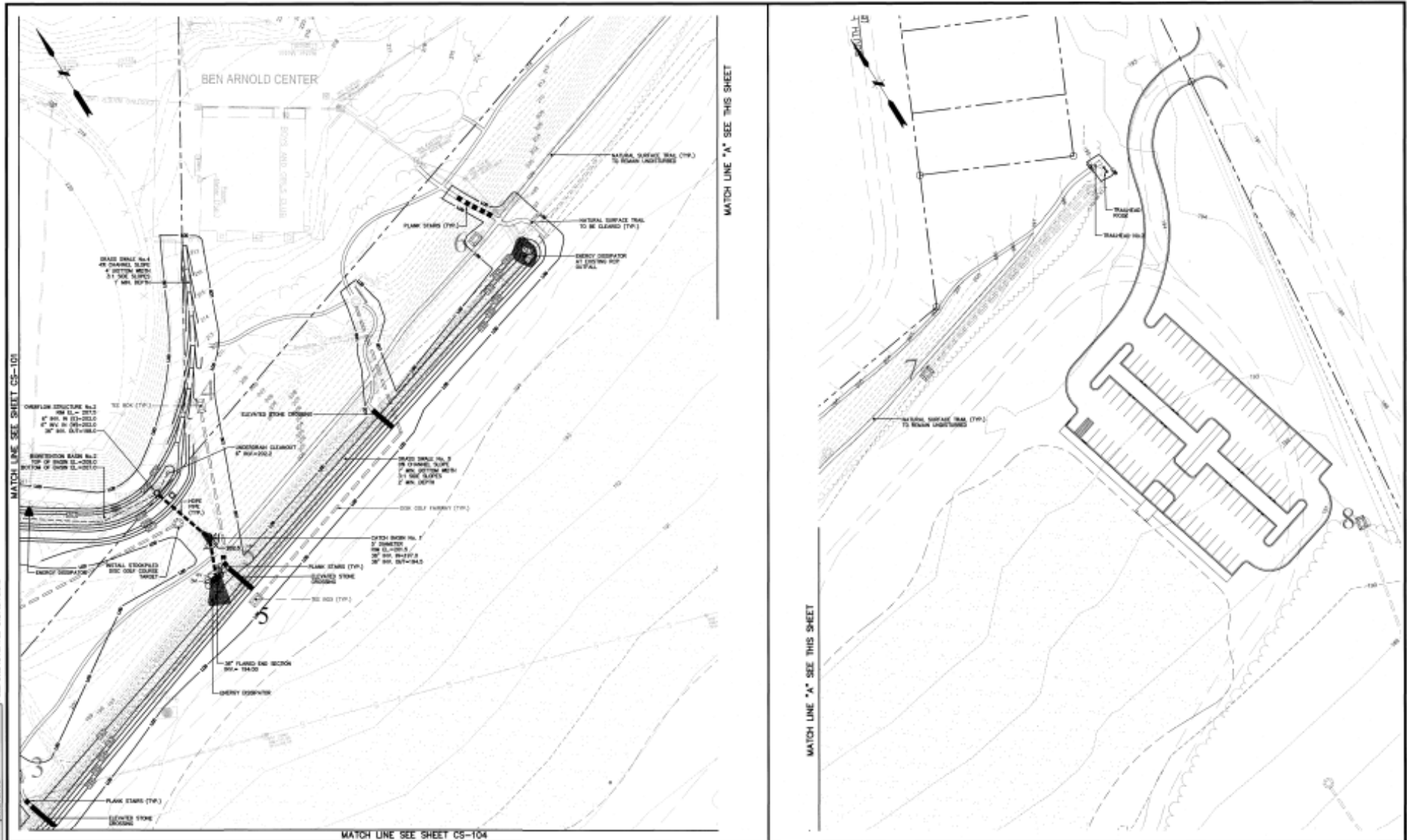


SCALE	HORIZ. 1" = 40'
VERTICAL	1" = 10'
GRAPHIC SCALE	0 20 40

f FUSS & O'NEILL
 771 LIND SE, SUITE B
 COLUMBIA, SOUTH CAROLINA 29204
 803.724.8800
 www.fuss.com

RICHLAND COUNTY
 OWENS FIELD PARK IMPROVEMENTS
 SITE PLAN No.1
 JIM HAMILTON BOULEVARD
 COLUMBIA SOUTH CAROLINA

PROJ. NO. 1303110-411
 DATE: AUGUST 2013
CS-101



File Path: J:\DWG\2020\20201112\122\122.dwg, 2020/11/12 11:31 AM, User: agomez
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 Date: 11/12/2020, Time: 11:31 AM, User: agomez

NO.	DATE	DESCRIPTION	DESIGNED	APPROVED
1	11/12/2020	ISSUED FOR BIDDING		
2	11/12/2020	ISSUED FOR PERMITTING		

SEAL

SEAL

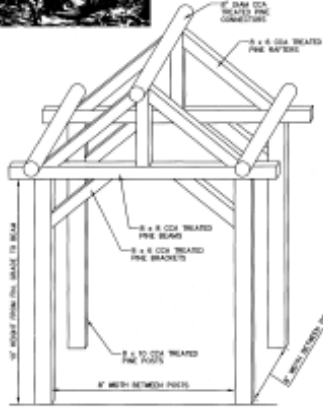
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	1" = 40'	
		1" = 10'

GRAPHIC SCALE

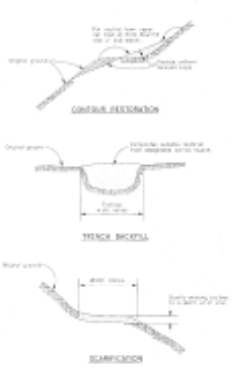
FUSS & O'NEILL
 117 LAMAR ST. SUITE E
 COLUMBIA, SOUTH CAROLINA 29208
 803.725.8274
 www.fussandoneill.com

RICHLAND COUNTY
OWENS FIELD PARK IMPROVEMENTS
 SITE PLAN No. 2
 JIM HAMILTON BOULEVARD
 COLUMBIA SOUTH CAROLINA

PROJECT NO. 2011021212
 SHEET NUMBER 002
CS-102

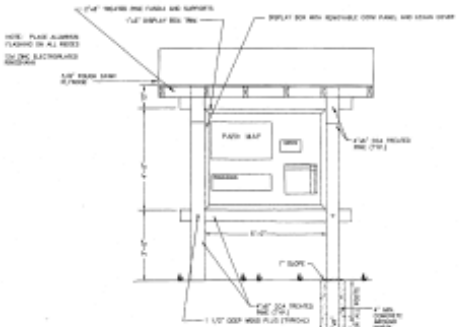


- NOTES:**
1. SET POSTS IN CONCRETE FOOTING - SEE FRONT ELEVATION OF TRAILHEAD KIOSK.
 2. ALL FASTENERS TO BE HOT DIPPED GALVANIZED ACCORDING TO ASTM A-153.
 3. SUBMIT SHOP DRAWING FOR APPROVAL OF GATEWAY.

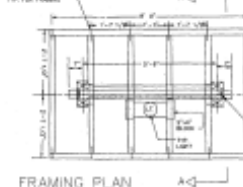


TRAIL CLOSURE
NOT TO SCALE

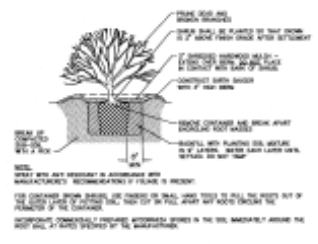
- NOTES:**
1. UNLESS OTHERWISE SPECIFIED, ALL LUMBER IS TO BE NO. 1 S4S, DRYMAILED COPPER PRESERVED TREATED PINE TO A MIN. ALL BRACKETS, NAILS, WHEELS, WHEEL HOUSING WHEELS TO BE HOT DIPPED GALVANIZED ACCORDING TO ASTM A-153.
 2. SUBMIT SHOP DRAWING FOR APPROVAL OF GATEWAY.



FRONT ELEVATION



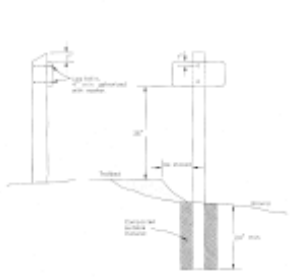
FRAMING PLAN



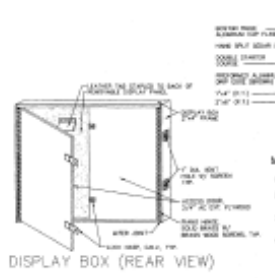
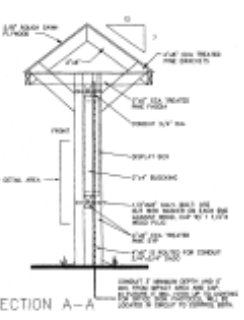
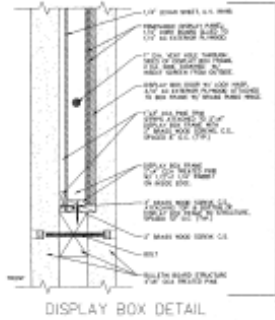
PLANT LIST

QTY	SCIENTIFIC NAME	COMMON NAME	SIZE
2	CALLUNA V. AMERICANA	HEALTHYBERRY	18-24" HT.
5	TEA PROSTRATA	WINDSOR GREENTOP	18-24" HT.
4	IRIS VIRGINICA	WAX GLASS	18-24" HT.
4	VIOROLA AMERICANA	SPRINGBERRY	18-24" HT.

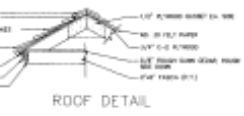
SHRUB PLANTING
NOT TO SCALE



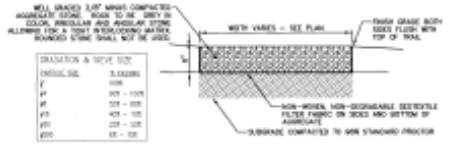
DIRECTIONAL SIGN
NOT TO SCALE



TRAILHEAD KIOSK
NOT TO SCALE

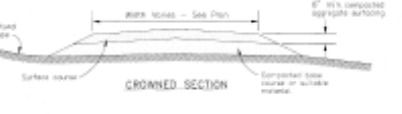
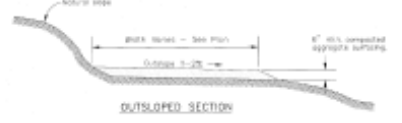


- NOTES:**
1. SET POSTS IN CONCRETE FOOTING.
 2. ALL FASTENERS TO BE HOT DIPPED GALVANIZED ACCORDING TO ASTM A-153.
 3. ALL LUMBER TO BE NO. 1 S4S, DRYMAILED COPPER PRESERVED TREATED PINE.
 4. SUBMIT SHOP DRAWING FOR APPROVAL OF KIOSK.



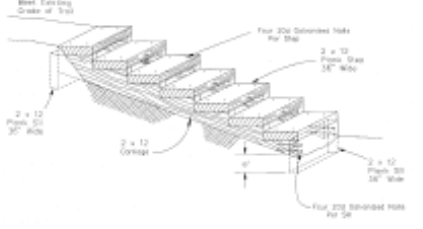
- NOTES:**
1. DIRECTIONAL GRAVEL SHALL BE NO MORE THAN 20%.
 2. TRAIL CROSS SLOPE TO BE CROWNED AT 2% OR DATED OUTSIDE TOWARDS DRAINAGE DIRECTION TO PROVIDE POSITIVE DRAINAGE AT 1% MIN AND 2% MAX.

GRAVEL TRAIL
NOT TO SCALE



- NOTES:**
1. CORONA'S GRAVEL TRAIL WITH DRAINAGE.

GRAVEL TRAIL TYPICAL SECTIONS
NOT TO SCALE



- NOTES:**
1. ALL LUMBER TO BE NO. 1 S4S, DRYMAILED COPPER PRESERVED TREATED PINE.
 2. SUBMIT SHOP DRAWING FOR APPROVAL OF PLANK STAIRS.

PLANK STAIRS
NOT TO SCALE

NO.	DATE	DESCRIPTION	DESIGNED	REVIEWED
1	10/28/2015	ISSUED FOR RECORD	ADD	SPJ
2	8/27/2015	ISSUED FOR PRINTING	ADD	SPJ



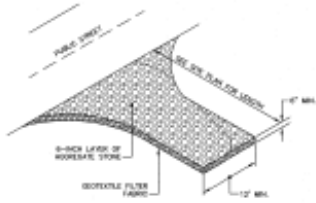
SCALE	100% N.E.
DATE	10/28/2015
DRAWN	ADD
CHECKED	SPJ
APPROVED	SPJ



f FUSS & O'NEILL
111 E. LEXINGTON, SUITE 100
COLUMBIA, SOUTH CAROLINA 29201
803.733.8800
www.fussandoneill.com

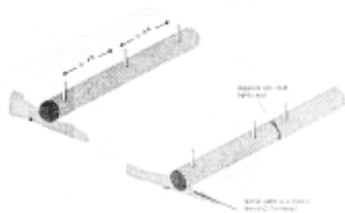
**RICHLAND COUNTY
OWENS FIELD PARK IMPROVEMENTS
DETAILS
JIM HAMILTON BOULEVARD
COLUMBIA, SOUTH CAROLINA**

**PROJECT NO. RICH014849
DATE: AUGUST 2015
CD-503**

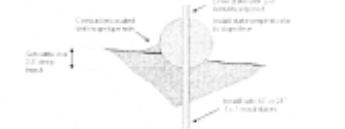


CONSTRUCTION ENTRANCE
(SCDOT 815-505-000)

NOT TO SCALE



Typical Wattle Installation Guide



Entranchment Detail

- NOTES:**
1. WATTLES SHALL BE INSTALLED BY THE CONTRACTOR AS INDICATED ON THE CONTRACT DRAWINGS.
 2. WATTLES SHALL BE TRIMMED APPROXIMATELY 2-3 INCHES AND STAKED SUCH THAT WATTLES COMPLETELY CONTACT SOIL AND PRECLUDE UNDERMINING OR BLOWING. THE TRIMMED ENDS SHALL BE APPROXIMATELY 2 INCHES WIDE. STAKES SHALL BE DRIVEN THROUGH THE CENTER OF THE WATTLE AT A SPACING OF 10 FEET OR GREATER AND NO LESS THAN 8 FEET FROM THE EACH END OF THE WATTLE. STAKES SHALL BE 1-INCH BY 1-INCH ROUND STAKES WITH A LENGTH OF 36-INCH MINIMUM. CONTACT SOIL, ESCAPES TO SOIL. REFER TO LAYOUT SEE SHEET.
 3. ENDS OF WATTLES SHALL BE TRIMMED OR OVERLAPPED SO THAT NO GAPS EXIST FOR WATER TO PASS THROUGH. WATTLES SHALL BE FREE OF CHANGE OR DAMAGE WHEN DELIVERED TO THE SITES. NO WATTLES SHALL BE OPEN OVER WATTLES.
 4. WATTLES SHALL BE 10-INCH WIDTH MANUFACTURED BY NORTH AMERICAN BRUSH OR APPROVED EQUAL.

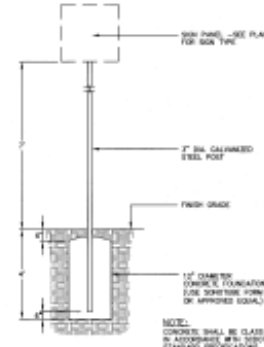
WATTLE

NOT TO SCALE

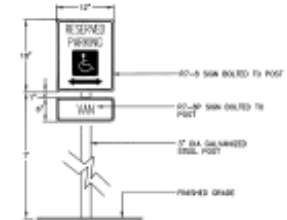


VAN ACCESSIBLE SYMBOL

NOT TO SCALE



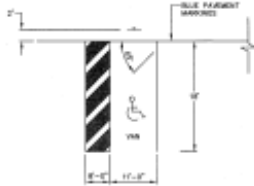
Sign Base



VAN ACCESSIBLE HANDICAPPED PARKING SIGN

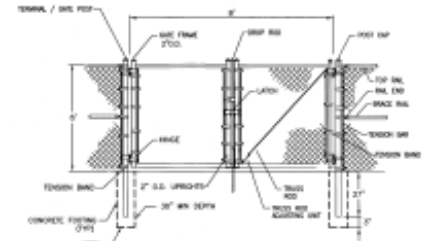
VAN ACCESSIBLE ADA PARKING SIGNAGE

NOT TO SCALE



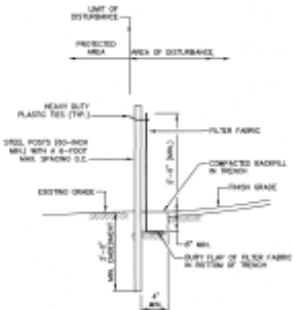
ADA PARKING STALL

NOT TO SCALE



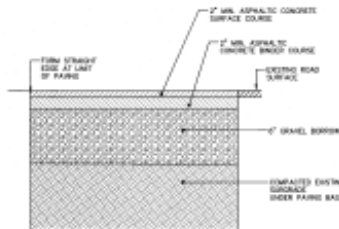
CHAINLINK FENCE GATE

NOT TO SCALE



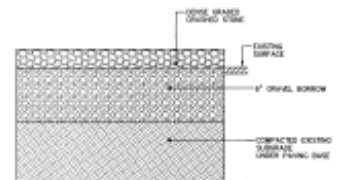
SILT FENCE (SCDOT 815-605-000)

NOT TO SCALE



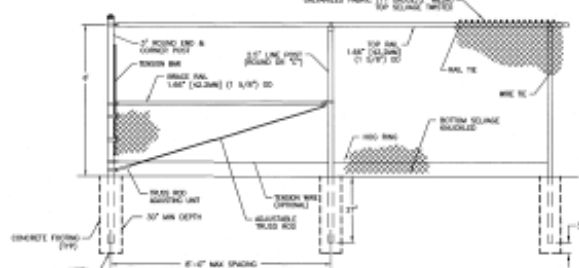
BITUMINOUS CONCRETE PAVEMENT

NOT TO SCALE



GRAVEL PARKING SURFACE

NOT TO SCALE



CHAINLINK FENCE

NOT TO SCALE

NO.	DATE	DESCRIPTION	DESIGNER	PREPARED
1	11/28/2013	ISSUED FOR BIDDING	AKC	DMH
2	8/21/2013	ISSUED FOR PERMITTING	AKC	DMH

SEAL

SCALE	HORIZ. NTS
VERT.	
GRAPHIC SCALE	

FUSS & O'NEILL

101 LINDSEY BLVD. SUITE 100
COLUMBIA, SOUTH CAROLINA 29204
803.733.1000
www.fuss-o-neill.com

RICHLAND COUNTY
OWENS FIELD PARK IMPROVEMENTS
DETAILS
JIM HAMILTON BOULEVARD
COLUMBIA SOUTH CAROLINA

PROJECT No. 2013020426
DATE APPROVED 04/15

CD-504

ATTACHMENT B

Project Budget

County Project Funding

Funding				\$ 485,065.00
\$ 160,065.00	RC Conservation Department			
\$ 25,000.00	GCWA (from RC Stormwater)			
\$ 80,000.00	RC Stormwater (from City of Cola)			
\$ 50,000.00	City of Columbia			
\$ 170,000.00	SCDHEC 319 Grants			
\$ 485,065.00	total			

City Project Funding

Funding:				<u>\$876,923.40</u>
<u>Miracle League/ Park Improvements</u>				
Ray Tanner:				\$329,190.30
City Council				\$225,000.00
Park Improvements (City of Columbia)				\$250,000.00
Sub Total				\$804,190.30
<u>Boundless Play</u>				
PARD Grant:				\$72,733.10

Richland County Council Request of Action

Subject:

Conservation Department - Conservation Easement Acquisition Costs

Richland County Council Request of Action

Subject: Conservation Department - Conservation Easement Acquisition Costs

A. Purpose

County Council is requested to approve a payment of \$2,591.17 from Richland County Conservation Commission's (RCCC) budget for a portion of easement acquisition costs for two FY16 conservation easements.

B. Background / Discussion

RCCC purchased the development rights on 311 acres in Lower Richland through two conservation easements in FY16 which were approved by Council on October 12, 2015 and December 1, 2015.

In the Requests of Action for these approvals, the Conservation Department (Department) unintentionally omitted portions of the acquisition costs, specifically the cost of easement mapping and two title opinions for a total cost of \$5,182.34. Because the landowner paid for the appraisals which cost over \$6,000, an expense usually assumed by the Department, the Department agreed to pay one-half of the acquisition costs - \$2,591.17. This agreement resulted in a savings of the easement acquisition costs of at least \$3,500.

These expenses have already been paid by the landowner. Approval of this request will allow the County to reimburse him for half of the expenses.

C. Legislative / Chronological History

- October 12, 2015 - Council approved the request to place a conservation easement on 251 acres on Back Swamp Road, and to purchase the development rights.

- December 1, 2015 - Council approved the request from the RCCC to place a conservation easement on 60 acres on Lower Richland Blvd., and to purchase the development rights of the property.

D. Financial Impact

The financial impact of this request is \$2,591.17. The funds for the request are available in the RCCC budget.

<u>Expense</u>	<u>Cost</u>
Easement Mapping	\$2,842.35
Two (2) Title Opinions	\$2,340.00
Total	\$5,182.34
Minus Half of the Total Expense	- \$2,591.17
Total County Portion	\$2,591.17

E. Alternatives

1. Approve the request to pay \$2,591.17 for partial costs of acquiring two conservation easements providing landowner incentives to permanently protect 311 acres of streams, wetlands and forestland for future environmental and economic benefits.
2. Do not approve the request to pay \$2,591.17 for partial costs of acquiring two conservation easements and do not provide landowner incentives to permanently protect 311 acres of streams, wetlands and forestland for future environmental and economic benefits.

F. Recommendation

It is recommended that Council approve the request to pay \$2,591.17 for partial costs of acquiring two conservation easements that permanently protect 311 acres of streams, wetlands and forestland.

Recommended by: Quinton Epps

Department: Conservation

Date: April 5, 2016

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While “Council Discretion” may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 4/11/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Elizabeth McLean

Date: 4/12/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision left to Council’s discretion.

Administration

Reviewed by: Warren Harley

Date: 4/19/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Hopkins - Oldfield 2 Conservation Easement



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Richland County Council Request of Action

Subject:

Conservation Department - County Acquisition of Forfeited Land Parcel

Richland County Council Request of Action

Subject: Conservation Department - County Acquisition of Forfeited Land Parcel

A. Purpose

County Council is requested to approve the transfer of parcel R16907-03-08 from the Forfeited Land Commission to Richland County ownership.

B. Background / Discussion

Richland County acquired the Old Zorba's property (1.6 acres) on Decker Blvd adjacent to Jackson Creek in 2013, and demolished the structure in 2015 (see map in Appendix). The property was purchased with FEMA funds because of its location within the floodplain and its proximity to Jackson Creek.

Parcel R16907-03-08 is one acre, adjacent to the Old Zorba's tract, and contains portions of Jackson Creek within the floodplain. Acquisition of the property for conservation purposes would prevent future commercial development on this property.

Adding this property to the Old Zorba's property will advance the potential for developing a walking trail near Jackson Creek. A trail along Jackson Creek would provide a walking connection from local neighborhoods to shopping areas, educational and exercise opportunities, and promote water quality initiatives within the Gills Creek watershed.

The Richland County Forfeited Land Commission (FLC) was established under state law to accept property for which there was no bid offered at the county tax auction. Parcel R16907-03-08 has been held by the FLC since 2012. Transferring the land to the county will have no impact on taxes as none are paid now and could help advance a potential recreational amenity in the area.

C. Legislative / Chronological History

This is a staff driven request.

D. Financial Impact

There is no cost to transfer the forfeited property to the county and there is no loss of tax revenue since no taxes have been paid in 4+ years.

Since this property is wooded and landlocked, there is little access to it and little, if any, maintenance required.

E. Alternatives:

1. Approve the request to transfer parcel R16907-03-08 from the Forfeited Land Commission to Richland County ownership for conservation purposes.
2. Do not approve the request to transfer parcel R16907-03-08 from the Forfeited Land Commission to Richland County ownership.

F. Recommendation

It is recommended that Council Approve the request to transfer parcel R16907-03-08 from the Forfeited Land Commission to Richland County ownership for conservation purposes.

Recommended by: Quinton Epps

Department: Conservation

Date: April 4, 2016

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While “Council Discretion” may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 4/11/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Support Services

Reviewed by: Bill Peters

Date: 4/11/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: For Council discretion. As described in the ROA the parcel is wooded and little maintenance may be required, but if the property is developed for a walking trail or other use the maintenance impact will increase. We must still maintain the property to remove any trash and ensure it does not violate the overgrown lot ordinance. If opened to the public in any manner all improvements will require regular maintenance as well as maintaining safety aspects such as removal of dead or dying trees or limbs. If developed, a funding source will need to be identified for maintenance and management

Legal

Reviewed by: Elizabeth McLean

Date: 4/12/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision left to Council’s discretion.

Administration

Reviewed by: Warren Harley

Date: 4/13/16

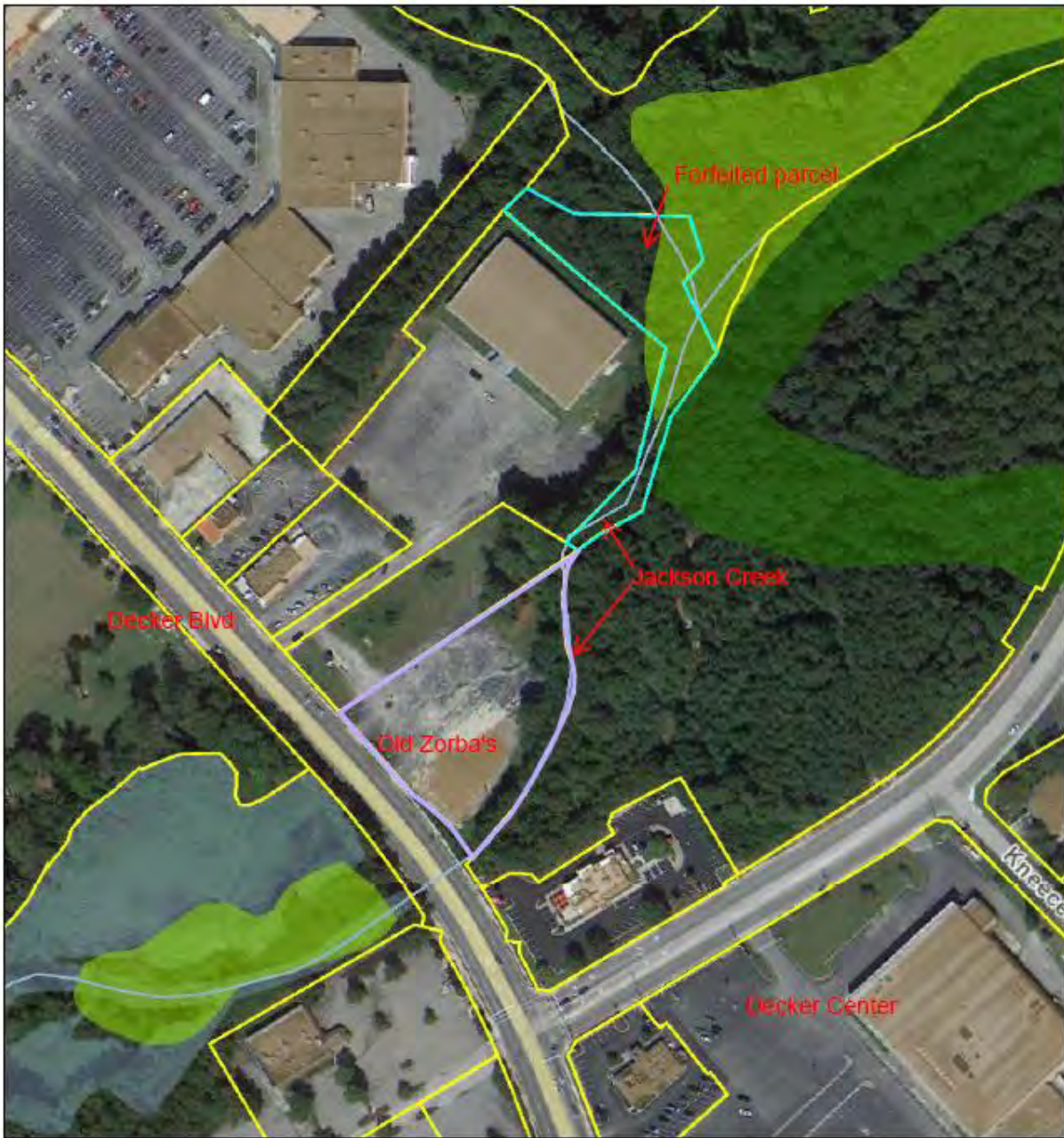
Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Appendix

R16907-03-08 on Jackson Creek

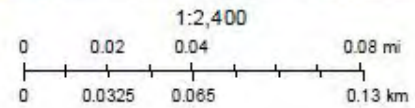


March 24, 2016

- Parcels
- Streams

NWI Inventory

- FORESTED WETLAND
- NON-FORESTED WETLAND



Richland County & Google

Me
Copyright 2015

Assessor Data View

The information provided on this page reflects data as of December 31, 2015 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. **ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER.** While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. **RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE.** All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number:
 Owner:
 Address 1:
 Address 2:
 Address 3:
 City/State/Zip:

 Property Location/Code:

Tax Information

Year:
 Property Tax Relief:
 Local Option Sales Tax Credit:
 Tax Amount:
 Paid:
 Homestead:
 Assessed:

Assessment Information

Year Of Assessment: Legal Residence:
 Tax District: Sewer Connection:
 Acreage Of Parcel: Water Connection:
 Non-Agriculture Value: Agriculture Value:
 Building Value: Improvements:
 Taxable Value:
 Zoning:

Property Information

Legal Description: #SU
 #PR X-1247 Y-8974 RB1463-33;
 Land Type:

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
RICHLAND COUNTY FORFEITED LAND	05/15/2012	V	R1765/ 497	\$22,000.00	A

Richland County Council Request of Action

Subject:

County Administration Building and County Public Health Building Flooring Contract

Richland County Council Request of Action

Subject: County Administration Building and County Public Health Building Flooring Contract

A. Purpose

County Council is requested to approve a contract with O’Neal Flooring in an amount not to exceed \$653,167 to provide labor and materials needed to remove the existing flooring in the Administration and Health Buildings and replace with new flooring materials.

B. Background / Discussion

The County Administration and Public Health Building are in need of having the vinyl tile and carpet replaced in most locations of the facilities. The flooring replacement (which will include both vinyl tile and carpet, depending on the area) will provide the Administration and Health Building with a fresh, new look and will create a cohesive product throughout the facilities which will assist on future maintenance of the flooring products.

This contract will include the removal and proper disposal of all existing flooring materials in the designated areas, installation of the new flooring material and all subcomponents, and the placement of all existing furniture and fixtures to its pre-renovation state.

All work for this project will be completed during non-business hours, meaning the Administration and Health Building will continue to operate under normal conditions throughout the life of this project. The project will take approximately 2-3 months to complete. The contractor will be required to clean all work areas and return all furniture and fixtures to its original location each night, so that normal working conditions are not negatively affected.

Richland County competitively solicited proposals from qualified contractors for this project. We received 2 proposals in response to the RFP. Both proposals were evaluated by a cross-departmental evaluation committee. The committee’s recommendation, based on both qualifications and proposed cost, is that Council move forward with awarding the contract to O’Neal Flooring.

C. Legislative / Chronological History

- Through the general budget process, \$1 million was set aside for building improvements, to include the replacement of flooring in the Administration and Health buildings.

D. Financial Impact

Through the budget, \$1 million was set aside for Building Improvements to be used towards the rehabilitation of the flooring products in the Administration and Health buildings. Following is a preliminary total project cost estimate:

Broadloom Carpet	\$20,691
Carpet Tile	\$421,085
Luxury Vinyl Tile	\$76,967
Cove Base	\$36,505
Computer Disconnect/Reconnect	\$6,500
Sales Tax	\$31,419

Contingency	<u>\$60,000</u>
Total	\$653,167

Funds for this request are available in the Building Improvements bond. Therefore, no new funds are needed.

E. Alternatives

1. Approve the request to enter into a contract with O’Neal Flooring in an amount not to exceed \$653,167.
2. Do not approve the recommendation to enter into a contract with O’Neal Flooring. If this alternative is chosen, negotiations could begin with the next most responsive bidder, or it could be decided that a re-solicitation is necessary. A total re-solicitation process could take up to an additional 3 months considering the time required to follow the procurement process and the Council approval process.

F. Recommendation

It is recommended that Council approve the request to enter into a contract with O’Neal Flooring in the amount not to exceed \$653,167.

Recommended by: Chad Fosnight
 Department: Administration
 Date: 04/04/16

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While “Council Discretion” may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers Date: 4/13/16
 Recommend Council approval Recommend Council denial
 Comments regarding recommendation:

Funds are available as stated

Procurement

Reviewed by: Cheryl Patrick Date: 04/13/2016
 Recommend Council approval Recommend Council denial
 Comments regarding recommendation:

The competitive procurement process was followed via an RFP. Award is recommended to the highest ranked proposer, O’Neal Flooring.

Legal

Reviewed by: Elizabeth McLean Date: 4/14/16
 Recommend Council approval Recommend Council denial

Comments regarding recommendation: Policy decision left to Council's discretion.

Administration

Reviewed by: Roxanne Ancheta

Date: April 14, 2016

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: It is recommended that Council approve a contract with O'Neal Flooring in an amount not to exceed **\$653,167** to provide labor and materials needed to remove the existing flooring in the Administration and Health Buildings and replace with new flooring materials. Funds currently exist for this project; therefore, no new funds are being requested.

Richland County Council Request of Action

Subject:

Council Motion Regarding the Release of Funds

Richland County Council Request of Action

Subject: Council Motion Regarding the Release of Funds

A. Purpose

Council is requested to consider a motion to approve the release of funds being held in the County's Stormwater fund balance previously allocated for the dredging of silt from Lake Katherine.

B. Background / Discussion

At the April 5, 2016 Council meeting, Mr. Pearce brought forth the following motion:

“I move that Council approve the release of funds being held in the Stormwater fund balance previously allocated for the dredging of silt from Lake Katherine. The City of Columbia has agreed to fund the balance of this project.”

On 9/9/13, a Consent Decree (CD) was issued by the United States on behalf of the US Environmental Protection Agent (EPA) to the City of Columbia (City) for Clean Water Act Violations – see attached excerpt of CD.

Pursuant to the CD, a civil penalty of \$476,400 was paid by the City to the EPA and SC Department of Health and Environmental Control (DHEC).

EPA and DHEC each received half of the civil penalty or \$238,200.

DHEC is delegated by EPA to implement the compliance and enforcement of the Clean Water Act in SC. Given this information, and pursuant to the Pollution Control Act (see attached SC State Code), half of the civil penalty received by DHEC is allocated to the State of South Carolina's budget and the remaining half is allocated to the County where the violation occurred.

Subsequently, the \$119,100 that was paid to the County and received on 8/18/14 has been restricted to Stormwater's Fund balance.

In 2004, Wilber Smith Associates conducted a sediment deposit and mitigation study of Lake Katherine for the City of Columbia. In the report for the study, data was provided regarding the sediment load summary for the County and a cost estimate for the sediment removal from Lake Katherine (see attached, relevant, excerpts from the report)

This Council motion is requesting that Council approve the release of these funds to be used to assist the City in the dredging of silt from Lake Katherine.

C. Legislative / Chronological History

- April 5, 2016 – Motion was made by Mr. Pearce at Council Meeting
- September 9, 2013 – a Consent Decree (CD) was issued by the United States on behalf of the US Environmental Protection Agent (EPA) to the City of Columbia (City) for Clean Water Act Violations

D. Financial Impact

The financial impact of this request would be \$119,100. This funding is available in the County’s Stormwater’s Fund balance.

E. Alternatives

1. Consider the motion and approve to proceed accordingly.
2. Consider the motion and do not approve to proceed.

F. Recommendation

Policy decision for Council.

Recommended by: Greg Pearce
 Department: County Council District 6
 Date: 4/13/2016

F. Reviews

(Please ***SIGN*** your name, ✓ the appropriate box, and support your recommendation before routing. Thank you!)

Finance

Reviewed by: Daniel Driggers Date: 4/19/16
 Recommend Council approval Recommend Council denial
 Comments regarding recommendation:

Request is a discretionary budget item for Council discretion. Recommendation is based agreement that funds are available as stated.

Public Works

Reviewed by: Ismail Ozbek Date: 4/19/2016
 Recommend Council approval Recommend Council denial
 Comments regarding recommendation:

Based on Funds being available in Fund Balance and reserved for this purpose.

Legal

Reviewed by: Elizabeth McLean Date: 4/22/16
 Recommend Council approval Recommend Council denial
 Comments regarding recommendation: Policy decision left to Council’s discretion. We recommend that any use of these funds for a collaborative effort to dredge the Lake be done pursuant to an intergovernmental agreement between the parties.

Administration

Reviewed by: Warren Harley Date: 4/22/16
 Recommend Council approval Recommend Council denial
 Comments regarding recommendation:

Excerpt of CD – Section VII. Civil Penalty

revision of previously submitted and/or approved Deliverables. Columbia may revise previously approved Deliverables only with EPA's prior written approval. For any proposed revised Deliverable, Columbia shall comply with the public notification requirements of Paragraph 18 of this Consent Decree originally applicable to such Deliverable.

24. Certification. Columbia shall, by a person who meets the requirements for reports and other information under 40 CFR § 122.22(b), sign and certify all Deliverables, notices, documents or reports submitted to the United States and State pursuant to this Consent Decree as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering such information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

VII. CIVIL PENALTY

25. Within thirty (30) Days after the Effective Date of this Consent Decree, Columbia shall pay a total civil penalty in the amount of \$476,400, to be apportioned between the United States and the State as specified in paragraphs 26 and 27, below.

26. Columbia shall pay to the United States \$238,200 of the civil penalty by FedWire

Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with written instructions to be provided to Columbia, following lodging of the Consent Decree, by the Financial Litigation Unit of the U.S. Attorney's Office for the District of South Carolina, 1441 Main Street, Suite 500, Columbia, S.C. 29201 (803) 929-3000. At the time of payment, Columbia shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in United States et al. v. City of Columbia, and shall reference the civil action number and DOJ case number 90-5-1-1-09954, to the United States in accordance with Section XIV of this Decree (Notices); by email to acctreceivable.CINWD@epa.gov; and by mail to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

27. Columbia shall pay to the State a civil penalty of \$238,200 by check payable to the "South Carolina Department of Health and Environmental Control" within thirty (30) Days after the Effective Date of this Consent Decree. The check shall reference the case name and civil action number herein and shall be sent to:

Glenn Trofatter
SCDHEC-Bureau of Water
Water Pollution Control Division
2600 Bull St.
Columbia, South Carolina 29201

VIII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

28. Columbia shall implement a Supplemental Environmental Project (SEP), as

itle 48 - Environmental Protection and Conservation

CHAPTER 1

Pollution Control Act

SECTION 48-1-10. Short title; definitions.

This chapter may be cited as the "Pollution Control Act" and, when used herein, unless the context otherwise requires:

- (1) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever;
- (2) "Waters" 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;
- (3) "Marine district" means the waters of the Atlantic Ocean within three nautical miles from the coast line and all other tidal waters within the State;
- (4) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present and the admixture with sewage of industrial wastes or other wastes shall also be considered "sewage";
- (5) "Industrial waste" means any liquid, gaseous, solid or other waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business or from the development of any natural resources;
- (6) "Other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, clay, lime, cinders, ashes, offal, oil, gasoline, other petroleum products or by-products, tar, dye stuffs, acids, chemicals, dead animals, heated substances and all other products, by-products or substances not sewage or industrial waste;
- (7) "Pollution" means (1) the presence in the environment of any substance, including, but not limited to, sewage, industrial waste, other waste, air contaminant, or any combination thereof in such quantity and of such characteristics and duration as may cause, or tend to cause the environment of the State to be contaminated, unclean, noxious, odorous, impure or degraded, or which is, or tends to be injurious to human health or welfare; or which damages property, plant, animal or marine life or use of property; or (2) the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water;
- (8) "Standard" or "standards" means such measure of purity or quality for any waters in relation to their reasonable and necessary use as may after hearing be established;

(9) "Department" means the Department of Health and Environmental Control;

(10) "Sewage system" or "sewerage system" means pipelines and conductors, pumping stations, force mains and all other construction, devices and appliances appurtenant thereto used for conducting sewage, industrial waste or other wastes to a point of ultimate discharge;

(11) "Treatment works" means any plant, disposal field, lagoon, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage, industrial waste or other wastes;

(12) "Disposal system" means a system for disposing of sewage, industrial waste or other wastes, including sewerage systems and treatment works;

(13) "Outlet" means the terminus of a sewer system or the point of emergence of any water-borne sewage, industrial waste or other wastes, or the effluent therefrom, into the waters of the State;

(14) "Shellfish" means oysters, scallops, clams, mussels and other aquatic mollusks and lobsters, shrimp, crawfish, crabs and other aquatic crustaceans;

(15) "Ambient air" means that portion of the atmosphere outside of buildings and other enclosures, stacks, or ducts which surrounds human, plant, or animal life, water or property;

(16) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by processes other than natural;

(17) "Source" means any and all points of origin of air contaminants whether privately or publicly owned or operated;

(18) "Undesirable level" means the presence in the outdoor atmosphere of one or more air contaminants or any combination thereof in sufficient quantity and of such characteristics and duration as to be injurious to human health or welfare, or to damage plant, animal or marine life, to property or which unreasonably interfere with enjoyment of life or use of property;

(19) "Emission" means a release into the outdoor atmosphere of air contaminants;

(20) "Environment" means the waters, ambient air, soil and/or land;

(21) "Effluent" means the discharge from a waste disposal system;

(22) "Effluent limitations" means restrictions or prohibitions of chemical, physical, biological, and other constituents which are discharged from point sources into State waters, including schedules of compliance;

(23) "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 or vessel, or other floating craft, from which pollutants are or

may be discharged.

HISTORY: 1962 Code Section 63-195; 1952 Code Section 70-101; 1950 (45) 2153; 1965 (54) 687; 1970 (56) 2512; 1973 (58) 788; 1975 (59) 241.

Editor's Note

2012 Act No. 198, Sections 4 and 5, provide as follows:

"SECTION 4. (A) There is created the 'Isolated Wetlands and Carolina Bays Task Force' to review, study, and make recommendations concerning issues related to isolated wetlands and Carolina Bays in South Carolina. The task force shall be comprised of the following members:

"(1) the Chairman of the Senate Agriculture and Natural Resources Committee, ex officio, or his designee, who shall serve as chairman;

"(2) the Chairman of the House of Representatives Agriculture, Natural Resources and Environmental Affairs Committee, ex officio, or his designee, who shall serve as vice chairman;

"(3) one member representing the South Carolina Chamber of Commerce;

"(4) one member representing the Coastal Conservation League;

"(5) one member representing the Conservation Voters of South Carolina;

"(6) one member representing the South Carolina Association of Realtors;

"(7) one member representing the South Carolina Association of Homebuilders, upon consultation with the South Carolina Association of General Contractors;

"(8) one member representing the South Carolina Farm Bureau;

"(9) one member representing the South Carolina Manufacturer's Alliance;

"(10) one member representing the South Carolina Chapter of the Sierra Club;

"(11) one member representing the South Carolina Wildlife Federation;

"(12) one member representing the Environmental Law Project; and

"(13) one member representing the utilities industry.

"(B) The task force shall meet as soon as practicable after the effective date of this act for organizational purposes.

"(C) The members of the task force shall serve without compensation and may not receive mileage or per diem.

"(D) Vacancies on the task force shall be filled in the same manner as the original appointment.

"(E) The task force shall compile a comprehensive inventory of existing data and information regarding Carolina Bays and isolated wetlands in South Carolina. The inventory, as far as possible, must identify the number, distribution, size, description, and characteristics of the Carolina Bays and isolated wetlands throughout the State. The task force also must compile a glossary of standard terms and definitions used when describing Carolina Bays and isolated wetlands, their various types, and characteristics.

"(F) During its review and study of Carolina Bays and isolated wetlands, and in its findings and recommendations, the task force shall consider at least:

"(1) the biological, hydrological, ecological, and economic values and services of Carolina Bays and isolated wetlands;

"(2) prior disturbances of Carolina Bays and isolated wetlands and the cumulative impacts of disturbances to isolated wetlands and their functions;

"(3) methods to avoid adverse impact on Carolina Bays and isolated wetlands;

"(4) methods to minimize adverse impact on Carolina Bays and isolated wetland functions that can be avoided;

"(5) manners of compensation for any loss of Carolina Bays and isolated wetland functions that cannot be avoided or minimized;

"(6) methods to provide public notice of wetlands permitting applications;

"(7) the utility of using a general permitting program for Carolina Bays and isolated wetlands disturbance, where practical;

"(8) the proper balance between the economic development value of a proposed permitted activity and the impact on Carolina Bays and isolated wetlands;

"(9) achieving a goal of 'no net loss' wetlands;

"(10) concerning proposals to impact Carolina Bays and isolated wetlands, including those appearing to be geographically isolated, the aggregate benefits and services of similarly situated wetlands in the watershed should be considered;

"(11) concerning mitigation for Carolina Bays and isolated wetland impacts, whether a watershed based approach should be followed in order to replace wetland functions and services where they are most needed in the impacted watershed; and

"(12) whether, and the extent to which, the standards used by the Department of Health and Environmental Control in evaluating discharges to federal wetlands can and should be used for non-federal wetlands.

"(G) The task force shall make a report of its findings and recommendations related to Carolina Bays to the General Assembly on or before January 1, 2013. The task force shall make a report of its findings and recommendations related to isolated wetlands on or before July 1, 2013, at which time the study committee terminates.

"(H) The staffing for the task force must be provided by the appropriate committees or offices of the Senate and House of Representatives. The task force may utilize staff of other government agencies with relevant issue area expertise upon request.

"SECTION 5. The term 'permit' as used in the Pollution Control Act is inclusive and intended to mean all permits, certifications, determinations, or other approvals required by law issued by the department, consistent with the definition of 'license' as found in Chapter 23, Title 1 of the Administrative Procedures Act."

SECTION 48-1-20. Declaration of public policy.

It is declared to be the public policy of the State to maintain reasonable standards of purity of the air and water resources of the State, consistent with the public health, safety and welfare of its citizens, maximum employment, the industrial development of the State, the propagation and protection of terrestrial and marine flora and fauna, and the protection of physical property and other resources. It is further declared that to secure these purposes and the enforcement of the provisions of this chapter, the Department of Health and Environmental Control shall have authority to abate, control and prevent pollution.

HISTORY: 1962 Code Section 63-195.1; 1952 Code Section 70-102; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-30. Promulgation of regulations; approval of alternatives.

The Department shall promulgate regulations to implement this chapter to govern the procedure of the Department with respect to meetings, hearings, filing of reports, the issuance of permits and all other matters relating to procedure. The regulations for preventing contamination of the air may not specify any particular method to be used to reduce undesirable levels, nor the type, design, or method of installation or type of construction of any manufacturing processes or other kinds of equipment. Except where the Department determines that it is not feasible to prescribe or enforce an emission standard or standard of performance, it may, by regulation, specify equipment, operational practice, or emission control method, or combination thereof. The Department may grant approval for alternate equipment, operational practice, or emission control method, or combination thereof, where the owner or operator of a source can demonstrate to the Department that such alternative is substantially equivalent to that specified.

HISTORY: 1962 Code Section 63-195.6; 1952 Code Section 70-108; 1950 (46) 2153; 1965 (54) 687; 1970 (56) 2512; 1978 Act No. 557, Section 1.

SECTION 48-1-40. Adoption of standards for water and air.

The Department, after public hearing as herein provided, shall adopt standards and determine what qualities and properties of water and air shall indicate a polluted condition and these standards shall

be promulgated and made a part of the rules and regulations of the Department. The Department, in determining standards and designing the use of streams shall be guided by the provisions of this chapter.

HISTORY: 1962 Code Section 63-195.7; 1952 Code Section 70-109; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-50. Powers of department.

The Department may:

(1) Hold public hearings, compel attendance of witnesses, make findings of fact and determinations and assess such penalties as are herein prescribed;

(2) Hold hearings upon complaints or upon petitions in accordance with Section 48-1-140 or as otherwise provided in this chapter;

(3) Make, revoke or modify orders requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the State, or the discharge of air contaminants into the ambient air so as to create an undesirable level, resulting in pollution in excess of the applicable standards established. Such orders shall specify the conditions and time within which such discontinuance must be accomplished;

(4) Institute or cause to be instituted, in a court of competent jurisdiction, legal proceedings, including an injunction, to compel compliance with the provisions of this chapter or the determinations, permits and permit conditions and orders of the Department. An injunction granted by any court shall be issued without bond;

(5) Issue, deny, revoke, suspend or modify permits, under such conditions as it may prescribe for the discharge of sewage, industrial waste or other waste or air contaminants or for the installation or operation of disposal systems or sources or parts thereof; provided, however, that no permit shall be revoked without first providing an opportunity for a hearing;

(6) Conduct studies, investigations and research with respect to pollution abatement, control or prevention. Such studies shall include but not be limited to, air control, sources, disposal systems and treatment of sewage, industrial waste or other wastes, by all scientific methods and, if necessary, of the use of mobile laboratories;

(7) Settle or compromise any action or cause of action for the recovery of a penalty or damages under this chapter as it may deem advantageous to the State;

(8) Cooperate with the governments of the United States or other states or State agencies or organizations, official or unofficial, in respect to pollution control matters or for the formulation of interstate pollution control compacts or agreements;

(9) Prepare and develop a general comprehensive program for the abatement, control and prevention of air and water pollution;

(10) Require to be submitted to it and consider for approval plans for disposal systems or sources or any parts thereof and inspect the construction thereof for compliance with the approved plans;

(11) Administer penalties as otherwise provided herein for violations of this chapter, including any order, permit, regulation or standards;

(12) Accept, receive and administer grants or other funds or gifts for the purpose of carrying out any of the purposes of this chapter; accept, receive and receipt for Federal money given by the Federal government under any Federal law to the State of South Carolina for air or water control activities, surveys or programs;

(13) Encourage voluntary cooperation by persons, or affected groups in restoration and preservation of a reasonable degree of purity of air and water;

(14) Collect and disseminate information on air or water control;

(15) Approve projects for which applications for loans or grants under the Federal Water Pollution Control Act or the Federal Air Quality Act are made by any municipality (including any city, town, district, or other public body created by or pursuant to the laws of this State and having jurisdiction over disposal of sewage, industrial wastes or other wastes) or agency of this State or by an interstate agency;

(16) Participate through its authorized representatives in proceedings under the Federal Water Pollution Control Act or the Federal Air Quality Act to recommend measures for abatement of water pollution originating in this State;

(17) Take all action necessary or appropriate to secure to this State the benefits of the Federal Water Pollution Control Act or the Federal Air Quality Act and any and all other Federal and State acts concerning air and water pollution control;

(18) Consent on behalf of the State to request by the Federal Security Administrator to the Attorney General of the United States for the bringing of suit for abatement of such pollution;

(19) Consent to the joinder as a defendant to such suit of any person who is alleged to be discharging matter contributing to the pollution, abatement of which is sought in such suit;

(20) Conduct investigations of conditions in the air or waters of the State to determine whether or not standards are being contravened and the origin of materials which are causing the polluted condition;

(21) Establish the cause, extent and origin of damages from waste including damages to the fish, waterfowl, and other aquatic animals and public property which result from the discharge of wastes to the waters of the State;

(22) Require the owner or operator of any source or disposal system to establish and maintain such operational records; make reports; install, use, and maintain monitoring equipment or methods; sample and analyze emissions or discharges in accordance with prescribed methods, at locations, intervals, and procedures as the Department shall prescribe; and provide such other information as

the Department reasonably may require;

(23) Adopt emission and effluent control regulations, standards and limitations that are applicable to the entire State, that are applicable only within specified areas or zones of the State, or that are applicable only when a specified class of pollutant is present;

(24) Enter at all times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to pollution or the possible pollution of the environment of the State. Its authorized agents may examine and copy any records or memoranda pertaining to the operation of a disposal system or source that may be necessary to determine that the operation thereof is in compliance with the performance as specified in the application for a permit to construct; provided, however, that if such entry or inspection is denied or not consented to, and no emergency exists, the Department is empowered to and shall obtain from the magistrate from the jurisdiction in which such property, premise or place is located, a warrant to enter and inspect any such property, premise or place prior to entry and inspection. The magistrate of such jurisdiction is empowered to issue such warrants upon a proper showing of the needs for such entry and inspection. The results of any such inspection and investigation conducted by the Department shall be reduced to writing and a copy shall be furnished to the owner or operator of the source or disposal system; and

(25) Issue orders prohibiting any political entity having the authority to issue building permits from issuing such permits when the political entity has been ordered to correct a condition which has caused or is causing pollution. Provided, that no such order shall be issued until the State is capable of participating in Federal, State and local cost-sharing arrangements for municipal waste treatment facilities as set forth in the Clean Water Restoration Act of 1966.

HISTORY: 1962 Code Section 63-195.8; 1952 Code Sections 70-110, 70-111; 1950 (46) 2153; 1965 (54) 687; 1969 (56) 764; 1970 (56) 2512; 1973 (58) 788; 1974 (58) 2334; 1975 (59) 241.

SECTION 48-1-55. Use of local personnel to monitor water quality in county where oyster factory located.

On any navigable river in this State where an oyster factory is located, the Department of Health and Environmental Control may utilize qualified personnel of the county or municipality in whose jurisdiction the factory operates to assist with the monitoring of water quality and other environmental standards the department is required to enforce. The assistance may be provided at the request of the department and upon the consent of the county or municipality concerned.

HISTORY: 2009 Act No. 22, Section 1, eff May 19, 2009.

SECTION 48-1-60. Classification and standards of quality and purity of the environment authorized after notice and hearing.

It is recognized that, due to variable factors, no single standard of quality and purity of the environment is applicable to all ambient air, land or waters of the State. In order to attain the objectives of this chapter, the Department, after proper study and after conducting a public hearing upon due notice, shall adopt rules and regulations and classification standards. The classification and the standards of quality and purity of the environment shall be adopted by the Department in

relation to the public use or benefit to which such air, land or waters are or may, in the future, be put. Such classification and standards may from time to time be altered or modified by the Department.

The adoption of a classification of the waters and the standards of quality and purity of the environment shall be made by the Department only after public hearing on due notice as provided by this chapter.

HISTORY: 1962 Code Section 63-195.9; 1952 Code Section 70-112; 1950 (46) 2153; 1970 (56) 2512; 1973 (58) 788.

SECTION 48-1-70. Matters which standards for water may prescribe.

The standards for water adopted pursuant to this chapter may prescribe:

- (1) The extent, if any, to which floating solids may be permitted in the water;
- (2) The extent to which suspended solids, colloids or a combination of solids with other substances suspended in water may be permitted;
- (3) The extent to which organisms of the coliform group (intestinal bacilli) or any other bacteriological organisms may be permitted in the water;
- (4) The extent of the oxygen which may be required in receiving waters; and
- (5) Such other physical, chemical or biological properties as may be necessary for the attainment of the objectives of this chapter.

HISTORY: 1962 Code Section 63-195.10; 1952 Code Section 70-113; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-80. Considerations in formulating classification and standards for water.

In adopting the classification of waters and the standards of purity and quality, consideration shall be given to:

- (1) The size, depth, surface area covered, volume, direction, rate of flow, stream gradient and temperature of the water;
- (2) The character of the district bordering such water and its peculiar suitability for the particular uses and with a view to conserving it and encouraging the most appropriate use of the lands bordering on such water for residential, agricultural, industrial or recreational purposes;
- (3) The uses which have been made, are being made or may be made of such waters for transportation, domestic and industrial consumption, irrigation, bathing, fishing and fish culture, fire prevention, sewage disposal or otherwise; and
- (4) The extent of present defilement or fouling of such waters which has already occurred or

resulted from past discharges therein.

HISTORY: 1962 Code Section 63-195.11; 1952 Code Section 70-114; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-83. Dissolved oxygen concentration depression; procedures to obtain site-specific effluent limit.

(A) The department shall not allow a depression in dissolved oxygen concentration greater than 0.1 mg/l in a naturally low dissolved oxygen waterbody unless the requirements of this section are all satisfied by demonstrating that resident aquatic species shall not be adversely affected. The provisions of this section apply in addition to any standards for a dissolved oxygen depression in a naturally low dissolved oxygen waterbody promulgated by the department by regulation.

(B) A party seeking a site-specific effluent limit related to dissolved oxygen pursuant to this section must notify the department in writing of its intent to obtain the depression. Upon receipt of the written notice of this intent, the department shall within thirty days publish a public notice indicating the party seeking the dissolved oxygen depression and the specific site for which the dissolved oxygen depression is sought in addition to the department's usual public notice procedures. The notice shall be in the form of an advertisement in a newspaper of statewide circulation and in the local newspaper with the greatest general circulation in the affected area. If within thirty days of the publication of the public notice the department receives a request to hold a public hearing from at least twenty citizens or residents of the county or counties affected, the department shall conduct such a hearing. The hearing must be conducted at an appropriate location near the specific site for which the dissolved oxygen depression is sought and must be held within ninety days of the publication of the initial public notice by the department.

(C) The department, in consultation with the Department of Natural Resources and the Environmental Protection Agency, shall provide a general methodology to be used for consideration of a site-specific effluent limit related to dissolved oxygen.

(D) The party seeking a site-specific effluent limit related to dissolved oxygen must conduct a study:

(1) to determine natural dissolved oxygen conditions at the specific site for which the depression is sought. The study must use an appropriate reference site. The reference site is not restricted to the State but must have similar geography, environmental setting, and climatic conditions. However, if an appropriate reference site cannot be located, the party may use a site-specific dynamic water quality model or, if available, a site-specific multidimensional dynamic water quality model.

(2) to assess the ability of aquatic resources at the specific site for which the dissolved oxygen depression is sought to tolerate the proposed dissolved oxygen depression.

(E) The department shall provide the following agencies sixty days in which to review and provide comments on the design of the scientific study required in subsection (D):

(1) the United States Fish & Wildlife Service of the United States Department of the Interior;

- (2) the United States Geological Survey of the United States Department of the Interior;
- (3) the National Ocean Service of the United States Department of Commerce and the National Marine Fisheries Service of the United States Department of Commerce; and
- (4) The Department of Natural Resources.

The department and the Department of Natural Resources shall select and convene a science peer review committee to review the design of the study as required by subsection (D). The department and the Environmental Protection Agency must concur on the final design before a study is initiated. Justification of any objection to the study design must be based solely on scientific considerations. Objections to the study design must be provided in writing by the department to the party seeking a site-specific effluent limit related to dissolved oxygen.

(F) The department shall provide the following agencies sixty days to review and comment on the results of the studies required in subsection (D):

- (1) the United States Fish and Wildlife Service of the United States Department of the Interior;
- (2) the United States Geological Survey of the United States Department of the Interior; and
- (3) the National Ocean Service of the United States Department of Commerce and the National Marine Fisheries Service of the United States Department of Commerce.

In order for a site-specific effluent limit related to dissolved oxygen to be implemented pursuant to this section, the department, the Department of Natural Resources and the Environmental Protection Agency must concur that the results of the study required in subsection (D) justify its implementation. In reaching a decision on the study results, the department and the Department of Natural Resources must base their decision upon the entire record, taking into account whatever in the record detracts from the weight of the decision, and must be supported by evidence that a reasonable mind might accept as adequate to support the decision. Objections to the acceptance of the results of the study must be provided in writing by the department to the party seeking a site-specific effluent limit related to dissolved oxygen.

HISTORY: 1999 Act No. 106, Section 1; 2010 Act No. 134, Section 1, eff March 30, 2010.

Effect of Amendment

The 2010 amendment substituted "0.1" for "0.10" in the first sentence of subsection (A).

SECTION 48-1-85. Requirements for houseboats with marine toilets.

(A) It is unlawful for a person to operate or float a houseboat on the waters of this State unless it has a marine toilet that discharges only into a holding tank.

(B) As used in this section:

- (1) "Holding tank" means a container designed to receive and hold sewage and other wastes

discharged from a marine toilet and constructed and installed in a manner so that it may be emptied only by pumping out its contents.

(2) "Houseboat" means watercraft primarily used as habitation and not used primarily as a means of transportation.

(3) "Marine toilet" includes equipment for installation on board a houseboat designed to receive, retain, treat, or discharge sewage. A marine toilet must be equipped with a holding tank.

(C) When an owner of a houseboat having a marine toilet applies to the Department of Natural Resources for a certificate of title pursuant to Section 50-23-20, he shall certify in the application that the toilet discharges only into a holding tank.

(D) Houseboat holding tanks may be emptied only by a pump-out system permitted by the South Carolina Department of Health and Environmental Control.

(E) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars for each day's violation or imprisoned not more than thirty days, or both.

HISTORY: 1992 Act No. 334, Section 1; 1993 Act No. 181, Section 1172; 2007 Act No. 33, Section 2, eff upon approval (became law without the Governor's signature on May 24, 2007).

Effect of Amendment

The 2007 amendment, in subsection (A), substituted "waters of this State unless it has a marine toilet that discharges" for "freshwaters of this State having a marine toilet unless it discharges"; and, in paragraph (B)(2), substituted "watercraft primarily used as habitation" for "a vessel which is used primarily as a residence".

SECTION 48-1-87. Aquatic Life Protection Act.

(A) In order to provide for the survival and propagation of a balanced community of aquatic flora and fauna as set forth in Regulation 61-68 in a manner consistent with Section 48-1-20, the department shall, where necessary to protect aquatic life, impose NPDES permit limitations for whole effluent toxicity (WET) based on the mixing zone authorized in subsection (C), where the department determines that a discharge causes or has the reasonable potential to cause or contribute to an excursion of a water quality criterion in Regulation 61-68, other than numeric criteria for specific pollutants, that apply to the protection of aquatic organisms.

(B) As directed by this section, the department may promulgate regulations to implement WET tests that calibrate EPA's standard toxicity testing species and methods to the natural water chemistry representative of the lakes, streams, groundwater, and stormwater runoff of this State. In developing these regulations the department may use the findings of any scientifically defensible study it may conduct and may use other pertinent peer reviewed studies or conclusions. In the interim, this section shall not be construed to limit the department's authority to impose WET limits.

(C) For purposes of performing WET reasonable potential determinations for a specific discharge

and, where justified, setting WET permit limitations for that discharge, the department, notwithstanding any other provision of law shall:

(1) develop procedures to allow up to one hundred percent dilution in waterbodies, based on the 7Q10 flow as defined by Regulation 61-68, where justified by the permittee or permit applicant and approved by the department;

(2) use stream flow conditions other than those described in item (1) where justified by hydrological controls that are capable of ensuring critical flow conditions higher than the respective ten-year flows identified in item (1), to evaluate acute and chronic exposure;

(3) use, for stormwater discharges, a representative flow greater than 7Q10 flow, as demonstrated on a site-specific basis, with any resulting WET permit limitations comprising only those expressed in terms of acute survival endpoints;

(4) consider such mixing calculations as described in items (1), (2), and (3) to be consistent with its policy set forth in Regulation 61-68 for minimizing mixing zones;

(5) give consideration to compliance with numeric criteria and actual instream biological conditions, in the absence of a valid scientific correlation between sublethal WET test results and the biological integrity of representative lakes, streams, and estuaries in this State, wherein biological integrity includes the richness, abundance, and balanced community structure of indigenous aquatic organisms;

(6) allow, at the request of the permittee, the use of ambient receiving waters as control and dilution waters in WET tests;

(7) exempt once-through, noncontact cooling water, which contains no additives, from toxicity requirements; and

(8) allow dischargers to use WET testing protocols that utilize alternative species in accordance with applicable EPA regulations and guidance.

(D) No part of this section shall be construed to limit the department's authority to adopt water quality criteria, to impose permit limits for specific chemical pollutants, to obligate the department to revalidate existing water quality criteria, or to establish additional water quality criteria for specific chemical pollutants. The department, whenever appropriate, shall utilize the flexibility of interpretation concerning WET testing and the use of WET test results provided by EPA.

(E) For the purpose of implementing Section 48-1-20 and Regulation 61-68:

(1) "propagation" is defined in Regulation 61-68;

(2) "biological integrity" means a measure of the health of an aquatic or marine ecosystem using the richness and abundance of species as the primary indicator, and "biological integrity" is a key component of an "instream bioassessment";

(3) "sublethal toxicity tests" means laboratory experiments that measure the nonlethal biological

effects, including, but not limited to, growth or reproduction, of effluents or receiving waters on aquatic organisms;

(4) "calibrate" means a process to establish the baseline control condition based on the normal range of biological responses likely to occur when standard test organisms are exposed to various nontoxic waters sampled from streams and lakes throughout the State.

(F) For any NPDES permit that was taken over by EPA due to provisions of Act 258 of 2004 from July 1, 2004, through the effective date of this subsection as revised by the provisions of this 2005 act, the department shall convey to EPA, through the certification process (40 C.F.R. Part 124.53), any additional requirements mandated under state law. Moreover, notwithstanding any other provision of law or regulation, the requirement for a counterpart state permit for any such discharge is waived. Alternatively, at the request of the permittee, the department may waive the certification process and issue a state permit. However, affected permittees shall submit applications for reissuance to the department in accordance with Regulation 61-9, at least one hundred eighty days in advance of the expiration of the federal permits. At the discretion of the department, the annual fees for NPDES permits in Regulation 61-30 may continue to be charged, when certifying a federal permit, if the department waives the certification fee.

(G) The department shall reduce or eliminate WET monitoring requirements, as appropriate, in accordance with permit modification processes contained in Regulation 61-9, where dischargers demonstrate that their effluents do not demonstrate reasonable potential.

HISTORY: 2004 Act No. 258, Section 2; 2005 Act No. 25, Section 1.

SECTION 48-1-90. Causing or permitting pollution of environment prohibited; remedies.

(A)(1) It is unlawful for a person, directly or indirectly, to throw, drain, run, allow to seep, or otherwise discharge into the environment of the State organic or inorganic matter, including sewage, industrial wastes, and other wastes, except in compliance with a permit issued by the department.

(2) The permit requirements of subsection (A)(1), Section 48-1-100, and Section 48-1-110 do not apply to:

(a) discharges in a quantity below applicable threshold permitting requirements established by the department;

(b) discharges for which the department has no regulatory permitting program;

(c) discharges exempted by the department from permitting requirements; or

(d) normal farming, silviculture, aquaculture, ranching, and wildlife habitat management activities that are not prohibited by or otherwise subject to regulation.

(3) Subsection (A)(2) must not be construed to:

(a) impair or affect common law rights;

(b) repeal prohibitions or requirements of other statutory law or common law; or

(c) diminish the department's authority to abate public nuisances or hazards to public health or the environment, to abate pollution as defined in Section 48-1-10(7), or to respond to accidental discharges or spills.

(4) A person must first petition the department in writing for a declaratory ruling as to the applicability of a specific, existing regulatory program to a proposed or existing discharge into the environment, provided that the proposed or existing discharge is not exempt or excluded from permitting as is set forth in subsection (A)(2). The person proposing to emit or emitting such discharge must be named on and served with the petition. The department must, within sixty days after receipt of such petition, issue a declaratory ruling as to the applicability of such program to such discharge. If the department determines a permit is required under such program and that no exception or exclusion exists, including, but not limited to, the exceptions set forth in subsection (A)(2), the department must issue a declaration requiring the submission of an application to permit such discharge pursuant to the applicable permitting program. If the department further determines that immediate action is necessary to protect the public health or property due to such unpermitted discharge, the department may further declare the existence of an emergency and order such action as the department deems necessary to address the emergency. Any person to whom such emergency order is directed may apply directly to the Administrative Law Court for relief and must be afforded a hearing within forty-eight hours. Regardless of whether a hearing is held, the department must revoke all emergency orders as soon as conditions or operations change to the extent that an emergency no longer exists. A party contesting any department decision on a petition may request a contested case hearing in the Administrative Law Court. Notwithstanding the administrative remedy provided for in this section, no private cause of action is created by or exists under this chapter.

(B)(1) A person who discharges organic or inorganic matter into the waters of this State as described in subsection (A) to the extent that the fish, shellfish, aquatic animals, wildlife, or plant life indigenous to or dependent upon the receiving waters or property is damaged or destroyed is liable to the State for the damages. The action must be brought by the State in its own name or in the name of the department.

(2) The amount of a judgment for damages recovered by the State, less costs, must be remitted to the agency, commission, department, or political subdivision of the State that has jurisdiction over the fish, shellfish, aquatic animals, wildlife, or plant life or property damaged or destroyed.

(3) The civil remedy provided in subsection (B)(2) is not exclusive, and an agency, commission, department, or political subdivision of the State with appropriate authority may undertake in its own name an action to recover damages independent of this subsection.

HISTORY: 1962 Code Section 63-195.12; 1952 Code Section 70-116; 1950 (46) 2153; 1969 (56) 764; 1970 (56) 2512; 1975 (59) 241; 2012 Act No. 198, Section 1, eff June 6, 2012.

Effect of Amendment

The 2012 amendment rewrote the section.

SECTION 48-1-95. Wastewater utilities; procedures for significant spills.

(A) As used in this section:

(1) "Action plan" or "plan" means a schedule for implementing and completing repairs, upgrades, and improvements needed to minimize future repetitive significant spills of untreated or partially treated domestic sewage.

(2) "Capacity, Management, Operation, and Maintenance or 'CMOM' plan" means a comprehensive, dynamic framework for wastewater utilities to identify and incorporate widely accepted wastewater industry practices to:

(a) better manage, operate, and maintain collection systems;

(b) investigate capacity constrained areas of the collection system; and

(c) respond to sanitary sewer overflow events.

(3) "Comprehensive review" or "review" means a complete technical assessment of the components and operation of a sewage system or its treatment works that are contributing to, or may be contributing to, repetitive significant spills of untreated or partially treated domestic sewage.

(4) "Department" means the Department of Health and Environmental Control.

(5) "Significant spill" means a net discharge from a wastewater utility of at least five thousand gallons of untreated or partially treated domestic sewage that could cause a serious adverse impact on the environment or public health. "Significant spill" does not include spills caused by a natural disaster, direct act of a third party, or other act of God.

(6) "Wastewater utility" or "utility" means the operator or owner of a sewage collection system or its treatment works providing sewer service to the public. "Wastewater utility" does not include manufacturers, electric utilities, agricultural operations, and wastewater treatment systems located on property owned by the federal government.

(B) Utilities must verbally notify the department of any significant spill within twenty-four hours and by written submission within five days.

(C) Upon receiving notice of a significant spill from a wastewater utility, the department must determine whether the responsible wastewater utility has had more than two significant spills per one hundred miles of its sewage collection system, in the aggregate and excluding private service laterals, during the twelve-month period up to and including the date of the significant spill.

(D)(1) If the wastewater utility has had more than two significant spills per one hundred miles of its aggregate collection system miles during a twelve-month period, the department shall issue an order directing the utility to complete a comprehensive review of the sewage system and treatment works facility identified pursuant to subsection (C), or if the wastewater utility has a Capacity, Management, Operations, and Maintenance plan in place directing the utility to update this plan, the order must include, but is not limited to:

- (a) the submission of the findings of the comprehensive review or CMOM update; and
- (b) the required implementation of any plans to minimize the recurrence of such significant spills.

(2) The comprehensive review, pursuant to item (1), must be performed by a licensed South Carolina professional engineer.

(3) Unless the department's order is being appealed, the comprehensive review or CMOM update must be initiated by the wastewater utility's owner within two months of receiving an order from the department or, in the case of an appeal, within two months from the date the order becomes final and nonappealable.

(E) The department shall require that all wastewater utilities provide public notice of any significant spill of five thousand gallons or more within twenty-four hours of the discovery. Where the responsible wastewater utility does not provide this notice, in addition to any enforcement response, the department shall provide public notice of the significant spill.

(F) Nothing in this section contravenes the department's ability to undertake enforcement action under the Pollution Control Act, Chapter 1, Title 48, or any other state or federal law.

HISTORY: 2012 Act No. 109, Section 1, eff February 1, 2012.

SECTION 48-1-100. Permits for discharge of wastes or air contaminants; jurisdiction of department.

(A) A person affected by the provisions of this chapter or the rules and regulations adopted by the department desiring to make a new outlet or source, or to increase the quantity of discharge from existing outlets or sources, for the discharge of sewage, industrial waste or other wastes, or the effluent therefrom, or air contaminants, into the waters or ambient air of the State, first shall make an application to the department for a permit to construct and a permit to discharge from the outlet or source. If, after appropriate public comment procedures, as defined by department regulations, the department finds that the discharge from the proposed outlet or source will not be in contravention of provisions of this chapter, a permit to construct and a permit to discharge must be issued to the applicant. The department, if sufficient hydrologic and environmental information is not available for it to make a determination of the effect of the discharge, may require the person proposing to make the discharge to conduct studies that will enable the department to determine that its quality standards will not be violated.

(B) The Department of Health and Environmental Control is the agency of state government having jurisdiction over the quality of the air and waters of the State of South Carolina. It shall develop and enforce standards as may be necessary governing emissions or discharges into the air, streams, lakes, or coastal waters of the State, including waste water discharges.

(C) The Department of Health and Environmental Control is the agency of state government having jurisdiction over those matters involving real or potential threats to the health of the people of South Carolina, including the handling and disposal of garbage and refuse; septic tanks; and individual or privately-owned systems for the disposal of offal and human or animal wastes.

HISTORY: 1962 Code Section 63-195.13; 1952 Code Section 70-117; 1950 (46) 2153; 1964 (53) 2393; 1970 (56) 2512; 1971 (57) 709; 1973 (58) 788; 1992 Act No. 294, Section 1.

SECTION 48-1-110. Permits required for construction or alteration of disposal systems; classification; unlawful operations or discharges.

(a) It shall be unlawful for any person, until plans therefor have been submitted to and approved by the department and a written permit therefor shall have been granted to:

(1) Construct or install a disposal system or source;

(2) Make any change in, addition to or extension of any existing disposal system or part thereof that would materially alter the method or the effect of treating or disposing of the sewage, industrial waste or other wastes;

(3) Operate such new disposal systems or new source, or any existing disposal system or source;

(4) Increase the load through existing outlets of sewage, industrial waste or other wastes into the waters of the State.

(b) The director of Health and Environmental Control shall classify all public wastewater treatment plants, giving due regard to size, types of work, character, and volume of waste to be treated, and the use and nature of the water resources receiving the plant effluent. Plants may be classified in a group higher than indicated at the discretion of the classifying officer by reason of the incorporation in the plant of complex features which cause the plant to be more difficult to operate than usual or by reason of a waste unusually difficult to treat, or by reason of conditions of flow or use of the receiving waters requiring an unusually high degree of plant operation control or for combinations of such conditions or circumstances. The classification is based on the following groups:

(1) For biological wastewater treatment plants: Group I-B. All wastewater treatment plants which include one or more of the following units: primary settling, chlorination, sludge removal, imhoff tanks, sand filters, sludge drying beds, land spraying, grinding, screening, oxidation, and stabilization ponds. Group II-B. All wastewater treatment plants which include one or more of the units listed in Group I-B and, in addition, one or more of the following units: sludge digestion, aerated lagoon, and sludge thickeners. Group III-B. All wastewater treatment plants which include one or more of the units listed in Groups I-B and II-B and, in addition, one or more of the following: trickling filters, secondary settling, chemical treatment, vacuum filters, sludge elutriation, sludge incinerator, wet oxidation process, contact aeration, and activated sludge (either conventional, modified, or high rate processes). Group IV-B. All wastewater treatment plants which include one or more of the units listed in Groups I-B, II-B, and III-B and, in addition, treat waste having a raw five-day biochemical oxygen demand of five thousand pounds a day or more.

(2) Effective July 1, 1987, for physical-chemical wastewater treatment plants: Group I-P/C. All wastewater treatment plants which include one or more of the following units: primary settling, equalization, pH control, and oil skimming. Group II-P/C. All wastewater treatment plants which include one or more of the units listed in Group I-P/C and, in addition, one or more of the following units: sludge storage, dissolved air flotation, and clarification. Group III-P/C. All wastewater

treatment plants which include one or more of the units listed in Groups I-P/C and II-P/C and, in addition, one or more of the following: oxidation/reduction reactions, cyanide destruction, metals precipitation, sludge dewatering, and air stripping. Group IV-P/C. All wastewater treatment plants which include one or more of the units listed in Groups I-P/C, II-P/C, and III-P/C and, in addition, one or more of the following: membrane technology, ion exchange, tertiary chemicals, and electrochemistry.

(c) It shall be unlawful for any person or municipal corporation to operate a public wastewater treatment plant unless the operator-in-charge holds a valid certificate of registration issued by the Board of Certification of Environmental Systems Operators in a grade corresponding to the classification of the public wastewater treatment plant supervised by him, except as hereinafter provided.

(d) It shall be unlawful for any person to operate an approved waste disposal facility in violation of the conditions of the permit to construct or the permit to discharge.

(e) It shall be unlawful for any person, directly or indirectly, negligently or willfully, to discharge any air contaminant or other substance in the ambient air that shall cause an undesirable level.

HISTORY: 1962 Code Section 63-195.14; 1952 Code Section 70-118; 1950 (46) 2153; 1969 (56) 764; 1970 (56) 2512; 1974 (58) 2334; 1980 Act No. 319, Section 4; 1985 Act No. 172, Section 1; 1993 Act No. 181, Section 1173.

SECTION 48-1-115. Public notice of sludge storage facility construction permit.

The department shall provide public notice before issuing a construction permit pursuant to Regulation 61-67 for a facility that stores sludge or other residuals, or any combination of these, that is not located at the site of a wastewater or sludge treatment facility permitted pursuant to Regulation 61-67. Public notice must be provided in accordance with Regulation 61-9.

HISTORY: 2006 Act No. 329, Section 1.

SECTION 48-1-120. Determination and correction of undesirable level.

If the Department shall determine that an undesirable level exists, it shall take such action as necessary to control such condition.

The Department shall grant such time as is reasonable for the owner or operator of a source to correct the undesirable level, after taking all factors into consideration that are pertinent to the issue.

In making its order and determinations, the Department shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions involved including, but not limited to:

(a) The character and degree of injury to, or interference with, the health and physical property of the people;

(b) The social and economic value of the source of the undesirable levels;

(c) The question of priority of location in the area involved; and

(d) The technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from such source.

If the undesirable level is not corrected within the required time, then the Department shall issue an order to cease and desist from causing such emissions.

HISTORY: 1962 Code Section 63-195.15; 1965 (54) 687; 1970 (56) 2512.

SECTION 48-1-130. Order for discontinuance of discharge of wastes or air contaminants.

A person discharging sewage, industrial waste, or other waste or air contaminant into the environment of the State, in such manner or quantity as to cause pollution, without regard to the time that the discharge began or whether or not the continued discharge has been by virtue of a permit issued by the department, shall discontinue the discharge upon receipt of an order of the department. An order is subject to review pursuant to Section 44-1-60 and the Administrative Procedures Act. This section does not abrogate any of the department's emergency powers.

HISTORY: 1962 Code Section 63-195.16; 1952 Code Section 70-120; 1950 (46) 2153; 1970 (56) 2512; 2012 Act No. 198, Section 2, eff June 6, 2012.

Effect of Amendment

The 2012 amendment rewrote the section.

SECTION 48-1-140. Revision or modification of national pollutant discharge elimination system or final compliance date for stationary source or class or sources of air pollution.

(a) The Department may, after notice and opportunity for a public hearing, revise or modify a national pollutant discharge elimination system permit in accordance with the procedures and criteria set out in Sections 301(c), 302 and 316(a) of the Federal Water Pollution Control Act Amendments of 1972.

(b) The Department may, after notice and opportunity for a public hearing, revise or modify a final compliance date for any stationary source or class or sources of air pollution whether contained in regulations or a compliance order, if the Department determines that

(1) good faith efforts have been made to comply with such requirement before such date;

(2) such source (or class) is unable to comply with such requirement because the necessary technology or other alternative methods of control are not reasonably available or have not been available for a sufficient period of time;

(3) any available alternative operating procedures and interim control measures have reduced or will reduce the impact of such source on public health;

(4) the continued operation of such source is essential to national security or to the public health or welfare.

Provided, however, that where the compliance date is one prescribed in the State Implementation Plan, the findings and recommendations of the Department shall be submitted to the Governor for transmittal to the Administrator of the Federal Environmental Protection Agency or his designated representative for his concurrence or rejection. Rejection by the administrator may constitute grounds for rejection of a request for modification or revisions of such compliance requirement.

(c) Any determination under items (a) or (b) of this section shall (1) be made on the record after notice to interested persons and opportunity for hearing, (2) be based upon a fair evaluation of the entire record at such hearing, and (3) include a statement setting forth in detail the findings and conclusions upon which the determination is based.

HISTORY: 1962 Code Section 63-195.17; 1965 (54) 687; 1970 (56) 2512; 1973 (58) 788; 1975 (59) 241; 1978 Act No. 463.

SECTION 48-1-150. Situations in which public hearing is required or authorized.

Public hearings shall be conducted by the Department prior to action by the Department in the classification of the waters or the adoption of standards of purity and quality thereof as provided by this chapter. The Department may conduct public hearings prior to action in the following cases, either of its own volition or upon the request of affected persons, (a) an order of determination of the Department requiring the discontinuance of discharge of sewage, industrial waste or other wastes into the waters of the State or air contaminant into the ambient air, (b) an order issuing, denying, revoking, suspending or modifying a permit, (c) a determination that a discharge constitutes pollution of waters of a marine district and (d) any other proceeding resulting in a finding of fact or determination that a discharge of air contaminants into the ambient air or sewage, industrial waste or other wastes into the waters of the State contravenes the standards established for such air and waters.

HISTORY: 1962 Code Section 63-195.18; 1952 Code, Section 70-125; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-160. Conduct of hearing; decision of department.

The hearings herein provided for may be conducted by the Department at a regular or special meeting or it may delegate to any member, to the executive director or to any employee or agent of the Department, the authority to conduct such hearings in the name of the Department at any time and place. But the Department shall make all necessary decisions as to the matter under consideration. Such decision may be based solely upon the record of any hearing conducted by the Department or by its duly authorized representative.

HISTORY: 1962 Code Section 63-195.19; 1952 Code Section 70-126; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-170. Records of hearings and decisions.

In any hearing held by the Department in which a quasi-judicial decision is rendered, the Department shall make a record of the decision and secure its prompt publication. The decision shall include a statement of the facts in controversy, the decision of the Department, the law or regulation upon which the decision is based and any other information deemed necessary.

To serve as a guide and precedent of the policy of the Department, the decisions shall be chronologically numbered according to date and compiled in an annual report similar in style to the reports of the Supreme Court. The reports of these decisions shall be made available to the public.

If any person concerned with such hearing requests it, a complete transcript of the testimony presented shall be made and filed.

HISTORY: 1962 Code Section 63-195.20; 1952 Code Section 70-127; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-180. Oaths; examination of witnesses; subpoenas.

In any such hearing, any member of the Department, the executive director or any employee or agent thereof authorized by the Department may administer oaths, examine witnesses and issue in the name of the Department notices of hearings and subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing. Witnesses shall receive the same fees and mileage as in civil actions.

HISTORY: 1962 Code Section 63-195.21; 1952 Code Section 70-128; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-190. Refusal to obey notice of hearing or subpoena.

In case of refusal to obey a notice of hearing or subpoena, the court of common pleas shall have jurisdiction, upon application of the Department, to issue an order requiring such person to appear and testify or produce evidence, as the case may require, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

HISTORY: 1962 Code Section 63-195.22; 1952 Code Section 70-129; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-200. Appeals.

Any person may appeal from any order of the Department within thirty days after the filing of the order, to the court of common pleas of any county in which the pollution occurs. The Department shall thereupon certify to the court the record in the hearing. The court shall review the record and the regularity and the justification for the order, on the merits, and render judgment thereon as in ordinary appeals in equity. The court may order or permit further testimony on the merits of the case, in its discretion such testimony to be given either before the judge or referee by him appointed. From such judgment of the court an appeal may be taken as in other civil actions.

HISTORY: 1962 Code Section 63-195.23; 1952 Code Section 70-131; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-210. Duties of Attorney General and solicitors.

The Attorney General shall be the legal adviser of the Department and shall upon request of the Department institute injunction proceedings or any other court action to accomplish the purpose of this chapter. In the prosecution of any criminal action by the Attorney General and in any proceeding before a grand jury in connection therewith the Attorney General may exercise all the powers and perform all the duties which the solicitor would otherwise be authorized or required to exercise or perform and in such a proceeding the solicitor shall exercise such powers and perform such duties as are requested of him by the Attorney General.

HISTORY: 1962 Code Section 63-195.24; 1952 Code Section 70-132; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-220. Institution of prosecutions.

Prosecutions for the violation of a final determination or order shall be instituted only by the Department or as otherwise provided for in this chapter.

HISTORY: 1962 Code Section 63-195.25; 1952 Code Sections 70-134, 70-135; 1950 (46) 2153; 1970 (56) 2512; 1975 (59) 241.

SECTION 48-1-230. Disposition of funds.

Any funds appropriated to or received by the Department shall be deposited in the State Treasury as provided by law. Such funds shall be paid out on warrants issued by the State as prescribed by law, but only on order of the authorized representatives of the Department and in accordance with an annual budget or amendments thereto approved by the Department at an official meeting, such order being the authority of the proper fiscal officials of the State for making payment.

HISTORY: 1962 Code Section 63-195.26; 1952 Code Section 70-136; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-240. Chapter remedies are cumulative; estoppel.

It is the purpose of this chapter to provide additional and cumulative remedies to abate the pollution of the air and waters of the State and nothing herein contained shall abridge or alter rights of action in the civil courts or remedies existing in equity or under the common law or statutory law, nor shall any provision in this chapter or any act done by virtue of this chapter be construed as estopping the State, persons or municipalities, as riparian owners or otherwise, in the exercise of their rights under the common law, statutory law or in equity to suppress nuisances or to abate any pollution.

HISTORY: 1962 Code Section 63-195.27; 1952 Code Section 70-137; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-250. No private cause of action created.

No private cause of action is created by or exists pursuant to this chapter. A determination by the

department that pollution exists or a violation of a prohibition contained in this chapter has occurred, whether or not actionable by the State, creates no presumption of law or fact inuring to or for the benefit of a person other than the State.

HISTORY: 1962 Code Section 63-195.28; 1952 Code Section 70-138; 1950 (46) 2153; 1970 (56) 2512; 2012 Act No. 198, Section 3, eff June 6, 2012.

Effect of Amendment

The 2012 amendment rewrote the section.

SECTION 48-1-260. Conditions within industrial plants and employer-employee relations not affected.

Nothing contained in this chapter shall be deemed to grant to the Department any authority to make any rule, regulation or determination or to enter any order with respect to air conditions existing solely within the industrial boundaries of commercial and industrial plants, works or shops or to affect the relations between employers and employees with respect to or arising out of any air pollution within such boundaries.

HISTORY: 1962 Code Section 63-195.29; 1965 (54) 687; 1970 (56) 2512.

SECTION 48-1-270. Availability of records, reports, and information to the public; confidentiality of trade secrets.

Any records, reports or information obtained under any provision of this chapter shall be available to the public. Upon a showing satisfactory to the Department by any person that records, reports or information, or particular parts thereof, other than effluent or emission data, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Department shall consider such record, report or information or particular portion thereof confidential in the administration of this chapter.

HISTORY: 1962 Code Section 63-195.30; 1965 (54) 687; 1970 (56) 2512; 1973 (58) 788; 1975 (59) 241.

SECTION 48-1-280. Health laws not affected.

Nothing herein contained shall be construed to postpone, stay or abrogate the enforcement of the provisions of the public health laws of this State and rules and regulations promulgated hereunder in respect to discharges causing actual or potential hazards to public health nor to prevent the Department of Health and Environmental Control from exercising its right to prevent or abate nuisances.

HISTORY: 1962 Code Section 63-195.31; 1952 Code Section 70-139; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-290. Emergency orders.

Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or property, the Department, with concurrent notice to the Governor, may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as the Department deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but on application to the Department or by direction of the Governor shall be afforded a hearing within forty-eight hours. On the basis of such hearing the Department shall continue such order in effect, revoke it or modify it. Regardless of whether a hearing is held, the Department shall revoke all emergency orders as soon as conditions or operations change to the extent that an emergency no longer exists.

HISTORY: 1962 Code Section 63-195.32; 1970 (56) 2512; 1975 (59) 241.

SECTION 48-1-300. Certain violations excused.

The civil and criminal liabilities herein imposed upon persons violating the provisions hereof shall not be construed to include any violation which was caused by an act of God, war, strike, riot or other catastrophe as to which negligence on the part of such person was not the proximate cause.

HISTORY: 1962 Code Section 63-195.33; 1952 Code Section 70-122; 1950 (46) 2153; 1970 (56) 2512.

SECTION 48-1-310. Local air pollution control programs.

The governing body of any county is hereby authorized to establish, administer and enforce a local air pollution control program, subject to the approval of the Department. Such programs shall be formulated in accordance with standards and procedures adopted by the Department, and shall be subject to periodic review by the Department, which shall have the power to invalidate such programs if found to be unsatisfactory. County pollution control authorities, when constituted under this section, are hereby authorized to exercise in the geographic area involved all of the powers specified in this chapter, including the authority to adopt rules, regulations and procedures for the control of air pollution.

HISTORY: 1962 Code Section 63-195.34; 1970 (56) 2512.

SECTION 48-1-320. Penalties for violation of Pollution Control Act.

A person who wilfully or with gross negligence or recklessness violates a provision of this chapter or a regulation, permit, permit condition, or final determination or order of the department is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than twenty-five thousand dollars for each day's violation or be imprisoned for not more than two years, or both.

HISTORY: 1962 Code Section 63-195.35; 1952 Code Section 70-133; 1950 (46) 2153; 1964 (53) 2393; 1969 (56) 764; 1970 (56) 2512; 1973 (58) 788; 1975 (59) 241; 2001 Act No. 95, Section 1.

SECTION 48-1-330. Civil penalties.

Any person violating any of the provisions of this chapter, or any rule or regulation, permit or permit condition, final determination or order of the Department, shall be subject to a civil penalty not to exceed ten thousand dollars per day of such violation.

HISTORY: 1962 Code Section 63-195.35:1; 1973 (58) 788; 1975 (59) 241.

SECTION 48-1-340. False statements, representations or certifications; falsifying, tampering with, or rendering inaccurate monitoring devices or methods.

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this chapter or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall be subject to the civil or criminal provisions contained in this chapter. For the purposes of this section the term "person" shall mean, in addition to the definition contained in Section 48-1-10, any responsible corporate officer.

HISTORY: 1975 (59) 241.

SECTION 48-1-350. Penalties constitute debts to State; liens; disposition of moneys collected.

All penalties assessed under this chapter are held as a debt payable to the State by the person against whom they have been charged and constitute a lien against the property of the person. One-half of the civil penalties collected inure to the benefit of the county. The criminal penalties collected pursuant to Section 48-1-320 must be collected and distributed pursuant to Section 14-1-205.

HISTORY: 1962 Code Section 63-195.36; 1970 (56) 2512; 1994 Act No. 497, Part II, Section 36O.

Excerpt from Sediment Study Report

As shown in the previous tables, the model estimates that during the period of 1989 to 2004, watersheds under the jurisdiction of the City of Columbia contributed the most sediment (3,016 tons) while watersheds under the jurisdiction of Fort Jackson contributed the least amount (2 tons). These sediment loadings directly correlate with the amount of disturbed area within each jurisdiction, as the most disturbed area (145 acres) was accrued within the City of Columbia, while no significant construction activity occurred within Fort Jackson during the study period. A final data summary is presented in Table 15.

Table 15 – Sediment Load Summary for the Project Area

Jurisdiction	Undisturbed Sediment Load (Tons)	% of Total	Disturbed Area (Acres)	% of Total	Disturbed Sediment Load (Tons)	% of Total	Total Sediment Load (Tons)	% of Total
City of Columbia	15	44	145	58	3,232	52	3,247	52
City of Forest Acres	11	34	73	29	1,742	28	1,753	28
Richland County	8	17	8	3	484	8	490	8
SCDOT	0	0	26	10	753	12	753	12
Fort Jackson	2	5	0	0	0	0	2	0
Total	34	100	251	100	6,210	100	6,244	100

The model estimates that approximately 6,250 tons of sediment would be carried during the 10-year 24-hour storm for the investigated watersheds. A portion of this sediment would be deposited in Little Lake Katherine; the remaining portion will flow to Lake Katherine. Over 99% of this load (6,210 tons) resulted from stormwater runoff of disturbed areas. These results directly correlate with the amount of disturbed area that occurred within each jurisdiction during the study period.

Table 17 – Cost Estimate

Item	Description	Quantity	Unit of Measure	Unit Cost	Line Item Cost
Mobilization					
	Mobilization	1	LS	\$70,000.00	\$70,000.00
Lake Dewatering					
	12"-4 MGD Pump 10 hrs/d	2	Week	\$1,200.00	\$2,400.00
	Suction Hose and Fittings	2	Week	\$500.00	\$1,000.00
	Discharge Hose and Fittings	2	Week	\$250.00	\$500.00
	Freight	1	LS	\$400.00	\$400.00
	Pump Setup	1	LS	\$2,000.00	\$2,000.00
	Erosion and Sediment Control	1	LS	\$10,000.00	\$10,000.00
Lake Sediment Removal					
	Remove Sediments	7500	CY	\$25.00	\$187,500.00
	Access Platform	2	LS	\$4,000.00	\$8,000.00
	Sediment Hauling	10130	TN	\$15.00	\$151,950.00
	Landfill Fee	10130	TN	\$19.00	\$192,470.00
	Erosion and Sediment Control	1	LS	\$22,000.00	\$22,000.00
Pen Branch Dredging					
	Remove Sediments	2500	CY	\$25.00	\$62,500.00
	Dewatering	2500	CY	\$4.00	\$10,000.00
	Access Platform	1	LS	\$4,000.00	\$4,000.00
	Sediment Hauling	3380	TN	\$15.00	\$50,700.00
	Landfill Fee	3380	TN	\$19.00	\$64,220.00
	Erosion and Sediment Control	1	LS	\$15,000.00	\$15,000.00
Sediment Prevention(Bedload)					
	Streamside Passive Collector	1	LS	\$30,000.00	\$30,000.00
	Sand Wand	1	LS	\$15,500.00	\$15,500.00
	Pump, Controllers and Hoses	1	LS	\$15,000.00	\$15,000.00
	Drop Box for Dewatering	1	LS	\$15,000.00	\$15,000.00
	Installation	1	LS	\$4,000.00	\$4,000.00
	Maintenance (per year)	4	LS	\$800.00	\$3,200.00
	Real Estate Acquisition	1	LS	\$20,000.00	\$20,000.00
Sediment Prevention (Suspended)					
	Crysta/Stream 2466 IB Unit	1	LS	\$50,000.00	\$50,000.00
	Installation	1	LS	\$4,000.00	\$4,000.00
	Maintenance (per year)	4	LS	\$800.00	\$3,200.00
	Intake Structure	1	LS	\$25,000.00	\$25,000.00
	Real Estate Acquisition	1	LS	\$30,000.00	\$30,000.00
Miscellaneous					
	Replace Landscaping	1	LS	\$15,000.00	\$15,000.00
	Traffic Control	1	LS	\$12,000.00	\$12,000.00
	Engineering/Surveying	1	LS	\$105,000.00	\$105,000.00
	Sub - Total				\$1,201,540.00
	Contingency (15%)				\$180,231.00
	Total Estimate				\$1,381,771.00

January 2005



Richland County Council Request of Action

Subject:

Council Motion Regarding the Human Resources Director reporting to the County Administrator

Richland County Council Request of Action

Subject: Council Motion Regarding the Human Resource Director reporting to the County Administrator

A. Purpose

County Council is requested to consider a Council motion regarding the human resource director reporting to the County Administrator.

B. Background / Discussion

At the February 16, 2016 Council meeting, Council member Jackson brought forth the following motion:

“I move that the Human Resources Director reports to the County Administrator. This can be by ordinance or by policy. This allows the Human Resources Director to be able to express his or her opinion freely and without influence or pressure”

Section 2 of the County Ordinance defines the roles and responsibilities of the County Human Resources Department – see below:

DIVISION 4. OFFICE OF STAFF AND HUMAN RESOURCES

Sec. 2-107. Office of staff and human resources, generally.

The office of staff and human resources is hereby created and shall be responsible for the development and implementation of a modern personnel program employing whatever resources and assistance are needed from the office of finance and budget and the office of operational services. The office of staff and human resources shall be managed by the director of staff and human resources who shall be responsible also for administrative and legislative research, economic and community development, public affairs, data information management, and such other responsibilities as may be assigned by the county administrator.

Sec. 2-108. Position of director--Created; selection; appointment.

There is hereby created the position of director of staff and human resources. The director of staff and human resources shall be selected and appointed by the county administrator with no definite term of office assigned.

Sec. 2-109. Same--Qualifications; compensation.

The director of staff and human resources shall be appointed solely on the basis of merit including administrative qualifications with special emphasis on education, training, experience and knowledge of the requirements of the office. Preference will be given to individuals with a graduate degree in the field(s) of public administration, business administration or some other related discipline. The director of staff and human resources shall be paid an annual salary as recommended by the county administrator and approved by county council.

Sec. 2-110. Same--Responsibilities; duties.

The duties and responsibilities of the director of staff and human resources shall be:

- (1) To serve as personnel director and, as such to plan, organize, direct and coordinate the personnel program of the county;
- (2) To formulate and recommend operating policies and procedures to the county administrator for the effective administration of the county's personnel program;

(3) To direct and control the county's research resources and activities serving the administrative and legislative branches of the government;

(4) To provide leadership and support in the areas of economic and community development and, in so doing, establish effective liaison and working relationships with all appropriate private and public enterprises as related to economic and industrial development, and with all appropriate civic groups/associations, as related to community development;

(5) To administer a program of public affairs and, to that end, establish effective relationships with the media and the general public through the development of viable public information programs;

(6) To organize, direct, and administer management information and word processing programs assigned to receive, store and provide organizational data and information on a timely and well-organized basis as a service to the entire organization; and

(7) To perform such other related work as may be required and as assigned by the county administrator.

Sec. 2-111. Staff and personnel.

The director of staff and human resources shall have such staff and assistants as are deemed necessary to the performance of his duties and operation of the office and approved by the county administrator. They shall be subject to the county personnel system and their compensation determined accordingly.

Sec. 2-112. Bond.

The director of staff and human resources shall be bonded to the county in an appropriate amount for the faithful performance of the duties as such officer.

Secs. 2-113--2-116. Reserved.

C. Legislative / Chronological History

- o February 16, 2016 – Motion made by Council member Jackson

D. Financial Impact

There is no financial impact associated with this request.

E. Alternatives

1. Consider the motion and proceed accordingly.
2. Consider the motion and do not proceed accordingly.

F. Recommendation

This is a policy decision for Council.

Recommended by: Norman Jackson

Department: Council District 11

Date: 2/16/16

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While “Council Discretion” may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 2/29/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

No recommendation provided since this is a policy decision for Council with no financial impact.

Human Resources

Reviewed by: Dwight Hanna

Date: 3/1/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

No recommendation provided because it is a policy decision for Council to make motions as they deem appropriate.

The Human Resources Director neither requested any Council Member to make this motion nor discussed this motion with any Council Member prior to the motion being presented for County Council’s consideration. In addition, the Human Resources Director has not discussed any concerns with the current structure of the County’s organizational chart. The Human Resources Director is not aware of any employee in the Human Resources Department who has requested or discussed this motion with Council.

Legal

Reviewed by: Brad Farrar

Date: 3/14/16

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision of Council.

Administration

Reviewed by: Tony McDonald

Date: March 17, 2016

Recommend Council approval

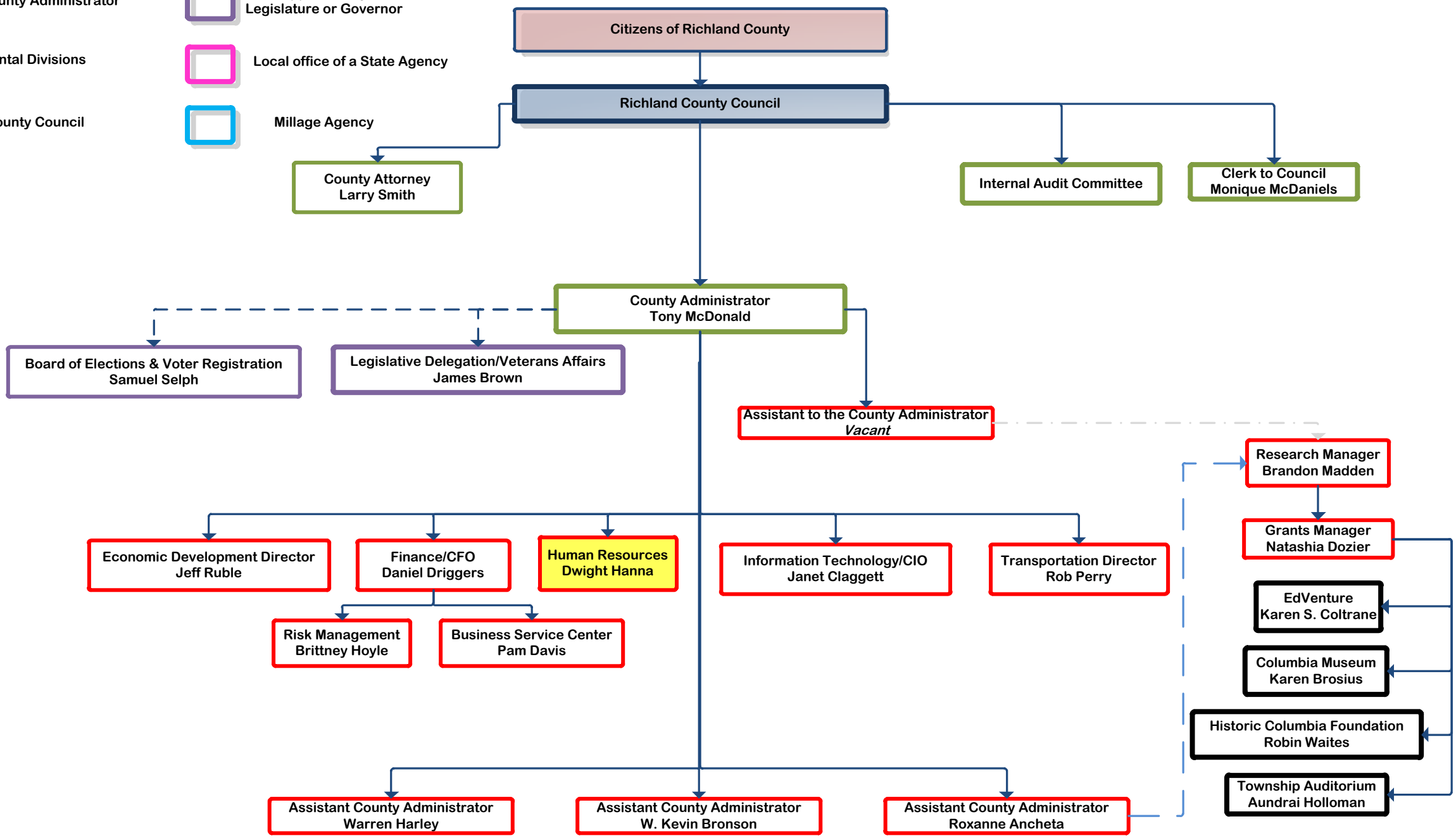
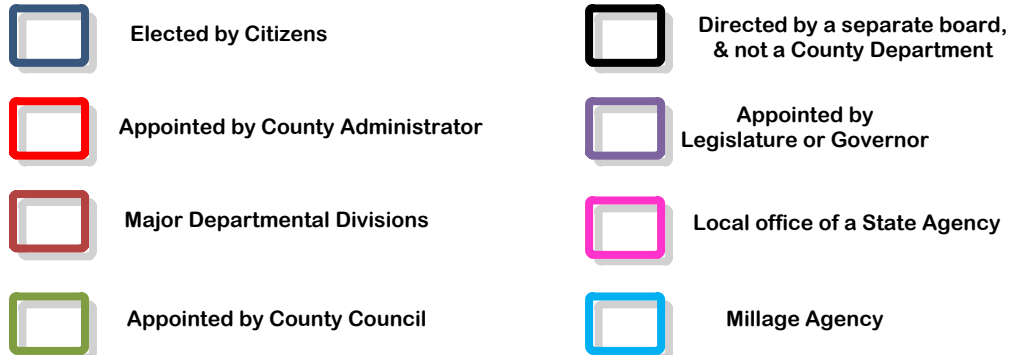
Recommend Council denial

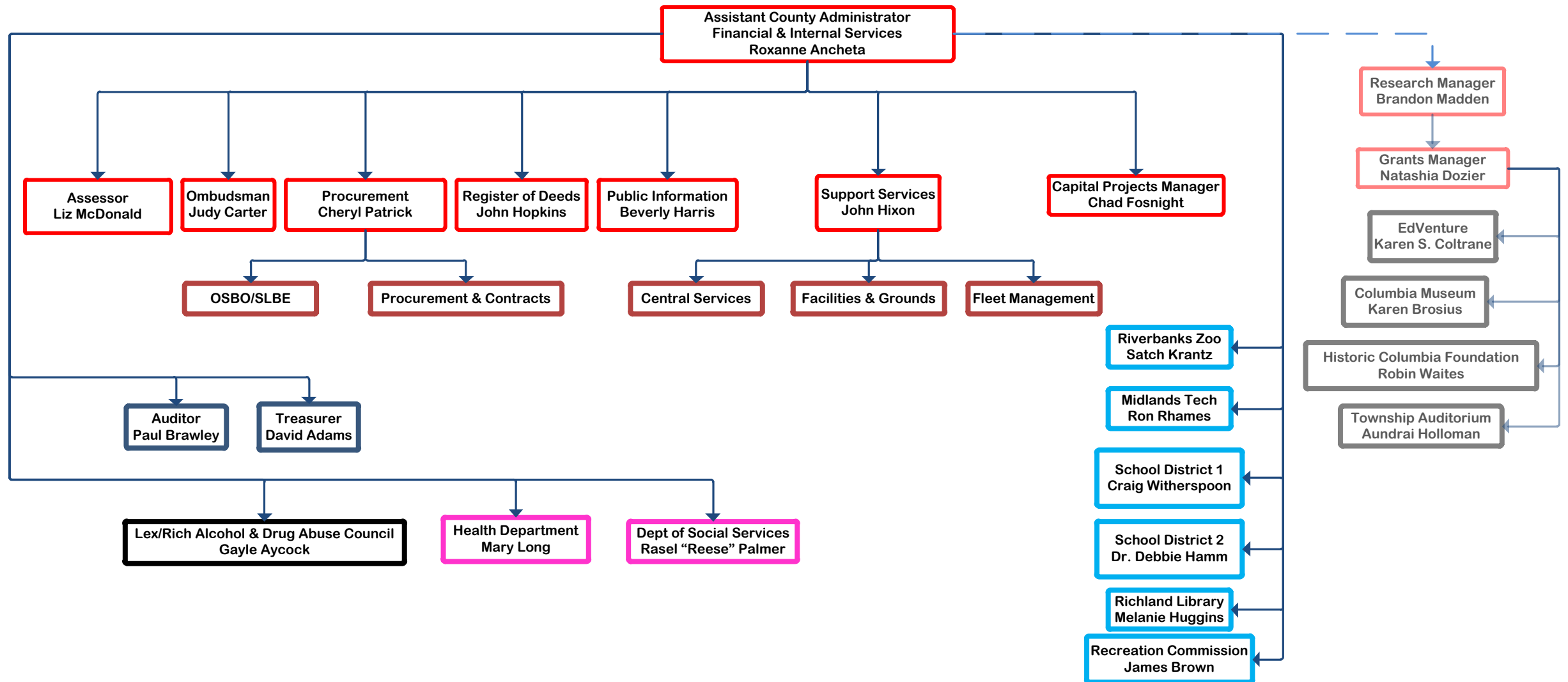
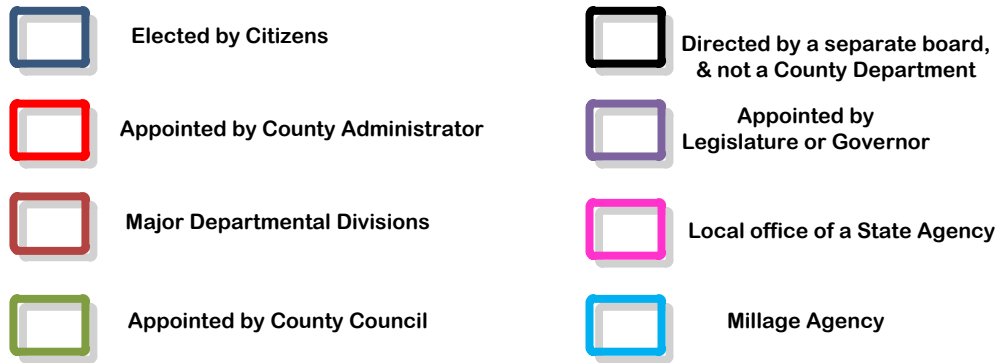
Comments regarding recommendation: Administration does not recommend approval of this item.

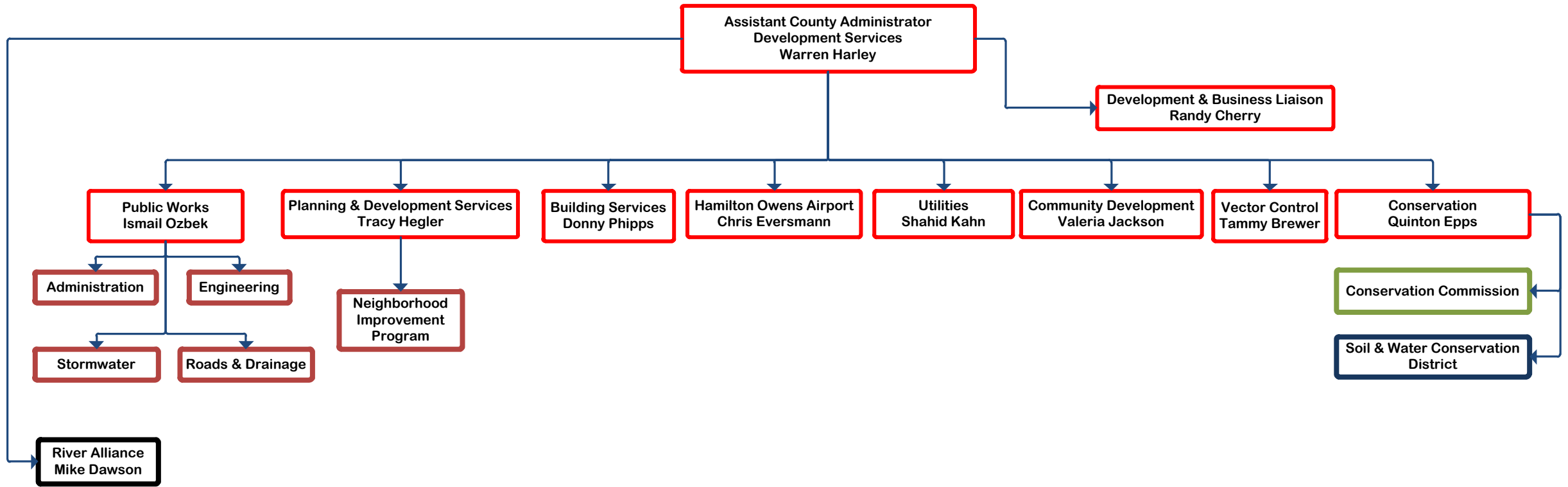
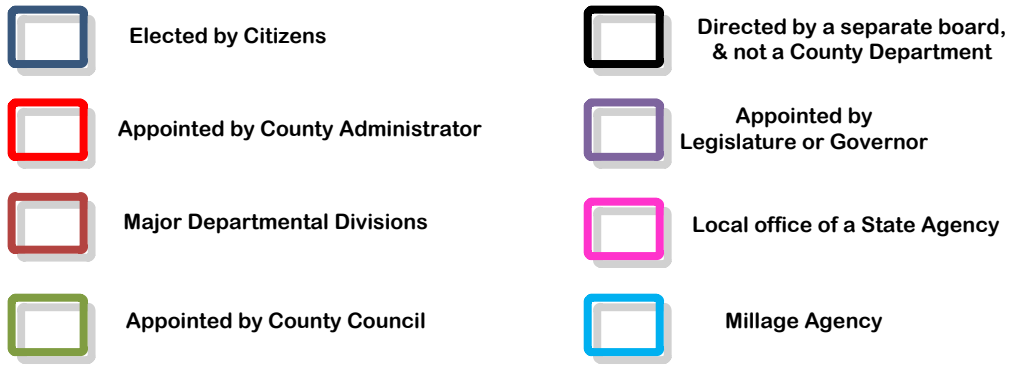
The Human Resources Director, as well as the majority of direct report department directors, reports to one of three Assistant County Administrators, who are assigned departments that are grouped by functionality.

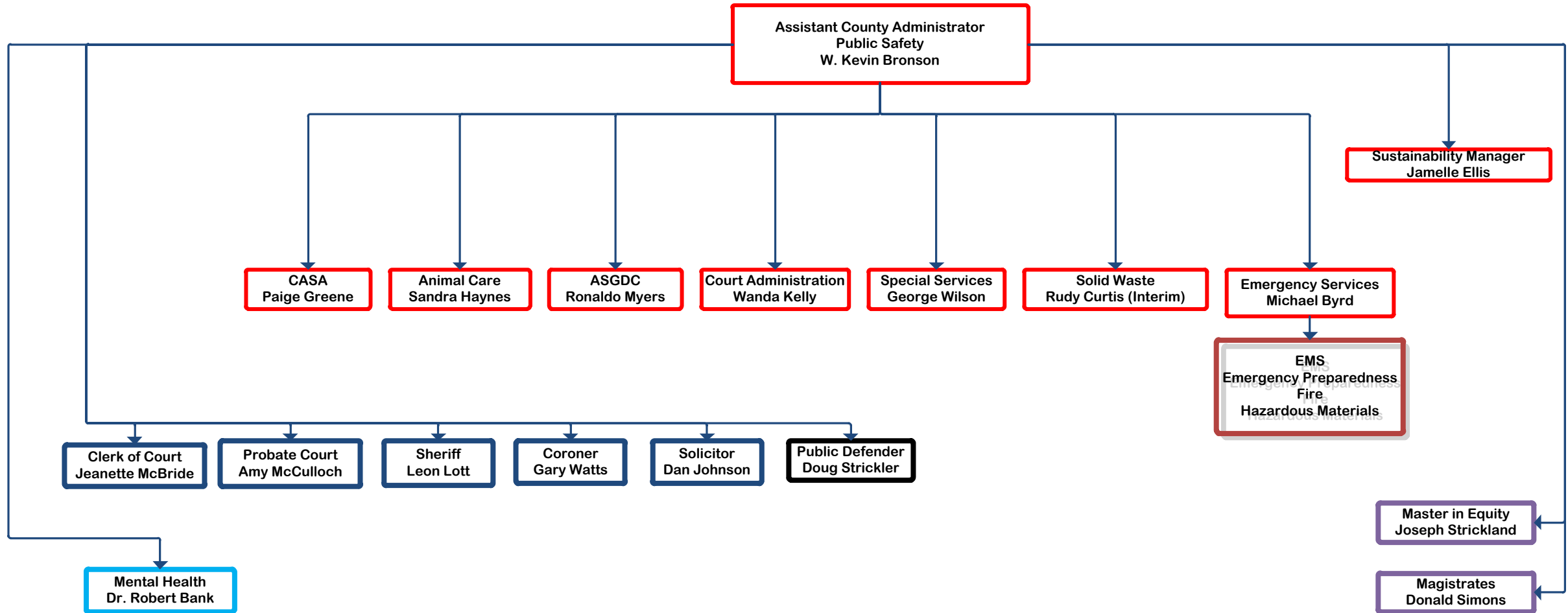
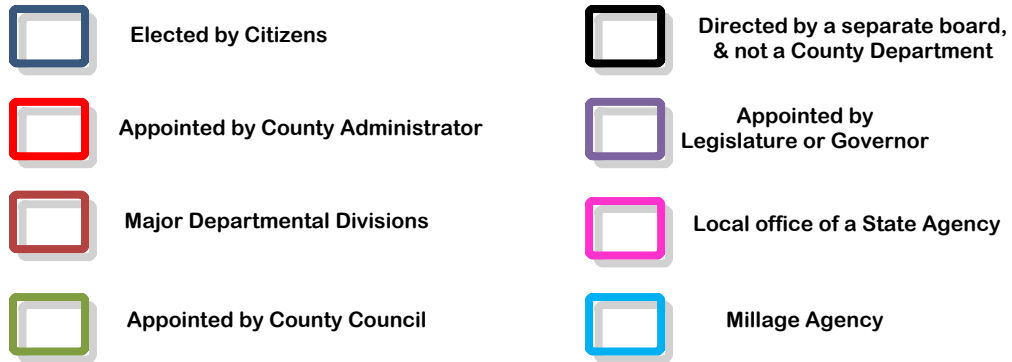
While their direct line of communication through the chain of command is through their respective Assistant, all directors are encouraged to discuss any issues with the County Administrator if they see fit to do so.

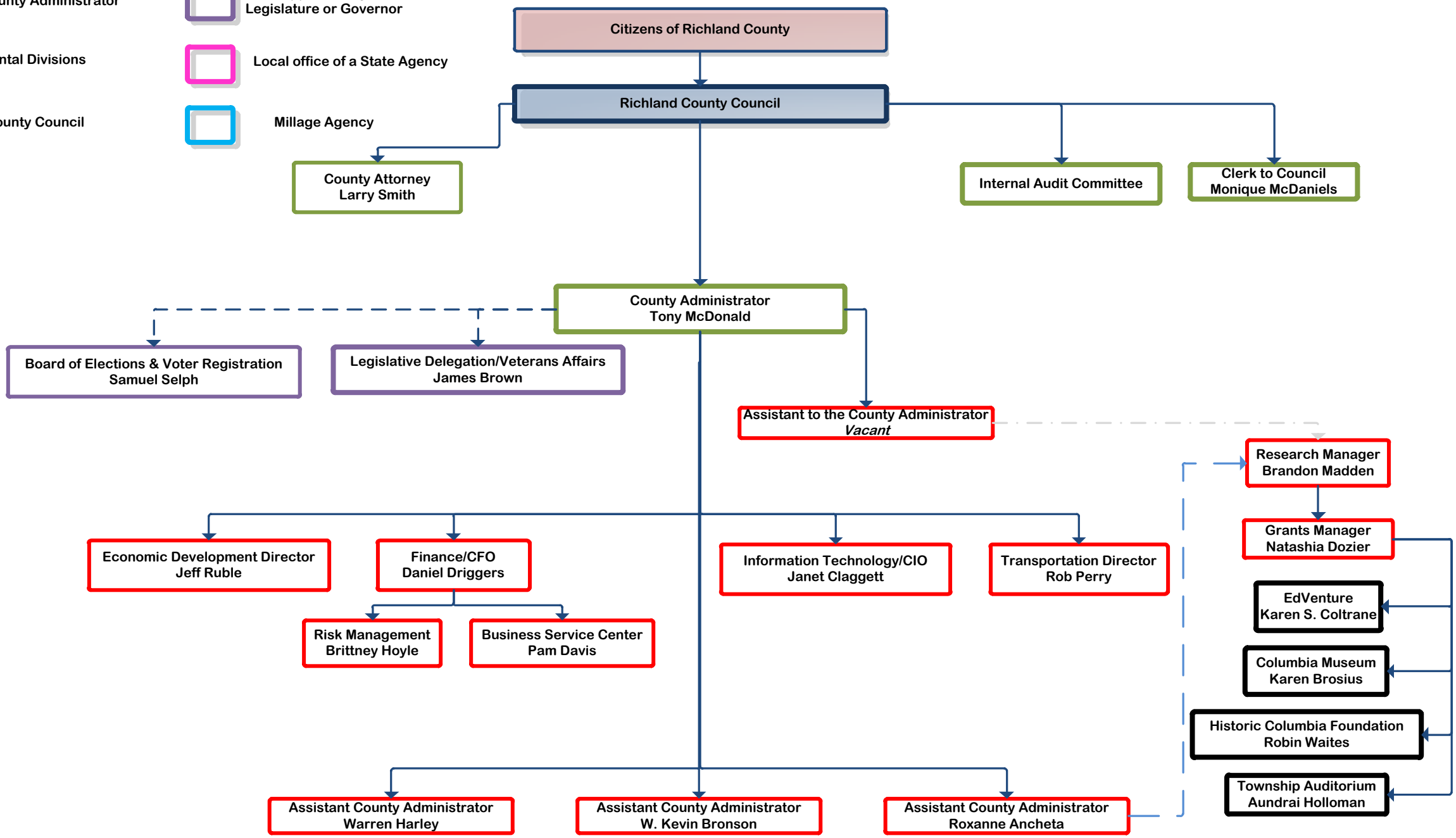
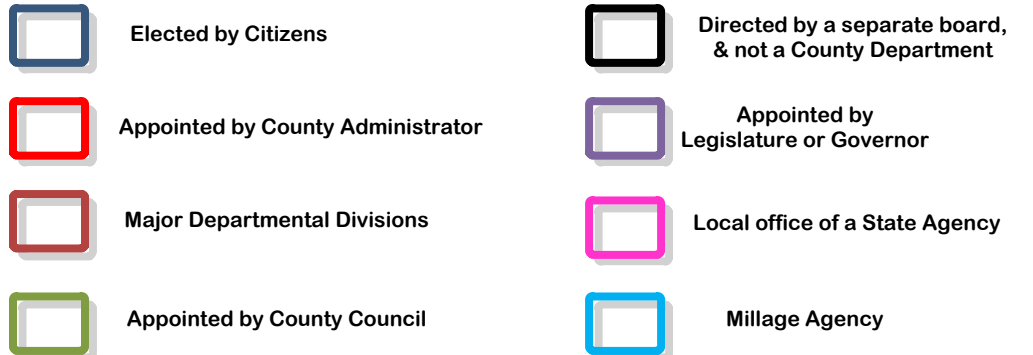
All directors should be able to express their opinions freely and without influence or pressure, regardless of reporting structure. If some directors feel that this is not the case, they are encouraged to speak to the County Administrator.

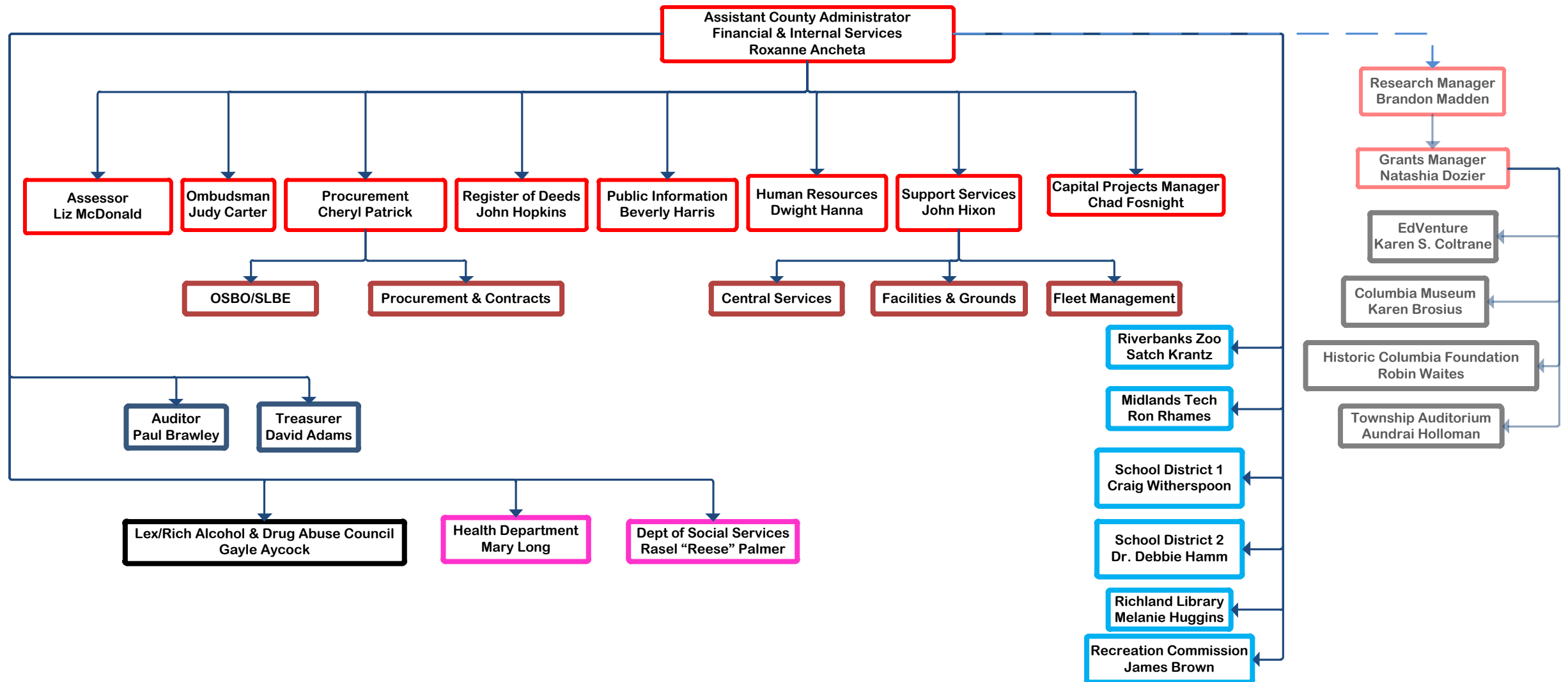
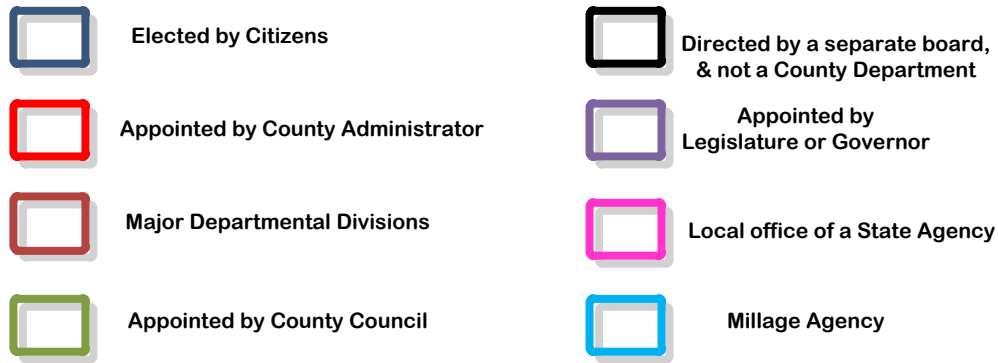


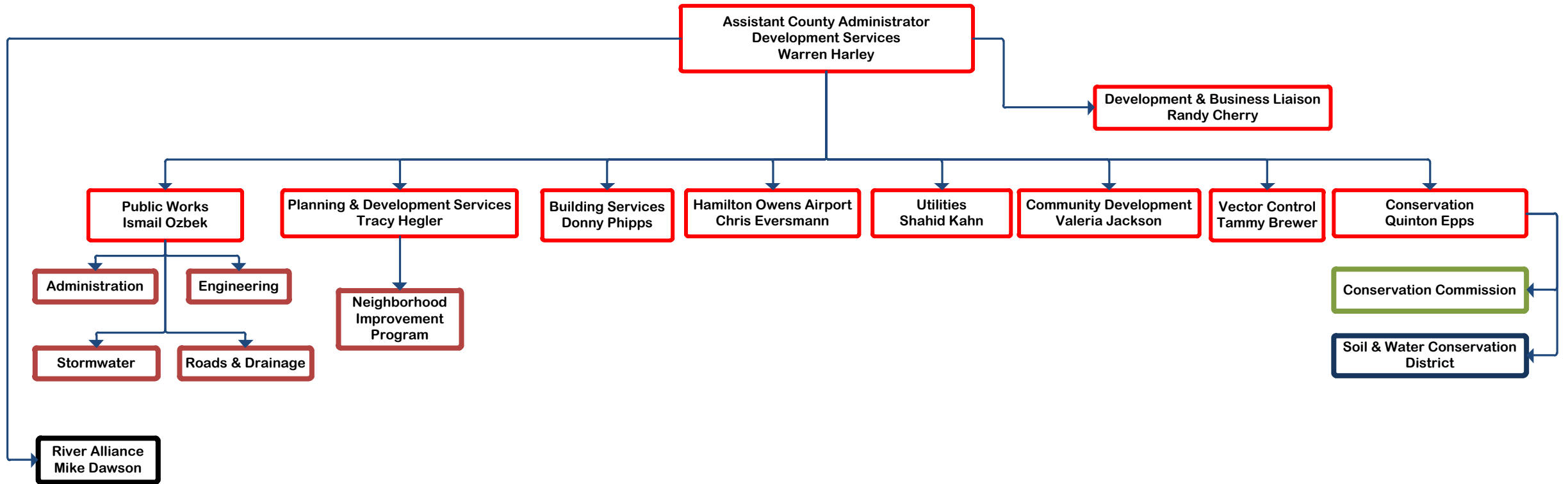
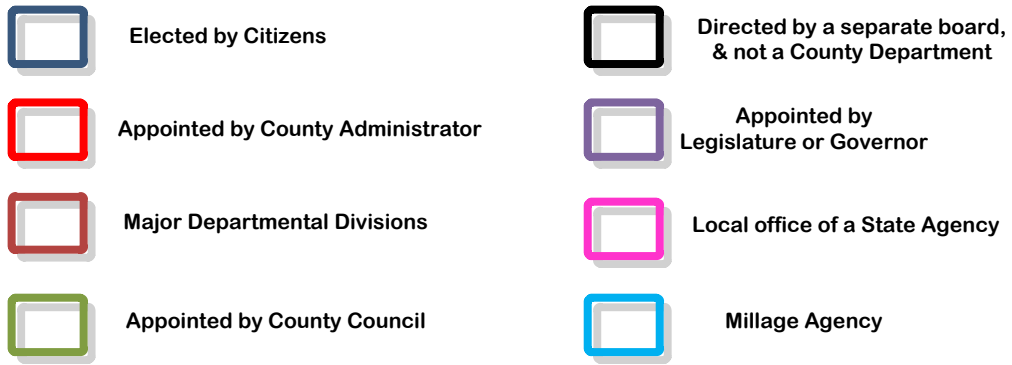


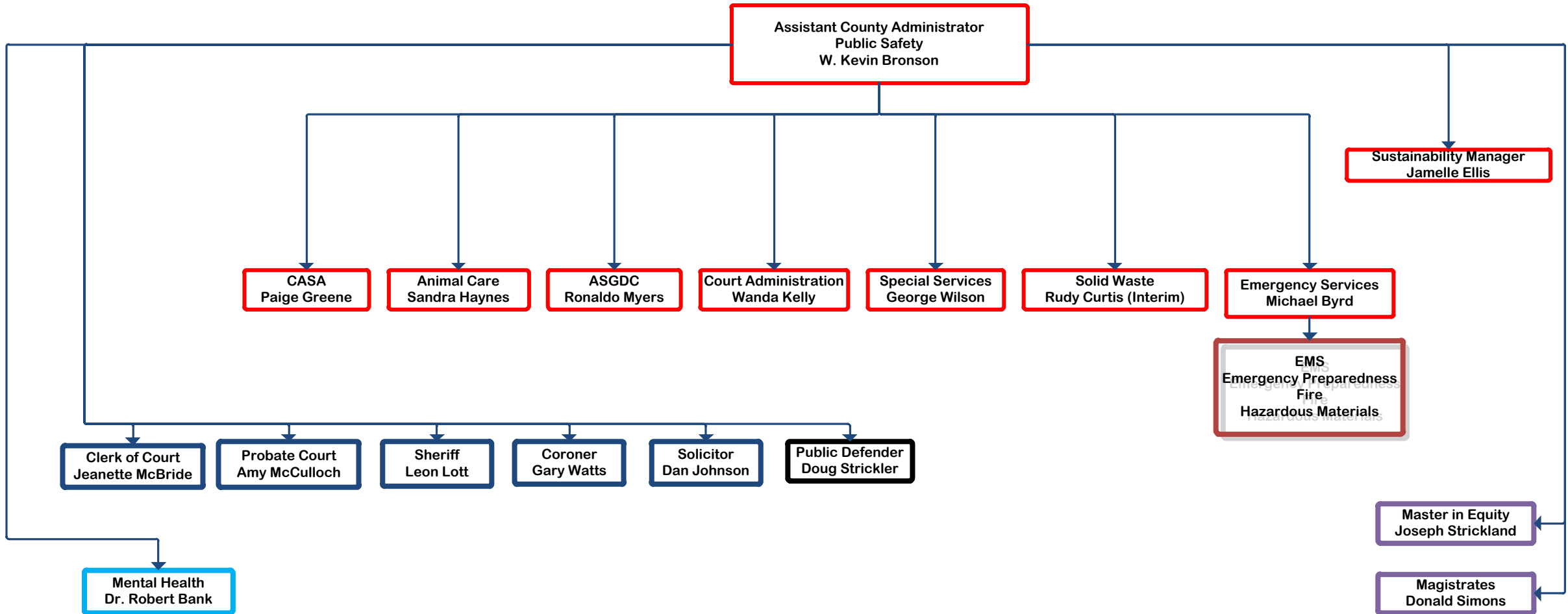
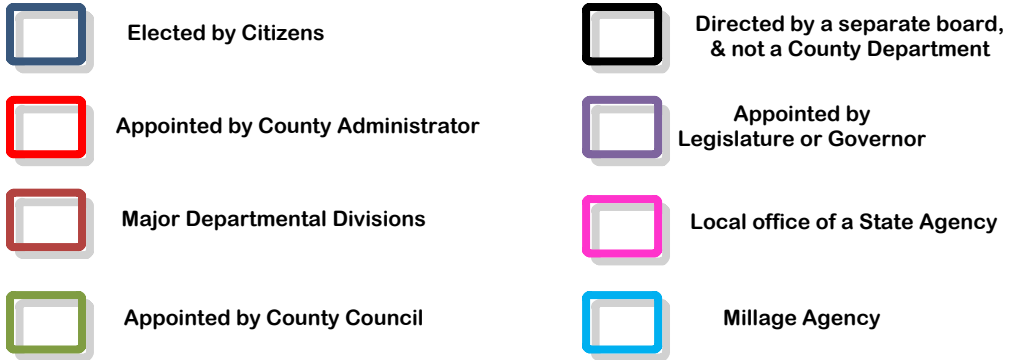












Richland County Council Request of Action

Subject:

Motion to Expand Staff Recruitment Efforts

Notes:

At the February 9, 2016 Council meeting, the following motion was brought forth.

“Have Human Resources expand recruitment efforts to encompass diverse agencies/organizations, such as the National Association of Multicultural Engineering, in order to reach out to a larger and more diverse applicant pool [MALINOWSKI]”

Staff is working to move forward with abovementioned motion. Staff will bring this item to the Committee for their consideration at a future Committee meeting.

Richland County Council Request of Action

Subject:

Changes to Policy on Requiring Employees to Sign Documents

Notes:

This item was deferred at the February A&F meeting for additional information from County Staff. Staff will bring this item back to the Committee for review and action once the additional research on this item has been completed.