

they have an issue with the care they received, we do not handle the call in the Compliance Office, but we forward it to our Quality Department where it is resolved. This number is a bit subjective, but after looking over last year's calls I'd say approximately a quarter of them fit in the "frivolous" category.

I hope this information is helpful. If you or Senator Rose have additional questions, don't hesitate to call. -Reece

Reece H. Smith
Chief Compliance Office
MUSC Medical Center
843-792-7795

-----Original Message-----

From: Jock Stender [mailto:jock.stender@██████████]
Sent: Thursday, March 17, 2011 6:36 PM
To: mrose5@sc.rr.com
Cc: Smith, Reece H.
Subject: Re: Telecon with Reese Smith

Mike,

Yes, will do. Reese said she'd get it to me before the close of business Friday.

Jock

copy to Reece Smith

On 3/17/11, Michael Rose <mrose5@sc.rr.com> wrote:

- > Get this information asap to George Schroeder.
- >
- > Mike
- >
- >
- >
- >
- >

> -----Original Message-----

> From: Jock Stender [mailto:jock.stender@██████████]
> Sent: Thursday, March 17, 2011 3:32 PM
> To: MROSE5
> Subject: Telecon with Reese Smith

- > Just talked with Reese Smith for 20 minutes.
- >
- > She's going to get together all sorts of data for me and e-mail it to me before 5 o'clock tomorrow.
- >
- > MUSC is paying \$5,000 annually for their 24-7-365 hotline, FYI.
- >
- >

AGENDA

SENATE JUDICIARY COMMITTEE

April 5, 2011
3:00 p.m., Room 308, Gressette Building

REGULATION

Document No. 4135

Agency: Department of Archives and History, Chapter: 12

Statutory Authority: 1976 Code Sections 4-9-195 and 5-21-140

Subject: Rehabilitation of Designated Historic Buildings

Leg. Rev. Expiration May 11, 2011

SUBCOMMITTEE REPORTS

- A) **H. 3066** -- Reprs. G.R. Smith, Daning, Ballentine, Harrison, Allison, Hamilton, G.M. Smith, Bingham, Long, Henderson, Erickson, Horne, Willis, Weeks, McLeod, Pope, Simrill, Lucas, Norman, D.C. Moss, Clemmons, Harrell, Atwater, Bedingfield, Funderburk and Edge: A BILL TO ENACT THE "SOUTH CAROLINA RESTRUCTURING ACT OF 2011" INCLUDING PROVISIONS TO AMEND SECTION 1-30-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AGENCIES OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT BY ADDING THE DEPARTMENT OF ADMINISTRATION; BY ADDING SECTION 1-30-125 SO AS TO ESTABLISH THE DEPARTMENT OF ADMINISTRATION AS AN AGENCY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT TO BE HEADED BY A DIRECTOR APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY, AND TO TRANSFER TO THIS NEWLY CREATED DEPARTMENT CERTAIN OFFICES AND DIVISIONS OF THE STATE BUDGET AND CONTROL BOARD, OFFICE OF THE GOVERNOR, AND OTHER AGENCIES, AND TO PROVIDE FOR TRANSITIONAL AND OTHER PROVISIONS NECESSARY TO ACCOMPLISH THE ABOVE; BY ADDING CHAPTER 2 TO TITLE 2 SO AS TO PROVIDE FOR LEGISLATIVE OVERSIGHT OF EXECUTIVE DEPARTMENTS AND THE PROCESSES AND PROCEDURES TO BE FOLLOWED IN CONNECTION WITH THIS OVERSIGHT; TO AMEND SECTIONS 1-11-20, AS AMENDED, 1-11-22, 1-11-55, 1-11-56, 1-11-58, 1-11-65, 1-11-67, 1-11-70, 1-11-80, 1-11-90, 1-11-100, 1-11-110, 1-11-180, 1-11-220, 1-11-225, 1-11-250, 1-11-260, 1-11-270, 1-11-280, 1-11-290, 1-11-300, 1-11-310, AS AMENDED, 1-11-315, 1-11-320, 1-11-335, 1-11-340, 1-11-435, 2-13-240, CHAPTER 9, TITLE 3; 10-1-10, 10-1-30, AS AMENDED, 10-1-40, 10-1-130, 10-1-190, CHAPTER 9, TITLE 10, 10-11-50, AS AMENDED, 10-11-90, 10-11-110, 10-11-140, 10-11-330; 11-9-610, 11-9-620, 11-9-630, 11-35-3810, AS AMENDED, 11-35-3820, AS AMENDED, 11-35-3830, AS AMENDED, 11-35-3840, AS AMENDED, 13-7-30, AS AMENDED, 13-7-830, AS AMENDED, 44-53-530, AS AMENDED, AND 44-96-140; 48-46-30, 48-46-40.

48-46-50, 48-46-60, 48-46-90, 48-52-410, 48-52-440, AND 48-52-460; AND BY ADDING SECTION 1-11-185 RELATING TO VARIOUS AGENCY OR DEPARTMENT PROVISIONS SO AS TO CONFORM THEM TO THE ABOVE PROVISIONS PERTAINING TO THE NEW DEPARTMENT OF ADMINISTRATION OR TO SUPPLEMENT SUCH PROVISIONS.

- B) **S. 258 -- Senators Sheheen, Campsen, Davis, Rose, Ryberg, McConnell, Massey and Rankin:** A BILL TO AMEND SECTION 1-3-240 OF THE 1976 CODE, RELATING TO REMOVAL OF OFFICERS BY THE GOVERNOR, TO PROVIDE THAT THE STATE INSPECTOR GENERAL MAY BE REMOVED BY THE GOVERNOR FOR MALFEASANCE, MISFEASANCE, INCOMPETENCY, ABSENTEEISM, CONFLICTS OF INTEREST, MISCONDUCT, PERSISTENT NEGLECT OF DUTY IN OFFICE, OR INCAPACITY; AND TO AMEND TITLE 1 BY ADDING CHAPTER 6 TO CREATE THE OFFICE OF THE STATE INSPECTOR GENERAL TO PROVIDE THAT THE STATE INSPECTOR GENERAL IS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, TO AUTHORIZE THE STATE INSPECTOR GENERAL TO ADDRESS FRAUD, WASTE, ABUSE, AND WRONGDOING WITHIN THE SOUTH CAROLINA EXECUTIVE GOVERNMENT AGENCIES, AND TO PROVIDE FOR THE POWERS, DUTIES, AND FUNCTIONS OF THE OFFICE.
- C) **S. 263 -- Senator Knotts:** A BILL TO AMEND ARTICLE 23, CHAPTER 5, TITLE 56 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, BY ADDING SECTION 56-5-2905, SO AS TO PROVIDE THAT A PERSON WHO WHILE DRIVING A MOTOR VEHICLE DOES ANY ACT FORBIDDEN BY LAW IN THE DRIVING OF THE MOTOR VEHICLE, EXCEPT A VIOLATION OF SECTIONS 56-5-2930, 56-5-2935, OR 56-5-2945, WHICH PROXIMATELY CAUSES DEATH TO A PERSON, IS GUILTY OF THE MISDEMEANOR OFFENSE OF VEHICULAR HOMICIDE; AND TO AMEND SECTION 56-5-2946 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, SO AS TO PROVIDE THAT A PERSON MUST SUBMIT TO EITHER ONE OR A COMBINATION OF CHEMICAL TESTS OF HIS BREATH, BLOOD, OR URINE FOR THE PURPOSE OF DETERMINING THE PRESENCE OF ALCOHOL, DRUGS, OR A COMBINATION OF ALCOHOL AND DRUGS IF THE PERSON IS THE DRIVER OF A MOTOR VEHICLE INVOLVED IN A MOTOR VEHICLE INCIDENT RESULTING IN THE DEATH OF ANOTHER PERSON.
- D) **S. 78 -- Senators Hayes and Lourie:** A BILL TO AMEND SECTION 44-53-190, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MATERIALS, COMPOUNDS, MIXTURES, AND PREPARATIONS CLASSIFIED AS SCHEDULE I DRUGS, SO AS TO ADD SYNTHETIC CANNABIS TO THE LIST OF SCHEDULE I DRUGS.
- E) **H. 3152 -- Reps. Young, Daning, Harrison, Allison, G.R. Smith, Stringer, Taylor, Forrester, Hamilton, Murphy, G.M. Smith, Bingham, Long, Patrick, Viers, Funderburk, Horne, Willis, Weeks, Pope, Simrill, Clemmons, Harrell, Bedingfield and Edge:** A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 8, ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895.

RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, SO AS TO PROVIDE FOR THE JOINT ELECTION OF GOVERNOR AND LIEUTENANT GOVERNOR.

- F) **H. 3095 -- Reps. Clemmons, Erickson, Stavrinakis, McCoy, Bowen, Sandifer, Whitmire, Hixon, J.R. Smith, Allison, Long, Toole, Weeks, Atwater, Hardwick, Agnew, Govan and Bales:** A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 27-1-70 SO AS TO PROVIDE CERTAIN DEFINITIONS RELATED TO TRANSFER FEE COVENANTS, TO STATE CERTAIN FINDINGS RELATED TO TRANSFER FEE COVENANTS, TO PROVIDE A TRANSFER FEE COVENANT RECORDED AFTER THE EFFECTIVE DATE OF THIS SECTION, OR ANY LIEN TO THE EXTENT THAT IT PURPORTS TO SECURE THE PAYMENT OF A TRANSFER FEE, IS NOT BINDING ON OR ENFORCEABLE AGAINST THE AFFECTED REAL PROPERTY OR ANY SUBSEQUENT OWNER, PURCHASER, OR MORTGAGEE OF ANY INTEREST IN THE PROPERTY, AND TO PROVIDE THE SECTION DOES NOT IMPLY THAT A TRANSFER FEE COVENANT RECORDED BEFORE THE EFFECTIVE DATE OF THIS SECTION IS VALID OR ENFORCEABLE.
- G) **H. 3070 -- Reps. Young, Harrison, G.R. Smith, H.B. Brown, Taylor, Hamilton, Murphy, G.M. Smith, Bingham, Long, Patrick, Viers, Funderburk, Horne, Willis, Simrill, Pope, Clemmons, Harrell, Bedingfield, Henderson, D.C. Moss, Erickson and Edge:** A JOINT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE VI OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE CONSTITUTIONAL OFFICERS OF THIS STATE, SO AS TO DELETE THE SUPERINTENDENT OF EDUCATION FROM THE LIST OF STATE OFFICERS WHICH THE CONSTITUTION REQUIRES TO BE ELECTED AND PROVIDE THAT THE SUPERINTENDENT OF EDUCATION MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY FOR A TERM COTERMINOUS WITH THE GOVERNOR UPON THE EXPIRATION OF THE TERM OF THE SUPERINTENDENT OF EDUCATION SERVING IN OFFICE ON THE DATE OF THE RATIFICATION OF THIS PROVISION, AND TO PROVIDE THAT THE GENERAL ASSEMBLY SHALL PROVIDE BY LAW FOR THE DUTIES, COMPENSATION, AND QUALIFICATIONS FOR OFFICE, THE PROCEDURES BY WHICH THE APPOINTMENT IS MADE, AND THE PROCEDURES BY WHICH THE SUPERINTENDENT OF EDUCATION MAY BE REMOVED FROM OFFICE.
- H) **H. 3301 -- Reps. Clemmons, Bowers, Bales, Anderson, Pinson, R.L. Brown and Erickson:** A BILL TO AMEND SECTION 23-43-85, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO STANDARDS FOR PLACEMENT OF MODULAR HOMES, SO AS TO PROVIDE CIRCUMSTANCES IN WHICH A MODULAR HOME USED AS A DISPLAY MODEL MAY BE PLACED FOR ITS FIRST RESIDENTIAL USE.

GENERAL BILLS AND RESOLUTIONS

- 1) **S. 394 -- Senator Rose:** A BILL TO AMEND SECTION 14-11-10, SOUTH CAROLINA CODE OF LAWS, 1976, RELATING TO THE ESTABLISHMENT OF THE MASTER-IN-EQUITY COURT, SO AS TO PERMIT A COUNTY WITH A POPULATION OF MORE THAN THIRTY THOUSAND BUT LESS THAN ONE HUNDRED THIRTY THOUSAND TO HAVE A PART-TIME OR A FULL-TIME MASTER-IN-EQUITY AS DETERMINED BY THE GOVERNING BODY OF THE COUNTY OR COUNTIES IN WHICH THE A MASTER-IN-EQUITY SERVES; AND TO AMEND SECTION 14-11-30, RELATING TO THE COMPENSATION OF MASTER-IN-EQUITY, SO AS TO ALLOW A PART-TIME MASTER-IN-EQUITY IN CITIES OR COUNTIES WITH POPULATIONS OF ONE HUNDRED THIRTY THOUSAND OR GREATER.

This bill would give discretion to a county or area with a population of 130,000 but less than 150,000, according to the latest official U.S. Decennial Census, to fund a part-time or full-time office of master-in-equity.

- 2) **H. 3786 -- Medical, Military, Public and Municipal Affairs Committee:** A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF ARCHIVES AND HISTORY, RELATING TO REHABILITATION OF DESIGNATED HISTORIC BUILDINGS, DESIGNATED AS REGULATION DOCUMENT NUMBER 4135, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

This joint resolution would approve regulations of the Department of Archives and History to clarify definitions and a review process regarding the Rehabilitation of Designated Historic Buildings and to bring the regulations into conformance with the revised enabling law.

Schroeder, George

From: Andrea Truitt [atruitt@lac.sc.gov]
Sent: Wednesday, March 30, 2011 11:36 AM
To: Schroeder, George
Subject: S.258 language

This is my suggested amendment to 1-6-50(C):

Section 1-6-50. The State Inspector General has the following powers:

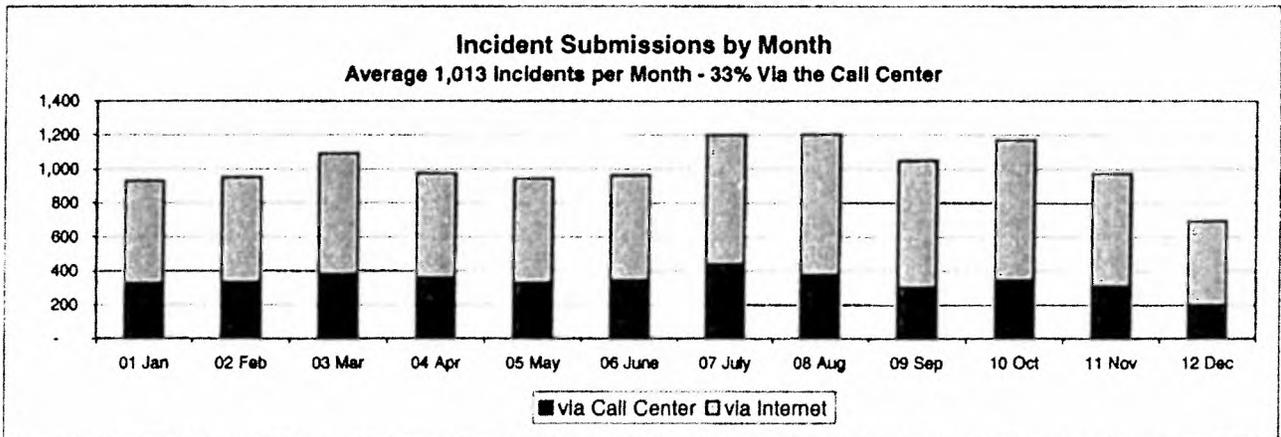
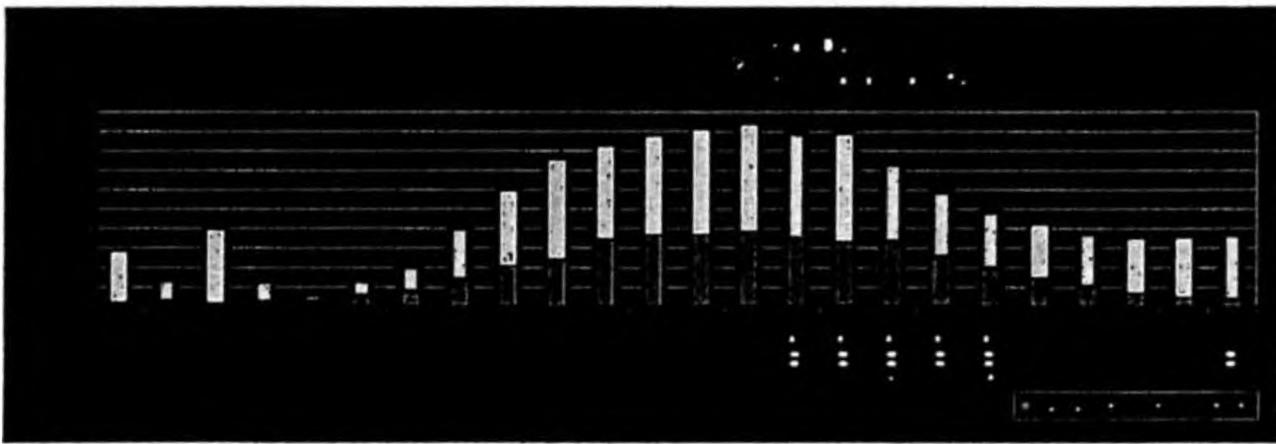
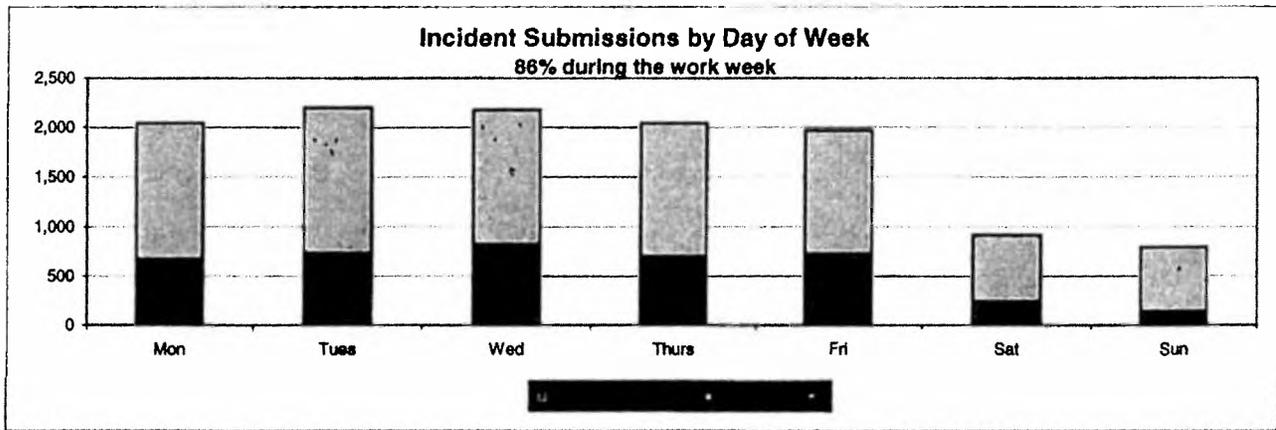
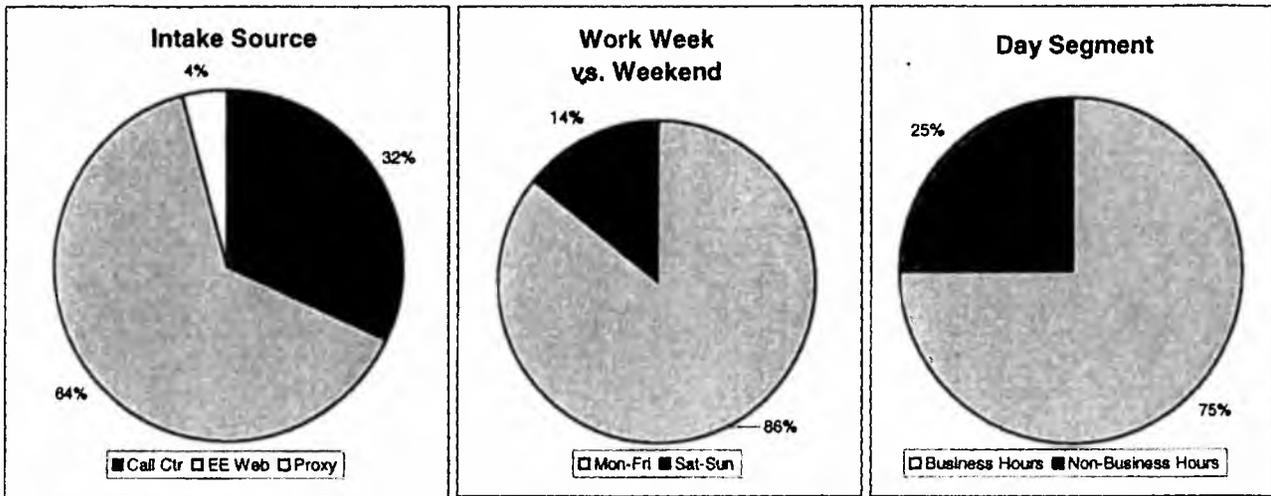
(C) The State Inspector General must prepare a report summarizing the results of every investigation. The report is confidential ~~in accordance with Section 1-6-90~~, until it is issued as a final report.

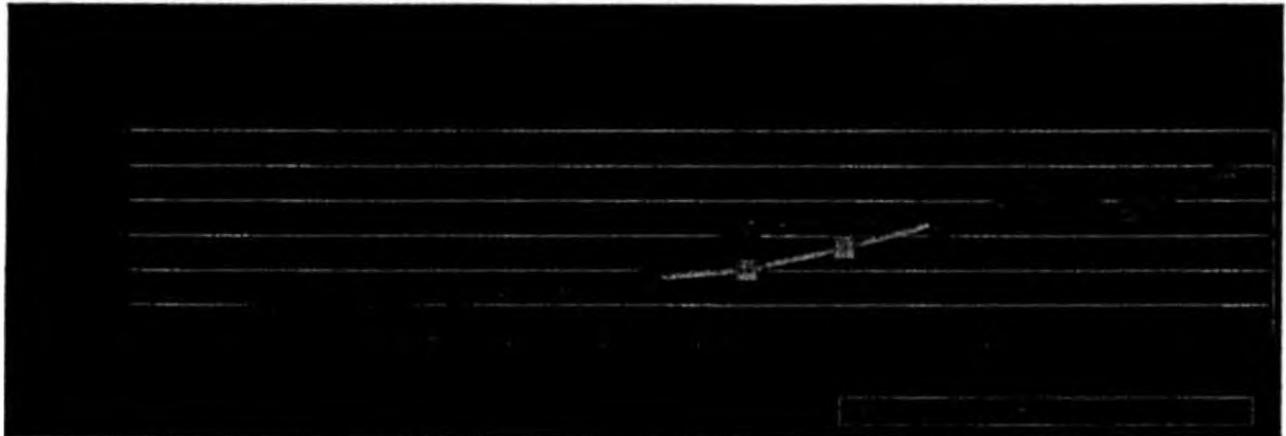
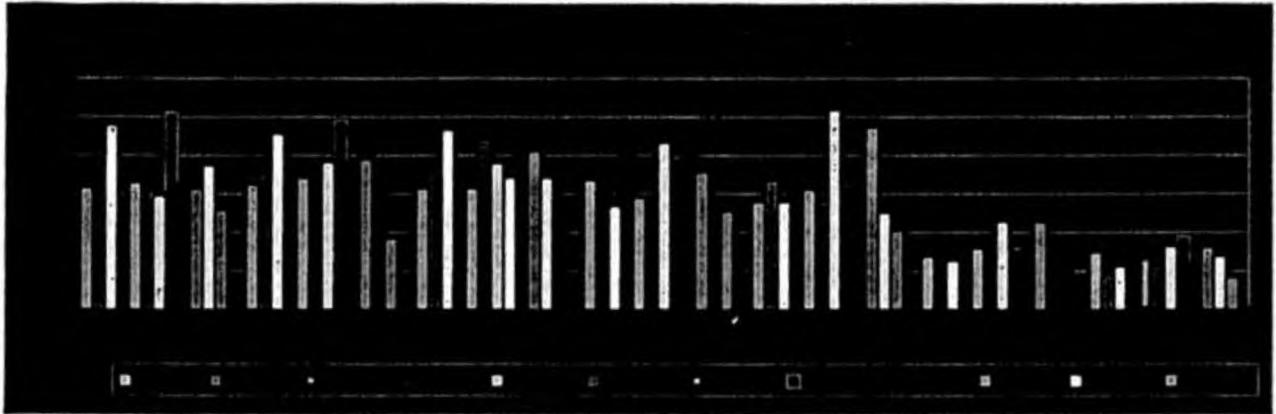
10879

Meeting, March 17, 2011, Sen. Mike Rose with Inspector General George Schroeder: Key Points

1. OIG needs 24-7-365 live operation of hotline. (Discuss Business Control's) testimony and "2010 Incident Report Submissions" document. The most powerful tips come after hours. All eight other state OIGs handle hotline calls themselves during business hours, and most do not know how many tips they miss after hours when they all use voice mail. BC however, has hundreds of clients – including government clients – that use their 24-7-365 service.
2. Discuss with MUSC its 24-7-365 hotline, operated by Global Compliance, Inc.
3. OIG needs web-based reporting system to supplement telephone hotline; i.e., good website.
4. OIG should also encourage reports by mail and fax.
5. Reports of serious, bona fide complaints/fraud, etc. should be sent to responsible managers immediately (electronically), regardless whether the OIG has authority over the agency.
6. Discuss: Most state OIGs receiving complaints/tips about agencies over which they have no jurisdiction give callers the appropriate phone numbers and wish them "good luck." A small number of OIGs log these calls for no apparent reason. State of New York has the very best in-house hotline system, manned by law enforcement people who know the importance of:
 - ✓ Patience with callers
 - ✓ Keen sense of judgment
 - ✓ Knowing jurisdiction and authority of the office
 - ✓ Appreciating the care needed talking with callers to "build a case" when needed for prosecution
7. OIG needs robust reporting and case-management software to monitor whatever action was determined appropriate when the report came in, and as it progresses.
8. No bona fide complaint/tip should be allowed to "go stale" with no action when action is required; "become lost" because information or personnel is not currently available; or ignored because it is not within the OIG's authority.
9. The most effective hotline system will include questions built into the software that ask particular questions regarding particular agencies, such questions being developed in conjunction with those agencies because they know where their systemic (unavoidable) risks are. For instance, risks at DOT, DHHS, DMV, the Highway Patrol, DHEC, Clemson, and the State Museum and are all unique.
10. Most calls are "human relations" complaints, some serious, some not; operators must know how to diplomatically handle both. Some callers can and should be told to talk with their supervisors or HR departments. Total calls (business hours) average from 3-4/day (most states) to 15-25/day (New York).
11. A small number of calls will concern physical crimes, e.g., from rape victims, and operators should be prepared to "hand hold" such victims until law enforcement arrives. A small number of calls will also be from people who are suicidal or mentally ill, and these require special handling. "Every call is different" is the constant refrain from all state OIG offices. Also, very few "prank" calls are received.
12. All calls should be logged, regardless of disposition. Name, contact information, date, brief note of nature of call.
13. ~~X~~ **"Marketing" – getting the word out – is critical to the success of the OIG's mission.** Workplace posters, notices on doors of public places (e.g., state parks, welcome stations), bumper stickers on state vehicles, hotline information on every state agency website, and TV and radio interviews of George (coffee mugs for radio/TV reporters). Equally important will be press releases of investigations closed with results of perps ("perpetrators") being prosecuted, fined, suspended, etc. **These are all inexpensive or free.**
14. Jock has a long list of experts to whom George can turn for advice, e.g., Rachel Pauley in the NY OIG office.

**** Remember: Give George the "2010 Incident Report Submissions" ****







Incident Volume by Day of Week

Day of Week	Call Ctr	Web Reports	Total Reports
Mon	675	1,372	2,047
Tues	734	1,463	2,197
Wed	821	1,359	2,180
Thurs	700	1,346	2,046
Fri	725	1,246	1,971
Sat	244	674	918
Sun	139	654	793
Grand Total	4,038	8,114	12,152

of Reports **Work Week vs. Weekend**
 10,441 Mon-Fri
 1,711 Sat-Sun

of Reports **Day Segment**
 9,127 Business Hours
 3,025 Non-Business Hours
 (extended for time zone)

Incident Volume by Month

Month	Call Ctr	Total Reports	Web Reports
01 Jan	327	929	602
02 Feb	332	953	621
03 Mar	380	1,093	713
04 Apr	358	975	617
05 May	329	943	614
06 June	344	963	619
07 July	438	1,200	762
08 Aug	376	1,205	829
09 Sep	301	1,051	750
10 Oct	346	1,170	824
11 Nov	310	975	665
12 Dec	197	695	498
Total	4,038	12,152	8,114

Average per month 1,013

Incident Volume by Time of Day; and Intake Source

Time of Day	Call Ctr	Web Reports	Total Reports
Midnight	19	264	283
1:00 AM	19	121	140
2:00 AM	17	376	393
3:00 AM	14	118	132
4:00 AM	18	47	65
5:00 AM	48	90	138
6:00 AM	69	139	208
7:00 AM	132	273	405
8:00 AM	206	391	597
9:00 AM	241	515	756
10:00 AM	342	484	826
11:00 AM	364	515	879
Noon	365	549	914
1:00 PM	380	560	940
2:00 PM	340	556	896
3:00 PM	329	558	887
4:00 PM	323	413	736
5:00 PM	247	348	595
6:00 PM	188	300	488
7:00 PM	144	278	422
8:00 PM	94	283	377
9:00 PM	67	282	349
10:00 PM	45	308	353
11:00 PM	27	346	373
Total	4,038	8,114	12,152
Percentage	33.2%	66.8%	

EE Web	Proxy
263	1
120	1
376	
118	
47	
87	3
132	7
256	17
349	42
460	55
424	60
469	46
480	69
504	56
491	65
511	47
394	19
332	16
292	8
276	2
283	
281	1
308	
346	
7,599	515
62.5%	4.2%

Comparison of Incident Submissions by Day of Week, By Month

Month	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
01 Jan	158	162	157	168	140	69	75
02 Feb	150	176	181	173	168	59	46
03 Mar	239	228	233	134	140	63	56
04 Apr	143	165	147	206	185	65	64
05 May	165	171	157	145	156	80	69
06 June	154	186	221	143	141	61	57
07 July	148	191	190	216	259	114	82
08 Aug	256	246	171	197	161	79	95
09 Sep	161	189	200	216	155	73	57
10 Oct	157	196	206	179	237	114	81
11 Nov	187	194	172	141	126	86	69
12 Dec	129	93	145	128	103	55	42
Total	2047	2197	2180	2046	1971	918	793

The Post and Courier

Watchdog for state taxpayers

Sunday, March 13, 2011

The idea of a state inspector general has been discussed for South Carolina over the years, but Gov. Nikki Haley doesn't want to spend her term just talking about reducing government waste, fraud and abuse. She's doing something about it -- now.

Gov. Haley could not have come up with a better choice as the state's first inspector general than George Schroeder, who retired as Legislative Audit Council director in 2009. In that job for 33 years, Mr. Schroeder oversaw numerous audits that recommended government streamlining, cost-savings and improved accountability. Just a few of those suggestions saved the state millions and improved essential services.

Whether uncovering a \$40 million state slush fund, bringing to light abuses in the Department of Mental Health Department or ferreting out unwarranted expenses by the state air fleet, the LAC provided great returns to the state during Mr. Schroeder's long service as its head. And it continues to do so.

The time is particularly propitious for an inspector general to get on board. New agency heads will be committed to eliminating problems that date from their predecessors' tenures, before those problems get bigger.

As inspector general, Mr. Schroeder's range will be limited to the Cabinet agencies under the governor's authority. Internal auditors already on the staffs of those agencies will form his staff. Consequently, the added expense will be minimal.

The inspector general's scope could be expanded to include all state agencies if the General Assembly approves legislation to that effect. Given the Legislature's long familiarity with Mr. Schroeder and his work, the chances of that should be favorable. Both Mr. Schroeder and the LAC have been professionally recognized for excellence at the national level in the last three years.

In a press conference Friday, Gov. Haley cited evidence of waste and abuse recently uncovered at the Department of Motor Vehicles and in Medicaid reimbursements by the Department of Health and Human Services. There's more to be done.

The first initiative will be the establishment of a hotline to the inspector general by the end of the month, where citizens, including state employees, can report waste, fraud, mismanagement and abuse, without any fear of retribution.

Mr. Schroeder has a profound understanding of state government that he can apply to the state's benefit as inspector general. And since he served on Mrs. Haley's special

committee to detail areas of potential cost savings, he should be able to hit the ground running.

The state's inspector general will be an independent agent for government reform in an especially difficult fiscal climate. For maximum benefit, the Legislature should open all state agencies to his scrutiny this session.

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Typical RFP Questions for Fraud, Waste, and Abuse Hotline Services

- ① Provide the legal name, address, phone number and year the company was founded.
- ② Is your company involved in any litigation, which may materially negatively impact your financial condition?
- ③ How much experience do you have providing hotline and case management services for a company like ours? *For Agency - IG?*
- ④ Provide biographies of your leadership team, including the number of years that each has worked for your company.
- ⑤ Is the hotline available 24 hours a day, 365 days a year?
- ⑥ Are calls answered by a live call center agent?
- ⑦ Do the questions change based on the type of issue being reported, or are all callers asked the same questions?
- ⑧ What kind of training do the call center agents go through?
- ⑨ How do you monitor to ensure report quality?
- ⑩ Describe any translation services available. *Spanish*
- ~~11. Do you provide international toll-free services?~~
- ⑫ Describe how you protect the anonymity of reporters.
- ⑬ Describe your process for continuing communication with anonymous reporters.
- ⑭ Are all reports electronically captured?
- ~~15. Can we use your system to input our own incident reports should they come in through alternate channel?~~
- ~~16. Does your system provide a case management system, please describe?~~
- ~~17. Describe how the web report intake and call center applications integrate with the case management product.~~
- ⑱ What is the average distribution time for an incident report to management personal?
- ~~20. What ability do we have to create distribution lists and send reports to different individuals based on their responsibility within the organization?~~
- ~~21. Can we allow multiple people to see the same incident report?~~
- ⑳ Describe awareness/promotional items your company provides.

- ~~22. Please describe your experience creating custom communication campaigns.~~
23. Describe your user training and client orientation.
24. Do you provide dedicated account managers? If so, who will it be?
25. Will we have the ability to get on-demand, up-to-date analytics information, or is there a turnaround time before up-to-date reporting would be available? If there is a turnaround time, what is it?
- ~~26. Can an administrator edit aspects of the reports such as location, incident types, etc.~~
- ~~27. If an edit is made, how quickly does it take for the change to appear in the report?~~
28. Is an unlimited amount of storage space available for our reports, documentation, and report attachments?
29. How do you protect your system (firewall, IDs, etc)?
30. How does your system handle the history and retention of data?
- ~~31. Provide a high level work plan and timeline for service implementation.~~
- ~~32. Do you provide consultations on the incident reports we receive?~~ Peer
- ~~33. Do you provide in-house investigative services should we require them?~~
34. What is the cost structure?

June 16, 2011

Spoke with Catherine Templeton at length on the concern expressed regarding the Fireman's Insurance and Inspection Fund and the subsequent allocation of 5% to the SC Fireman's association and then subsequently utilized for the payment to a lobbyist's principal and possible violation of the State Procurement code.

Catherine gave significant background on this matter. The AG has issued an opinion dated May 5, 2011 that came into my possession recently reflecting that what is transpiring does not violate neither the SC Const. nor the subordinate laws of our State. The AG further expresses that only a court could determine the constitutionality of a statute

OFFICE OF THE INSPECTOR GENERAL



George E. Schroeder
Inspector General

200 Senate St.
Columbia, SC 29201
(803) 734-4344

April 11, 2011

The Honorable Alan Wilson, Esq.
Attorney General's Office
Post Office Box 11549
Columbia, S.C. 29211

RE: Request for Attorney General's Opinion

Dear Attorney General Wilson,

Please consider this letter as a formal request for an opinion from your office regarding the legality and constitutionality of provisions of South Carolina Code of Laws Sections 23-9-310 through 23-9-470 pertaining to the Office of the State Fire Marshal and specifically Article 3 which deals with the Fireman's Insurance and Inspection Fund. Do these provisions violate the Constitution of the State of South Carolina and its subordinate laws? Certain provisions of this Article require:

- a. Section 23-9-370 requires fire departments be members of the S.C. State Firemen's Association to participate in the fund.
- b. Section 23-9-430 requires the county treasurer to pay 5% of the 1% tax on fire insurance and the S.C. Firemen's Association.
- c. Section 23-9-370 allows the S.C. State Firemen's Association to supervise and inspect the operations of the ordinance.
- d. Section 23-9-450 requires written approval from the S.C. State Firemen's Association as to the manner and method of the disbursement of funds from a fireman's insurance and inspection fund.
- e. Section 23-9-470 prohibits an agency of the state including the Budget and Control board from reducing the amounts required to be distributed to counties and municipalities.

These provisions raise concerns about state funds being paid to a lobbyist's principal, the transfer of public funds to a private association, and potential violations of the State Procurement Code, S.C. Code 11-35-10 et. seq.

Please do not hesitate to contact me at (803) 734-4344.

Sincerely,

George E. Schroeder
Inspector General



ALAN WILSON
ATTORNEY GENERAL

May 5, 2011

George L. Schroeder, Inspector General
Office of the Inspector General
1200 Senate Street
Columbia, SC 29201

Dear Mr. Schroeder:

We received your letter requesting an opinion of this Office regarding the legality and constitutionality of provisions of S.C. Code §§ 23-9-310 through 23-9-470 pertaining to the Office of the State Fire Marshal and specifically Article 3 which deals with the Fireman's Insurance and Inspection Fund. You asked whether "these provisions violate the Constitution of the State of South Carolina and its subordinate laws."

As background, you provided that certain provisions of this Article require as follows:

1. Section 23-9-370 requires fire departments be members of the S.C. State Firemen's Association to participate in the fund.
2. Section 23-9-430 requires the county treasurer to pay 5% of the 1% tax on fire insurance and the S.C. Firemen's Association.
3. Section 23-9-370 allows the S.C. State Firemen's Association to supervise and inspect the operations of the ordinance.
4. Section 23-9-450 requires written approval from the S.C. State Firemen's Association as to the manner and method of the disbursement of funds from a fireman's insurance and inspection fund.
5. Section 23-9-470 prohibits an agency of the state including the Budget and Control Board from reducing the amounts required to be distributed to counties and municipalities.

You also suggest in your request letter that these "provisions raise concerns about state funds being paid to a lobbyist's principal, the transfer of public funds to a private association, and potential violations of the State Procurement Code, S.C. Code 11-35-10 *et. seq.* In our opinion, a court would likely conclude that the statutes in question are constitutionally valid, and the Legislature, pursuant to its plenary powers, may expressly authorize the Association's duties and powers, irrespective of other statutes, such as the State Procurement Code and Ethics Act.

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Law/Analysis

We begin our analysis with the understanding that “all statutes are presumed constitutional and, if possible, will be construed to render them valid.” State v. Neuman, 384 S.C. 395, 402, 683 S.E.2d 268, 271 (2009). Moreover, only a court, not this Office, may declare a statute unconstitutional. Ops. S.C. Atty. Gen., October 18, 2010; February 24, 2010.

“A law will be considered constitutional so long as the South Carolina Constitution does not expressly or by clear implication prohibit that law.” 19 S.C. Jur. Constitutional Law § 6 (citing Johnson v. Piedmont Mun. Power Agency, 277 S. C. 345, 287 S. E. 2d 476 (1982); Nolletti v. Nolletti, 243 S. C. 20, 132 S. E. 2d 11 (1963); see also, Floyd v. Parker Water & Sewer Sub-District, 203 S. C. 276, 17 S. E. 2d 223 (1941)).

The South Carolina State Firemen’s Association was formed on May 30, 1905.¹ This Association was incorporated by the Secretary of State on January 18, 1906. The express purpose of the Association was and is:

Promoting the betterment and maintenance of skillful and efficient fire departments; to establish harmony, unity of action and cooperation among various fire departments of the state; to promote the general welfare and fraternal fellowship of firefighters; to operate the Firemen’s Insurance and Inspection Fund; and to improve the working conditions, education, qualifications, and general skills of firefighters in the business of protecting the public from hazards of fire.

South Carolina Firefighter’s Association, (April 20, 2011), <http://scfirefighters.org/>. According to the S.C. Secretary of State’s Office, the S.C. State Firefighters’ Association is organized as a nonprofit corporation.

The Firemen’s Insurance and Inspection Fund is addressed in Title 23, Chapter 9, Article 3 of the Code. Specifically, the statutes at issue, mentioned above, read as follows:

S.C. Code § 23-9-370. Membership in South Carolina State Firemen’s Association required; supervision of operation of building and inspection code.

For the purpose of supervision and inspection and as a guaranty that the provisions of this article are administered as herein set forth, every fire department enjoying the benefits of this article must be a member of the South Carolina State Firemen’s Association. The association may supervise and inspect the operation of the ordinance required in this article to be passed in each of the several towns and cities enjoying the benefits of this article.

¹ The name was changed upon the 100th anniversary to the SC State Firefighters’ Association.

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S.C. Code § 23-9-430. Payment by county treasurers to State Firemen's Association of portion of proceeds received from tax on fire insurance; use of funds.

For the purposes of Section 23-9-370 and to defray the expenses thereof, each county treasurer shall pay over to the treasurer of the South Carolina State Firemen's Association the sum of five percent of the gross proceeds received annually by each county, town, or unincorporated community from the one percent tax on fire insurance allocated to the city, town, or community. The sums so paid must be expended for the sole purpose of the betterment and maintenance of skillful and efficient fire departments within the county.

S.C. Code § 23-9-450. Disbursements of funds from firemen's insurance and inspection fund; approval.

Before any disbursements exceeding one hundred dollars of the funds of any firemen's insurance and inspection fund are made by the treasurers of the counties, they shall first submit to the supervising trustees of the South Carolina State Firemen's Association a statement of how the funds are to be expended and shall receive from the trustees their written approval of the manner and method by which the funds are to be disbursed, so that the South Carolina Firemen's Association shall know that the funds are being expended solely for the benefit of the firemen of each particular fire department in the State. If a proposed disbursement is to be expended legally and in accordance with the law, it is mandatory upon the supervising trustees to give their approval. Failure upon the part of any treasurer to comply with the foregoing makes him liable on his official bond.

S.C. Code § 23-9-470. Funds to be use for purposes prescribed in; to reduce amounts required to be distributed.

No funds from the firemen's insurance and inspection fund may be withheld or used for any purpose except as prescribed in this article, and no agency of the State, including the Budget and Control Board, has the authority to reduce the amounts required to be distributed to counties and municipalities under the provisions of this article.

S.C. Code §§ 23-9-370, -430, -450, and -470. We will now address the application of the Constitution to these statutory provisions.

Mandatory Membership to Receive Funds

Among your concerns is the statutory requirement that fire departments must be members of the S.C. State Firemen's Association to participate in the fund. It is important to note that this

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mandatory provision encompasses fire departments rather than individual firemen. In a North Carolina Attorney General Opinion, dated March 14, 1996, the question of whether it was constitutional or not to “require that a fire department or its members be a member of the State Firemen’s Association . . . in order to receive any portion of a premium tax” was addressed. We believe that opinion is sound. The opinion explained that “[s]o long as the Association serves a public purpose, which it clearly does, the Association may receive public funds.” The Fourth Circuit Court of Appeals agreed that “it is difficult to conceive of a service associated more closely with the state than the provision of fire protection services” Goldstein v. Chestnut Ridge Volunteer Fire Co., 218 F.3d 337, 344 (4th Cir. 2000). Therefore, the S.C. State Firemen’s Association would likely be categorized as serving a public purpose. The N.C. Attorney General opinion concluded that “it is not unconstitutional to require that a fire department or its members be a member or members of the Association in order to receive a portion of the tax.” Op. N.C. Atty. Gen., March 14, 1996. Similarly, it is the opinion of this Office that such a membership requirement of fire departments, as set forth in the referenced statutes, is constitutional.

Unlawful Delegation & The Issue of Supervision

In the request letter, you mentioned that the statute allows the S.C. State Firemen’s Association to supervise and inspect the operations of the ordinance; in fact, “written approval” from the S.C. State Firemen’s Association is required before the “manner and method” of fund disbursement from a fireman’s insurance and inspection fund can be made. S.C. Code § 23-9-450. You also addressed the prohibition under S.C. Code § 23-9-470 where no state agency may reduce the amounts required to be distributed to counties and municipalities. The heart of these concerns is the lack of oversight over the S.C. State Firemen’s Association. You expressed concern that even assuming the S.C. State’s Firemen’s Association is in total compliance with the statute, there is no supervision to ensure such compliance. In essence, your concern may be summarized as being that the General Assembly has unlawfully delegated governmental powers to a private corporation or association. We addressed the law in this area in an August 8, 1985 opinion, in which this Office explained:

[A] private corporation ‘may be employed to carry a law into effect.’ 16 C.J.S., Constitutional Law, § 137. As stated in Amer. Soc. P.C.A. v. City of N.Y., 199 N.Y.S. 728, 738 (1933),

While it is true that strictly governmental powers cannot be conferred upon a corporation or individual . . . still it has been held by a long line of decisions that such corporations may function in a purely administrative capacity or manner.

While ‘an administrative body cannot delegate quasi judicial functions, it can delegate the performance of administrative and ministerial duties’ Krug v. Lincoln Nat. Life Ins. Co., 245 F.2d 848, 853 (5th Cir. 1957); see also, 73 C.J.S., Public Adm. Law and Procedure, § 53; McQuillin, Municipal Corporations, § 29.08, n. 6. This is consistent with the law in South Carolina. See, Green v. City of Rock Hill, 149 S.C. 234, 270, 147 S.E. 346 (1929) (contract between a city and private company for the control, management and operation of waterworks plant is valid).

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This law has been applied to analogous situations such as the administration of hospitals. In Robinson v. City of Phil., 400 Pa. 80, 161 A.2d 1 (1960), for example, the Supreme Court of Pennsylvania upheld a contractual agreement between a municipality and two private universities relating to the operation, management and control of the city's general hospital. Reviewing the contract in detail, the Court concluded:

It will suffice us to say that our study of the contract convinces us that neither the city of Philadelphia nor the Board of Trustees of Philadelphia General Hospital has unlawfully delegated their powers and responsibilities in and by the above mentioned contract.

161 A.2d at 4. In Government and Civic Emp. Etc. v. Cook Co. School of Nursing, 350 Ill.App. 274, 112 N.E.2d 736 (1953), the Court upheld a contract between a county and a nonprofit corporation which required the corporation to 'furnish, direct and perform the nursing services required for the proper care and nursing of all patients in the County Hospital' 112 N.E.2d at 737. And in Bolt v. Cobb, 225 S.C. 408, 415, 82 S.E.2d 789 (1954), our own Supreme Court upheld a contract between a county and a private entity for the 'performance of a public, corporate function', i.e. medical services in the form of a hospital. Only recently, in S.C. Farm Bureau Marketing Assoc. v. S.C. State Ports Auth., 278 S.C. 198, 293 S.E.2d 854 (1982), our Court found a contract between a private association and the State for the management and operation of a grain elevator and storage facilities to be constitutionally valid. As mentioned earlier, our Court has upheld a contract between a city and a private corporation for the management of a water plant. Green v. City of Rock Hill, *supra*. See also, 16 C.J.S., Constitutional Law, § 137 (a State may validly use a private corporation as an agent for the treatment of inebriates). See also, Murrow Indian Orphans Home v. Children, 171 P.2d 600 (Okl. 1946). In these instances, the governmental entity maintained supervision and control over the corporation by virtue of a contractual agreement.

Moreover, a governmental body frequently employs both public and private entities in the administration of its penal institutions. Here too, principles of agency and contract serve to maintain adequate supervision and control by the governmental entity.

Op. S.C. Atty. Gen., August 8, 1985. Similar to a county hospital rightfully delegating functions to a non-profit corporation, the state has delegated certain administrative functions to the S.C. State Firemen's Association.

In Maryland, the "Maryland State Firemen's Association, a state-funded association, conducts annual inspections of all fire and rescue apparatus, equipment, and facilities." Goldstein, 218 F.3d 337, 345. The Fourth Circuit concluded that there are "different considerations at stake once it has been determined that an actor is carrying out functions traditionally and exclusively

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reserved to the state. We thus conclude that when it has been established that the State has empowered, or is permitting, a private actor to homestead on territory that has heretofore been the exclusive, traditional province of the State, there need be no specific demonstration of a nexus to the alleged constitutional violation. We previously recognized that requiring such a nexus under these circumstances would represent an untoward leap of logic: 'If the [actor] were held to be performing a public function for purposes of state action doctrine, then it would be difficult to conclude that personnel decisions reached during the performance of that public function were not subject to constitutional strictures.' *Andrews*, 998 F.2d at 219 n. 1; *see also supra* note 4." Goldstein, 218 F.3d at 348. Thus, the Fourth Circuit deemed the Chestnut Ridge Volunteer Fire Company, which was required to be a member of the Baltimore County Fire Association, to be a state actor for purposes of § 1983.

As discussed above, the delegation of authority by the General Assembly to the S.C. State Firefighters' Association appears to be valid and in accord with the approach taken by other jurisdictions. In Groff v. Continental Ins. Co., the court held that:

voluntary fire associations are in reality quasi-governmental units, and the policy issued by S.R.I. was essentially a fleet policy issued to a government unit. This Court recently affirmed the prohibition against allowing a non-designated individual to stack uninsured motorist coverage under a fleet policy, Miller v. Royal Insurance Company, 354 Pa.Super. 20, 510 A.2d 1257 (1986), *aff'd per curiam*, 517 Pa. 306, 535 A.2d 1049 (1988); and this prohibition against fleet stacking has been applied where the policy holder was a governmental unit. *See Flamini v. General Accident Fire & Life Assurance Corp.*, 328 Pa.Super. 406, 477 A.2d 508 (1984). We detect no compelling reason to distinguish the current situation from those situations."

Groff v. Continental Ins. Co., 741 F.Supp. 541 E.D.Pa. (1990). The fact that the S.C. State Firefighters' Association is private does not indicate that the government cannot entrust such an organization with a public function. So long as a public purpose is being carried out,² and fire service has commonly been held as a public purpose, then the legislature may create or delegate authority to agencies, unless expressly prohibited by the Constitution. This Office is unaware of any such prohibition.

We note that with respect to a somewhat similar law, the South Carolina Supreme Court, in Aetna Fire Ins. Co. v. Jones, 78 S.C. 445, 59 S.E. 148 (1907), was asked to enjoin the Comptroller General "from proceeding to collect certain taxes provided for by an act of the General Assembly approved May 9, 1906, on the ground that the said act is unconstitutional, null, and void." However, "the **respondent contends that the present enactment is a lawful exercise of the police power inherent in the state as a sovereignty, the exercise looking to**

² "[I]nvestigations and determinations of facts are beyond the scope of an opinion of this Office and are better resolved by a court." *Ops. S.C. Atty. Gen.*, September 14, 2006; April 6, 2006. Therefore, this Office can only speak to the constitutionality of the statutes on their face.

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the protection of the property of all the citizens of the state.” Aetna, 78 S.C. 445 (emphasis added). The court explained as follows:

[I]nsurance companies regulate their rate by the risk and expense relative to the insurance of a certain piece of property. Therefore the only reasonable view is that the insurance companies would in the end make the insured pay gratuities to the associations. It is likewise well known that in all cities and towns there are numerous persons who do not carry insurance. Now, it cannot be denied that such persons are even more benefited by the fire departments than those who carry insurance, for their entire risk is [e]ntrusted to the efficiency of such departments. Under the enactment being considered, the class of citizens who carry insurance must pay the whole of the imposition, while the latter get the benefits and have no burden to bear. On this reasoning the tax is not uniform.

Aetna, 78 S.C. 445. The court found that the act was unconstitutional; however, Aetna is readily distinguishable from the situation at hand. In Aetna, the funds were going directly to the firemen as individuals as opposed to a collective fund which would now be classified as a public purpose. Even using the same analysis of Aetna, today, a court would likely find that the statutes at issue are constitutionally valid because a public purpose is being accomplished.

Our Supreme Court has set forth the standards by which a statute is deemed to be an unlawful delegation. In Cole v. Manning, 240 S.C. 260, 125 S.E.2d 621 (1962), the Court stated:

[I]t is apparent, from consideration of the numerous cases on the subject, that the degree of authority that may lawfully be delegated to an administrative agency must in large measure depend upon such circumstances, including the legislative policy as declared in the statute, the objective to be accomplished, and the nature of the agency's field of operation.

‘It is well settled that it is not always necessary that statutes and ordinances prescribe a specific rule of action. On the other hand, some situations require the vesting of some discretion in public officials, as, for instance, where it is difficult or impracticable to lay down a definite, comprehensive rule or the discretion relates to the administration of a police regulation and is necessary to protect the public morals, health, safety and general welfare.’ 11 Am.Jur., Constitutional Law, Section 234, at page 948.

Cole v. Manning, 240 S.C. 260, 265. The analysis of Cole v. Manning suggests that sufficient guidelines are provided in the statutes at issue. Specifically, the S.C. Firemen’s Association is instructed to use all funds for the “betterment and maintenance of skillful and efficient fire departments within the county.” S.C. Code § 23-9-430. Here, the “delegation of authority . . . is sufficiently definite by the express terms of the Act which provide a clearly intelligible administrative guideline” Grain Dealers Mut. Ins. Co. v. Lindsay, 279 S.C. 355, 361, 306 S.E.2d 860, 863 (1983).

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Payment of Funds

You also mentioned concern with the requirement that the county treasurer pay 5% of the 1% tax on fire insurance and the S.C. Firemen's Association under S.C. Code § 23-9-430.

S.C. Code § 23-9-410 states that "[a]ll monies so collected must be set apart and equitably used by each of the treasurers solely and entirely for the betterment and maintenance of skilled and efficient fire departments within the county." To defray expenses, "each county treasurer shall pay over to the treasurer of the South Carolina State Firemen's Association the sum of five percent of the gross proceeds received annually by each county, town, or unincorporated community from the one percent tax on fire insurance allocated to the city, town, or community. The sums so paid must be expended for the sole purpose of the betterment and maintenance of skillful and efficient fire departments within the county." S.C. Code § 23-9-430.

In the North Carolina Attorney General Opinion, dated March 14, 1996, referenced above, a similar question was presented regarding the constitutionality of "a portion of a premium tax to be disbursed to the State Firemen's Association, a private, nonprofit corporation." The opinion explained that "direct disbursement of public funds to private entities is a constitutionally permissible means of accomplishing a public purpose provided there is statutory authority to make such appropriation." Op. N.C. Atty. Gen., March 14, 1996 (citing Hughey v. Cloninger, 297 N.C. 86, 95 (1979)). The opinion concluded that the provision was constitutional. Op. N.C. Atty. Gen., March 14, 1996.

In the New York Court of Appeals, Trustees of Exempt Firemen's Benev. Fund of City of New York v. Roome, the court explained that "[t]he precise relation of these firemen to the municipality and the State it is not easy to describe. They were not civil or public officers within the constitutional meaning (People v. Pinckney, 32 N. Y. 392), and yet must be regarded as the agents of the municipal corporation. Their duties were public duties; the service they rendered was a public service; their appointment came from the common council and was evidenced by the certificate of the city officers; they were liable to removal by the authority which appointed them; and were intrusted with the care and management of the apparatus owned by the city. They were, at least, a public body, and, perhaps, are best described as a subordinate governmental agency." Trustees of Exempt Firemen's Benev. Fund of City of New York v. Roome, 93 N.Y. 313, 319-320 (1883).

Similarly, in a Superior Court of New Jersey case, Szabo v. NJ State Firemen's Association, 230 N.J.Super. 265, 553 A.2d 371 (1988), a firefighter was denied membership in the local relief association because of an eye condition. This firefighter challenged the constitutionality of the relevant statutory plan. The statutes established the NJ State Firemen's Association as well as local firemen's relief associations throughout the state. The associations were to hold and administer the "Firemen's Relief Fund" contributed by a 2% tax on fire insurance premiums charged by non-New Jersey insurers on policies insuring property within the state. The Superior

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Court held that the payment of tax money to state and local firefighters' relief associations was not an unconstitutional donation or appropriation of public money to private organizations.

As it is commonly established that firemen's associations carry out a public purpose, nothing indicates that the statutes at issue should be considered unconstitutional.

State Procurement Code

Your questions concerning the State Procurement Code are answered by the plenary power of the General Assembly. It is well recognized that "the General Assembly may enact any law not expressly, or by clear implication, prohibited by the state or federal Constitutions." City of Rock Hill v. Harris, 391 S.C. 149, 154, 705 S.E.3d 53, 54 (2011) (quoting Moseley v. Welch, 204 S.C. 19, 39 S.E.2d 133 (1946)). It is the opinion of this Office that the State Procurement Code is inapplicable in this situation. The Legislature has mandated that the funds are to be spent through the use of the Association by virtue of creating the statutory provisions that allowed the S.C. State Firemen's Association to spend the money as instructed in Title 23, Chapter 9, Article 3. The Legislature has precisely determined what must be done and specified in the statutes guidelines for how the money should be allocated. See, e.g., S.C. Code § 23-9-430. Therefore, no bidding process is necessary. One legislature is not bound by another.

The U.S. District Court for the District of Columbia held in Fortec Constructors v. Kleppe that "the general policy of competitive bidding in federal procurement is wholly inapplicable to a contract which SBA [Small Business Act] has specific statutory authority to enter." Kleppe, 350 F.Supp. 171, 173 (1972). In the situation before us, the Legislature has authority to distribute funds to the S.C. State Firemen's Association; hence the procurement bidding process is inapplicable. Similarly, the U.S. District Court for the District of Kansas explained in Interior Contractors, Inc. v. Board of Trustees of Newman Memorial County Hospital, that "[b]ecause there are specific statutes governing county hospitals and construction projects involving county hospitals and because these statutes give the authority to the hospital board of trustees to contract for such projects and do not incorporate or reference any other provisions on bidding procedures, the court finds that K.S.A. § 19-214 which sets forth the competitive bidding law governing contracts awarded by county commissioners is inapplicable here." Interior Contractors, 185 F.Supp.2d 1216, 1223 (2002). As mentioned above, a county hospital has the authority to delegate functions to a non-profit corporation, just like the state has delegated certain administrative functions to the S.C. State Firemen's Association. Because of this authority to delegate specifically to the S.C. State Firemen's Association, the State Procurement Code need not be invoked.

Not only does the Legislature have the authority to determine where the money goes, but under the rules of statutory construction, it is commonly held that a specific statute should be followed over a general statute. The South Carolina Supreme Court has consistently recognized that "[w]here there is one statute addressing an issue in general terms and another statute dealing with the identical issue in a more specific and definite manner, the more specific statute will be

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considered an exception to, or a qualifier of, the general statute and given such effect. Wilder v. South Carolina Hwy. Dept., 228 S.C. 448, 90 S.E.2d 635 (1955). See also, Wooten ex rel. Wooten v. S.C. Dept. of Transp., 333 S.C. 464, 468, 511 S.E.2d 355, 357 (1999) (a specific statutory provision prevails over a more general one); Atlas Food Sys. And Servs. v. Crane Nat'l Vendors Div. of Unidynamics Corp., 319 S.C. 556, 558, 462 S.E.2d 858, 859 (1995) (general rule of statutory construction is that a specific statute prevails over a more general one)." Op. S.C. Atty. Gen., January 10, 2011 (citing Capco of Summerville v. J. H. Gayle Const. Co., Inc., 368 S.C. 137, 141, 628 S.E.2d 38, 41 (2006)). The statutes specifically governing the Fireman's Insurance and Inspection Fund would govern over the general Procurement Code statutes.

As for the concern that money is going directly to the lobbyist principal, this Office sees no improper action as the Legislature has plenary power to decide where the money is allocated. For the same reasons that the Legislature may exempt certain functions from the Procurement Code, it may also do so with respect to the Ethics Laws governing lobbyist principals. Of course, the policy considerations and the wisdom of these laws are for the Legislature to determine.

Conclusion

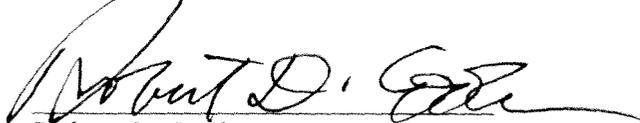
Of course, only a court, not this Office, may determine the constitutionality of a statute. However, based upon the information provided, and the authorities referenced herein, it is the opinion of this Office that the provisions in Article 3 which deal with the Fireman's Insurance and Inspection Fund neither violate the S.C. Constitution nor the subordinate laws of our State. The Legislature possesses plenary powers not limited by the Constitution. We thus are of the Opinion that neither the Constitution nor statutes is here violated.

Sincerely,



Leigha Blackwell
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General

Schroeder, George

From: Catherine Templeton [TempletonC@llr.sc.gov]
Sent: Thursday, April 07, 2011 1:00 PM
To: Schroeder, George
Subject: AG's Opinions
Attachments: AGrequest4-1-11.docx

For your reference, Ed Roper is in charge of the SC Fire Academy, Adolph Zubia is the State Fire Marshall, and Joe Palmer is the Executive Director of the SC Firefighters Association.

From: Ed Roper
Sent: Monday, March 28, 2011 8:06 AM
To: Adolf Zubia
Subject: Fire Service 1%

Per documents from Joe Palmer the following funds were sent to the county treasurers for distribution to the Fire Departments:

2008 Funds distributed in 2009

1% Premium tax	\$8,525,936.00
Broker Tax	\$3,599,422.00
Total	\$12,125,358.00
*Firefighter Assoc. 5%	606,267.90

2009 Funds distributed in 2010

1% Premium tax	\$ 8,919,806.00
Broker Tax	\$ 3,644,008.00
Total	\$12,563,814.00
Firefighters Assoc. 5%	\$628,190.70

Article 3 Firemen's Insurance and Inspection Fund Section 23-9-310 thru 23-9-470
*23-9-430 Payment by county treasurers to the State Firemen's Association of portions of proceeds received from tax on fire insurance; use of funds.
For the purpose of Section 23-9-370 and to defray the expenses thereof, each county treasurer shall pay over to the treasurer of the South Carolina State Firemen's Association the sum of five percent (5%) of the gross proceeds received annually by each county, town or incorporated community from the one percent(1%) tax on fire insurance allocated to the city, town, or community. The sums so paid must be expended for the sole purpose of the betterment and maintenance of skillful and efficient fire departments within the county.

Schroeder, George

From: Catherine Templeton [TempletonC@lir.sc.gov]
Sent: Monday, April 11, 2011 10:41 AM
To: Schroeder, George
Subject: FW: V-Safe Grants - AG's opinion re: Firefighter's Association

My Deputy Director brought another statutory provision to my attention this morning. V-SAFE grants are wholly and completely to equip local fire departments with necessary tools for responding to emergencies. The last provision allows the Fire Marshall to give the Firefighter's Association 2% of the grant money. It is currently not a funded grant, but was previously a \$3M pot.

Thanks, CBT

From: Barbara Derrick
Sent: Monday, April 11, 2011 9:10 AM
To: Catherine Templeton
Subject: V-Safe Grants

SECTION 23-9-25. Volunteer Strategic Assistance and Fire Equipment Program; purpose; administration of grants.

(A) It is the purpose of this section to create the "Volunteer Strategic Assistance and Fire Equipment Program" (V-SAFE).
(B) This section is contingent upon the General Assembly appropriating funds for the offering of grants of not more than thirty thousand dollars to eligible volunteer and combination fire departments for the purpose of protecting local communities and regional response areas from incidents of fire, hazardous materials, terrorism, and to provide for the safety of volunteer firefighters.

(C)(1) As contained in this section:

- (a) "chartered fire department" means a public or governmental sponsored organization providing fire suppression activities with a minimum of a Class 9 rating from the Insurance Services Office;
 - (b) "chartered volunteer fire department" means a fire department whose personnel serve for no compensation or are paid on a per-call basis; and
 - (c) "chartered combination fire department" means a fire department with both members who are paid and members who serve as volunteer firefighters.
- (2) Chartered volunteer fire departments and chartered combination fire departments with a staffing level that is at least fifty percent volunteer are eligible to receive grants pursuant to this section. A chartered fire department that receives a grant must comply with the firefighter registration provisions of Act 60 of 2001 and sign the statewide mutual aid agreement with the South Carolina Emergency Management Division.

(D) The amount of the grants awarded shall not exceed thirty thousand dollars per year for each eligible chartered fire department, with no matching or in-kind money required. A chartered fire department may be awarded only one grant in a three-year period.

(E) The grant money received by a chartered fire department must be used for the following purposes:

- (1) fire suppression equipment;
- (2) self-contained breathing apparatus;
- (3) portable air refilling systems;
- (4) hazardous materials spill leak detection, repair, and recovery equipment;
- (5) protective clothing and equipment;
- (6) new and used fire apparatus;
- (7) incident command vehicles;
- (8) special operations vehicles;
- (9) training;
- (10) rescue equipment;
- (11) medical equipment;

(12) decontamination equipment; and

(13) safety equipment.

(F)(1) The State Fire Marshal shall administer the grants in conjunction with a peer-review panel.

(2) The peer-review panel shall consist of nine voting members who shall serve without compensation. Seven members must be fire chiefs from each of the seven regions of the State as defined by the State Fire Marshal. The Chairman of the House Ways and Means Committee shall appoint fire chiefs from Regions 1, 2, and 7. The Chairman of the Senate Finance Committee shall appoint fire chiefs from Regions 3, 4, and 6. The Governor shall appoint one fire chief from Region 5 and one fire chief from the State at large. The State Fire Marshal also shall serve as a member. The President of the South Carolina State Firefighters' Association shall serve as a nonvoting member and chairman of the committee.

(3) An applicant for grant money must submit justification for their project that provides details regarding the project and the project's budget, the benefits to be derived from the project, the applicant's financial need, and how the project would affect the applicant's daily operations in protecting lives and property within their community. Each application must be judged on its own merit. The panelists must consider all expenses budgeted, including administrative or indirect costs, as part of the cost-benefit review. An applicant may demonstrate cost-benefit by describing, as applicable, how the grant award will:

(a) enhance a regional approach that is consistent with current capabilities and requests of neighboring organizations or otherwise benefits other organizations in the region;

(b) implement interoperable communications capabilities with other local, state, and federal first responders and other organizations;

(c) allow first responder organizations to respond to all hazards, including incidents involving seismic, atmospheric, or technological events, or chemical, biological, radiological, nuclear, or explosive incidents, as well as fire prevention and suppression.

Applications that best address the grant funding priorities shall score higher than applications that are inconsistent with the priorities. During the panel review process, panelists shall provide a subjective but qualitative judgment on the merit of each request.

Panelists shall evaluate and score the proposed project's clarity, including the project's budget detail, the organization's financial need, the benefits that would result from an award relative to the cost, and the extent to which the grant would enhance daily operations or how the grant will positively impact an organization's ability to protect life and property. Each element shall be equally important for purposes of the panelists' scores. Panelists must review each application in its entirety and rate the application according to the evaluation criteria.

Applications shall be evaluated by the panelists relative to the critical infrastructure within the applicant's area of first-due response. Critical infrastructure includes any system or asset that, if attacked or impacted by a hazardous event, would result in catastrophic loss of life or catastrophic economic loss. Critical infrastructure includes public water or power systems, major business centers, chemical facilities, nuclear power plants, major rail and highway bridges, petroleum and natural gas transmission pipelines or storage facilities, telecommunications facilities, or facilities that support large public gatherings such as sporting events or concerts. Panelists shall assess the infrastructure and the hazards confronting the community to determine the benefits to be realized from a grant to the applicant.

Applicants that falsify their application, or misrepresent their organization in any material manner, shall have their applications deemed ineligible and referred to the Attorney General for further action, as the Attorney General deems appropriate.

(4) The project period for any award grant shall be twelve months from the date of the award. Any equipment purchased with the grant must meet all mandatory regulatory requirements, as well as, all state, national, and Department of Homeland Security adopted standards.

Award recipients must agree to:

(a) perform, within the designated period of performance, all approved tasks as outlined in the application;

(b) retain grant files and supporting documentation for three years after the conclusion and close out of the grant or any audit subsequent to close out;

(c) ensure all procurement actions are conducted in a manner that provides, to the maximum extent possible, open and free competition. In doing so, the recipient must follow its established procurement law when purchasing vehicles, equipment, and services with the grant. If possible, the recipient must obtain at least two quotes or bids for the items being procured and document the process used in the grant files. Sole-source purchasing is not an acceptable procurement method except in circumstances allowed by law;

(d) submit a performance report to the peer-review panel six months after the grant is awarded. If a grant's period of performance is extended for any reason, the recipient must submit performance reports every six months until the grant is closed out. At grant closeout, the recipient must report how the grant funding was used and the benefits realized from the award in a detailed final report. An accounting of the funds also must be included; and

(e) make grant files, books, and records available, if requested by any person, for inspection to ensure compliance with any requirement of the grant program.

(5) A recipient that completes the approved scope of work prior to the end of the performance period, and still has grant funds available, may:

(a) use the greater of one percent of their award amount or three hundred dollars to continue or expand, the activities for which they received the award;

(b) use excess funds to create or expand, a fire or injury prevention program. Excess funds above the amounts discussed in subitem (a) must be used for fire or injury prevention activities or returned to the program. In order to use excess funds for fire or injury prevention activities, a recipient must submit an amendment to its grant. The amendment request must explain fire or injury prevention efforts currently underway within the organization, where the use of excess funds would fit within the existing efforts, the target audience for the fire or injury prevention project and how this audience was identified, and how the effectiveness of the requested fire or injury prevention project will be evaluated;

(c) use a combination of subitems (a) and (b); or

(d) return excess funds to the program. To return the excess funds, a recipient must close out its award and state in the final performance report that the remaining funds are not necessary for the fulfillment of grant obligations. The recipient also must indicate that it understands that the funds will be unavailable for future expenses.

(6) The State Fire Marshal shall:

(a) develop a grant application package utilizing the established guidelines;

(b) establish and market a written and electronic version of the grant application package;

(c) provide an annual report of all grant awards and corresponding chartered fire department purchases to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor;

(d) provide all administrative support to the peer-review panel; and

(e) provide a grants web page for electronic applications.

(G) Two percent of these funds may be awarded to the South Carolina State Firefighters' Association annually for the express purpose of establishing and maintaining a recruitment and retention program for volunteer firefighters. The association must apply for the grant to the peer-review panel.

Barbara Derrick

Deputy Director of Administration

SC Department of Labor, Licensing & Regulation, 110 Centerview Drive, Columbia, SC 29211

Telephone: 803-896-4315

FAX: 803-896-4310

Email: derrickb@llr.sc.gov

Website: www.llr.state.sc.us

OFFICE OF THE INSPECTOR GENERAL



George L. Schroeder
Inspector General

200 Senate St.
Columbia, SC 29201
(803) 734-4344

April 11, 2011

The Honorable Alan Wilson, Esq.
Attorney General's Office
Post Office Box 11549
Columbia, S.C. 29211

RE: Request for Attorney General's Opinion

Dear Attorney General Wilson,

Please consider this letter as a formal request for an opinion from your office regarding the legality and constitutionality of provisions of South Carolina Code of Laws Sections 23-9-310 through 23-9-470 pertaining to the Office of the State Fire Marshal and specifically Article 3 which deals with the Fireman's Insurance and Inspection Fund. Do these provisions violate the Constitution of the State of South Carolina and its subordinate laws? Certain provisions of this Article require:

- a. Section 23-9-370 requires fire departments be members of the S.C. State Firemen's Association to participate in the fund.
- b. Section 23-9-430 requires the county treasurer to pay 5% of the 1% tax on fire insurance and the S.C. Firemen's Association.
- c. Section 23-9-370 allows the S.C. State Firemen's Association to supervise and inspect the operations of the ordinance.
- d. Section 23-9-450 requires written approval from the S.C. State Firemen's Association as to the manner and method of the disbursement of funds from a fireman's insurance and inspection fund.
- e. Section 23-9-470 prohibits an agency of the state including the Budget and Control board from reducing the amounts required to be distributed to counties and municipalities.

These provisions raise concerns about state funds being paid to a lobbyist's principal, the transfer of public funds to a private association, and potential violations of the State Procurement Code, S.C. Code 11-35-10 et. seq.

Please do not hesitate to contact me at (803) 734-4344.

Sincerely,

George L. Schroeder
Inspector General

April __, 2011

The Honorable Alan Wilson, Esq.
Attorney General's Office
P.O. Box 11549
Columbia, SC 29211

RE: Request for Attorney General's Opinion

Dear Attorney General Wilson,

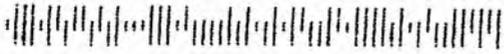
Please consider this letter as a formal request for an opinion from your office regarding the legality and constitutionality of various provisions of South Carolina Code of Laws Sections 23-9-310 through 23-9-470 pertaining to the Office of the State Fire Marshal and specifically Article 3 which deals with the Fireman's Insurance and Inspection Fund. I believe that the Fund, referred to as '1 percent money', and the accompanying statutory scheme establishing it are in violation of the Constitution of the State of South Carolina and its subordinate laws. I note with particular interest that certain provisions of this Article require, among other things:

- a. Section 23-9-370 mandates membership in the S.C. State Firemen's Association to participate in the Fund.
- b. Section 23-9-430 requires the county treasurer to pay 5% of the 1% tax on fire insurance to the S.C. State Firemen's Association.
- c. The Fund and its enabling legislation permit payment of a private Association's and lobbyist/ principal's dues from state monies.
- d. Section 23-9-370 delegates to the S.C. State Firemen's Association enforcement and oversight powers conferred by the ordinance.
- e. Section 23-9-450 requires written approval from the S.C. State Firemen's Association as to the manner and method of the disbursement of state funds.
- f. Section 23-9-470 prohibits an agency of the state including the Budget and Control Board from reducing the amounts required to be distributed to counties and municipalities.
- g. In general, these code provisions permit and transfer control of millions of state dollars to the administration, distribution and control of a lobbyist principal.
- h. The provisions of this law, as enacted and carried out, are in violation of the State Procurement Code, S.C. Code 11-35-10 *et seq.* especially 11-35-40(2).

These provisions raise serious concerns about basic constitutional issues such as delegation of governmental activities to a lobbyist principal, the mandatory transfer of public money to private entities, payment of private association dues with state funds, separation of powers and mandatory membership in a private association. *or Union*

Please do not hesitate to contact me at (803) 734-4344 if I may be of further assistance.

Union



GOVERNOR'S OFFICE



POST OFFICE BOX 11549
COLUMBIA, SOUTH CAROLINA 29211-1549

George L. Schroeder, Inspector Ge
Office of the Inspector General
1200 Senate Street
Columbia, SC 29201

nhcorrespondence,

From: Lisa Nielsen [lisanielsen [REDACTED]]
Sent: Sunday, March 20, 2011 12:47 PM
To: Haley, Nikki
Subject: FW: Please read...

From: jan hammett [mailto:jjhammett7@att.net]
Sent: Sunday, March 20, 2011 12:33 PM
To: ccato@wsps.com; Chris Nidel; Lisa Nielsen; Pete Smith; Ken and Dottie Easler; Micahsmission [REDACTED]
Cc: jjhammett7@att.net
Subject: Please read...

Stuff to think about.....

Carroll Ashmore Campbell, Jr. (July 24, 1940 – December 7, 2005) was a U.S. Republican Party politician who served as 112th Governor of South Carolina from 1987 to 1995.

Since when did DHEC contribute to candidates? Read here:
<http://www.scpronet.com/point/9609/p04.html>

And here.....

Governor of SC, 1975-1979. James Burrows Edwards (born June 24, 1927) is a politician and administrator from South Carolina. He was the first Republican to be elected the Governor of South Carolina since Reconstruction.

After his term expired, President Ronald Reagan appointed Governor Edwards to be the Secretary of Energy in 1981. He resigned a year later to serve as the President of the Medical University of South Carolina, a post he held for seventeen years. In 1997, Edwards was inducted into the South Carolina Hall of Fame for his contributions as governor. Recently, Governor Edwards endorsed Governor Mitt Romney (R-Massachusetts) for president. FYI.... The position (Secretary of Energy) was formed on October 1, 1977 with the creation of the Department of Energy when President Jimmy Carter signed the Department of Energy Organization Act. Originally the post focused on energy production and **regulation**. The emphasis soon shifted to developing technology for better, more efficient energy sources as well as energy education. After the end of the Cold War, the department's also turned toward **radioactive waste disposal and maintenance of environmental quality**..... ENVIRONMENTAL QUALITY..... INTERESTING!

appointed them to the board that regulated Macalloy.



When Diamont Boart moved its tool making company to Columbia in 1978, it filled out a DHEC form claiming the company didn't handle toxic materials and would not be releasing waste water. But over the next 14 years, the company dumped more than 12,000 gallons a day of contaminated water in the plant's back yard.

In January 1990, DHEC fined Diamont Boart \$4,000 for illegally dumping an estimated 114 million gallons of untreated waste.

DHEC was never able to connect the 33 contaminated residential wells around the plant with the illegal discharges.

■ Like most big changes in South Carolina, it was a federal mandate that led the state Board of Health to merge with the Pollution Control Authority in 1973 to form the Department of Health and Environmental Control.

When Congress passed the federal Clean Water Act in 1972, the states were given two choices: let the Environmental Protection Agency monitor and regulate pollutants or create their own regulatory agencies to enforce compliance with minimum standards.

DHEC was created in 1973 to keep the feds happy, but the legislation that created the new agency ensured that South Carolina's industrial growth would proceed unhampered.

DHEC now employs 6,500 people, and is responsible for regulating everything from hot dog stands and restaurants to hospitals and some of the country's largest toxic waste dumps.

Twenty-three years and 774 federally recognized abandoned waste sites later, it seems clear that DHEC is unable to protect South Carolina's environment. The problem begins with DHEC's structure.

DHEC's earliest ancestor was the State Board of Health, established in 1878. Its board was a project of the South Carolina Medical Association, which selected board members from its own ranks for the next 95 years.

In 1950, the legislature created the Water Pollution Control

"We were looking at resolving the problems and getting the company into compliance," said DHEC Deputy Commissioner Bob King.

But Guild said that DHEC's repeated failure to remove the economic incentive to pollute by issuing tough fines is granting companies "a license to steal."

Two years later, when the incinerator was finally brought into compliance, DHEC rewarded the company by granting a request to increase the amount of its daily toxic releases.

This past July, DHEC admitted to residents who live near the incinerator that a preliminary study indicates that their cancer rates are five times higher than they should be.

While it is clear that DHEC has always had an inherent bias toward industry, under the leadership of Gov. David Beasley and the Republican-controlled House it has become fashionable to brag about South Carolina's pro-business climate.

In keeping with its policy of presenting itself as "user friendly" in its dealings with regulated industries thinking about doing business in South Carolina, DHEC touts "one-stop permitting," and advocated passage of the Environmental Audit Bill. Passage of this bill positions South Carolina at the vanguard of the Republican effort to roll back advances in environmental protection under the guise of "keeping government off the back of industry."

According to Guild, DHEC's backing of the Audit Bill was not a departure from past policy. "It just means that DHEC feels more comfortable than ever, in the current political climate, articulating a business-friendly, pro-economic development stance. The bill will potentially limit [DHEC's] own ability to enforce existing standards by limiting access to information. And it completely eliminates their ability to determine the economic benefit enjoyed by the polluters who violate emission control standards."

The EPA has said that adoption of the bill would "undermine DHEC's authority to operate a program by federal standards." In a letter sent to state legislators while the bill was under consideration, EPA Regional Administrator John Hankinson wrote that provisions of the bill "could be used to shield criminal misconduct" and that violations shielded by the bill could result in "significant economic benefits from noncompliance" with federal standards of air and water purity.

***"The more
you know
about DHEC's
pollution
control
operations, the
more
frightened you
should
become."***

***Sen Phil Leventis
(D-Sumter)***

Through his spokesperson, Bryant acknowledged the inherent conflict of interest in DHEC's, mission to protect the environment while promoting industrial growth, saying, "The Department is well aware of what the language [requiring DHEC to promote industrial development] is, but we feel our role is to be protective of the environment. We are not a development agency. If we are going to err, we are going to err on the side of protecting the environment."

Spartanburg environmental lawyer Gary Poliakoff disagrees with that assessment. "The Board bends over backwards to rule in favor of industry" he said. "The DHEC Board could easily serve as the Department of Commerce."

Poliakoff represented a citizens' group fighting the doubling of a Waste Management (the nation's largest waste hauler and frequent campaign contributor) landfill in Spartanburg.

"After a year of hearings," he said, "the administrative judge ruled that the application process had to start over. At the next DHEC Board meeting, Commissioner Bryant successfully urged the Board to ignore its own staff and the judge's opinion, and they summarily issued a permit for expansion."

Bill Coby, the former director of the North Carolina Department of Environment, Health and Natural Resources (that state's equivalent to DHEC), said of that agency, "There used to be a dual mission, and it was moved to the Department of Commerce. It is not our responsibility to promote industry, but to fairly enforce the environmental laws."

"The fact is," Guild said, "that it is cheaper to pollute, and in the free market system companies will cut corners, with environmental consequences. The problem is that South Carolina has no independent, aggressive government watchdog to check that tendency."

Guild concedes that money and influence will always be a problem, but he argues, "We can have economic development and a firm but fair environmental policy at the same time. In fact, there is no rational alternative."

Suggestions for reforming DHEC include:

- redefining DHEC's mission by removing its mandate to promote industry;
- creating an Environmental Bill of Rights to guarantee

nhcorrespondence,

From: Lisa Nielsen [lisanielsen@redacted]
Sent: Sunday, March 20, 2011 4:44 PM
To: ccato@wspa.com; 'Chris Nidel'; captaineggaday@charter.net; samantha.siegel@apps.sierraclub.org; 'Shane Martin'; fashionfinds@bellsouth.net; dtallon@bellsouth.net; 'David Britt'; derhamcole@schouse.gov; Haley, Nikki; 'jan hammett'
Subject: FW: pollution

We will not stop our efforts in exposing this travesty to our state and it's people. Please address this, we know who the players in this terrible game are now.

-----Original Message-----

From: jerry williams [mailto:jerrywilliams@redacted]
Sent: Sunday, March 20, 2011 4:32 PM
To: Lisa Nielsen
Subject: pollution

RECEIVED

MAR 21 2011

RE *Shuster*
Answered _____

Read this very close.
Jerry

DHEC under fire

State regulators have given polluters breaks, withheld information from the public and pushed development over the protection of natural resources. Has the agency that's supposed to safeguard the environment and our health lost its way?

Stories BY JOHN MONK AND SAMMY FRETWELL - jmonk@thestate.com and sfretwell@thestate.com Buzz up!

E-Mail
Print

Reprint 0 Comments

Text Size: tool nameclose tool goes here

EXCLUSIVE

Imagine a state agency that helps developers build in fragile areas close to the ocean - at taxpayer expense.

Imagine an agency that oversees homes for the disabled in which at least three people have died from neglect in two years.

Imagine an agency posting one of the nation's worst records for cleaning up leaks from underground gasoline tanks - in a state where more than a quarter of residents drink from wells.

Gerritt Jobsis, right, and Guy Jones, left, care very much about the health of the rivers that run through Columbia and have concerns about DHEC's handling of the July sewer spill. Jobsis is the Southeast Region director of American Rivers, a river protection group and Guy Jones owns a local kayaking business called the River Runner.

- Tim Dominick/tdominick@thestate.com /The State About 40 Lake Marion-area residents picketed DHEC headquarters in April 1986 to protest the agency's handing of the GSX-Laidlaw-Safety Kleen landfill near Pinewood. South Carolina taxpayers, not the landfill's owner, will pay for any leak of hazardous materials into the lake.

- File photograph/The State /File photograph/The State **CLICK FOR MORE PHOTOS**

Shuster

10/11

Hilton Head Island Councilman John Safay says it's a bad idea to build huge homes on erosion scarred beaches. But more than anything, Safay is frustrated the Department of Health and Environmental Control is letting it happen. On Hilton Head, he hopes, it will stop. "It defies the imagination," Safay said. "We had put our faith in these people to do the right thing."

FRIDAY

Bud Fairey was fresh out of law school, and his aunt in Orangeburg needed his help. Ongoing underground pollution was keeping her from selling land she owned that was once home to an Exxon gas station.

State regulators told her all underground fuel storage tanks had been removed. But Fairey found out regulators had taken Exxon's word for it that the tanks were gone. In the end, Exxon paid \$30 million to make the problem – and Fairey – go away.

SATURDAY

Four miles from Wanda Harris' house is a Port of Charleston terminal where ships and trucks pick up and drop off goods. Five miles in another direction is where state regulators have OK'd construction of another port terminal, Charleston's sixth. Harris and others aren't happy with the state's choice of a site. Environmentalists say the expected pollution could put the Holy City out of compliance with federal air quality regulations. Harris' worries are more immediate:

Her daughter Ashley has asthma.

WRAPPING UP: A CALL TO ACTION

Five things you can do, five things lawmakers can do, five things DHEC's chief would like to see done. Plus, five actions to watch in the near future to see for yourself if DHEC can change.

How these stories were reported

Over eight months, reporters Sammy Fretwell and John Monk interviewed more than 200 people, filed dozens of requests for information and reviewed thousands of pages of public documents.

The result is this eight-day special report.

Fretwell specializes in environmental issues for The State newspaper.

For the past 14 years, he has covered air, water and land issues, from the beaches to the mountains. He has won many writing awards.

Monk is an award-winning investigative reporter who reports on a variety of issues for The State. His most recent in-depth work was on South Carolina's illegal drug trade.

Tim Dominick has won dozens of state and regional awards in his 27 years as a professional photographer. He has worked for The State for 25 years.

About DHEC

The S.C. Department of Health and Environmental Control was formed in 1973 after several years of controversy over which of two state agencies could better protect the environment. In the end, the Legislature decided to merge the former State Health Department with the state Pollution Control Authority. The PCA had been under the health department until legislators split the agencies in 1970. The change was reversed within three years, putting the PCA back under the health department, but under a new name. Today, DHEC is

Such criticism does not apply to all of DHEC's 4,200 employees. It focuses on the agency's top management, whose major policy decisions have been challenged repeatedly in recent years by lawmakers, judges, environmentalists, doctors and residents.

Top DHEC officials say the agency does its best to protect South Carolina's people and land.

"I'm thoroughly convinced our staff is committed to try to do the best they possibly can," said DHEC Commissioner Earl Hunter. "Sometimes there are limitations æ.æ.æ. to what we can do; sometimes the laws or regulations restrict us."

He added, "I feel that anybody put in the same positions that we are will a lot of times arrive at the very same conclusions that we do."

South Carolina's fifth largest agency, with a \$578 million annual budget, DHEC manages more than 150 programs in a growing state.

DHEC regulates the use of land, air and water. Checks tattoo parlors and hog farms. Tracks rabies outbreaks. Oversees prescription drugs and dialysis centers. Promotes flu shots. Monitors shellfish beds. Helps test for HIV.

Decides whether hospitals can expand. Runs health departments in each county. Records marriages, births and deaths.

DHEC's staff includes welltrained scientists, engineers, nurses, lab technicians and investigators. For legal affairs, the agency has 16 staff attorneys.

No other state agency affects so many lives in so many ways.

But missteps – and frustrated residents – are mounting.

BROAD UNEASE

Four recent incidents have brought DHEC greater scrutiny – and stepped up questions of how well the agency does its job:

- DHEC in 1985 found dangerous amounts of lead in the drinking water of Richland County's Franklin Park neighborhood. But it didn't get the lead removed until 2005, as The State newspaper was going to press reporting that residents had lead in their blood.
- Not until earlier this year did DHEC post signs at rivers to warn residents of the dangers of eating mercury-laced fish at hundreds of fishing spots across the state. DHEC knew the health threat had been expanding since the early 1990s and had put notices out to the media. But the signs, placed where they can be seen by river users, went up only after Charleston's Post and Courier newspaper reported on mercury found in residents' blood.
- For years, DHEC kept records secret that showed the magnitude of a radiation leak from a low-level nuclear waste dump in Barnwell County. DHEC had long acknowledged a leak. But at the landfill operator's request, it withheld details, not even telling lawmakers last year as they debated whether to close the facility to the nation. When The State obtained the documents using open records laws, the newspaper discovered levels of radioactive tritium in some places as high as those at the nearby Savannah River nuclear weapons complex. State Attorney General Henry McMaster scolded DHEC for failing to produce the records.
- DHEC failed to closely monitor a Columbia sewer plant it knew had malfunctioned. Later, the plant was found spilling partially sewage into the popular Saluda River. Swimmers and waders

In August, for example, a judge revoked permission DHEC had given for a 3,500 hog swine farm to open in Dillon County. The judge ruled DHEC failed to make sure hog waste - 33 tons a day - wouldn't pollute the Little Pee Dee River.

"The law gives DHEC wide latitude to require more rigorous standards to protect water quality, but often it ends up choosing the most lax standard," said David Freedman, a Clemson University environmental engineer who has testified against DHEC in a halfdozen cases. He was an expert witness in the hog farm case.

For Sen. Phil Leventis, D-Sumter, long a DHEC critic, one issue is especially roiling. He disputes the agency's assertion that it can't check pollution histories of outofstate companies that want to operate in South Carolina.

"There's something wrong here," said Leventis, who said current law gives DHEC the authority to examine pollution histories. "Past performance reflects on future behavior. That's not only common sense - it's a responsibility the agency has."

Hunter said DHEC's attorneys say the agency does not have such power. If people want to challenge a company's pollution history they are welcome to do so in court, he said.

Critics say the Legislature, with its sensitivity to property rights and business interests, has a grip on DHEC.

Former DHEC supervisor Debra Hernandez, now a consultant, said that grip is so pervasive that DHEC's top management is hesitant to take risks. Public criticism and media scrutiny contribute to that, said Hernandez, who worked at the agency's coastal division for two decades.

"It's difficult to foster a culture of innovation and risktaking if an agency does not reward and foster that," she said. "You end up with an agency that is mediocre."

Some of DHEC's problems are related to structure. Board members are appointed by the governor. But after they are confirmed by the Senate, the governor has no direct authority over them.

And, unlike in many states, environmental and health regulations need Legislative approval.

DHEC has more challenges than its counterparts in North Carolina and Virginia, said David Farren, a lawyer who is familiar with the three states. South Carolina is a smaller state whose constitution emphasizes a weak governor and a strong Legislature.

"It's seen as constituent service to grease the skids for permits in a locality, which makes it harder for the agency to stand up," said Farren, an attorney with the Southern Environmental Law Center.

In Myrtle Beach, five area lawmakers persuaded the state's Legislative Audit Council to investigate whether DHEC adequately notifies the public of pollution threats.

In a letter, the lawmakers noted a "growing concern" over DHEC's "accountability to the public."

The Audit Council agreed Oct. 23 to scrutinize DHEC's notification procedures as well as its handling of cleanups and fines.

The controversy grows out of a lawsuit and stories in The Sun News about toxic-laced groundwater that spread from AVX, a major electronic parts manufacturer. Although DHEC knew

DHEC often argues it doesn't have the legal authority to be aggressive. Critics, though, say the agency does in some cases.

Earlier this year, the General Assembly debated how much water industries can draw from a river or lake. DHEC officials told legislators they needed a law to regulate withdrawals to protect river levels. Pollution can concentrate in the water that remains, particularly during a drought.

But critics – including a former employee – say state regulations already give DHEC clear authority to oversee withdrawals.

“The intent of that part of the regulation – and I wrote it, so I should know – was to allow DHEC to be able to control a water withdrawal when that withdrawal would affect water quality,” says Bob Gross, a former DHEC water quality official. Gross now runs an environmental consulting firm in Beaufort.

The water bill died, even though all involved agree that water supplies are one of the state's major longterm problems.

“DHEC's interpretation of the law is disgusting,” Leventis said. “I can't imagine a doctor saying he didn't have the authority to treat your broken bones. He would find a way to do it. Their charge is to find a way to protect the public.”

Once industries have permits and begin operating, DHEC also isn't tough enough in overseeing how they operate, say some citizens groups, attorneys and lawmakers.

DHEC says it is tough on polluters. Last year, it took 418 actions resulting in \$3 millionplus in fines – an average of \$7,200.

But being soft on serious violators is part of the agency's unspoken culture, said Jerry Paul, a former upperlevel DHEC health licensing official, now retired.

Agency regulators are pushed to “work things out” with violators, Paul said. “The truth of the matter is that a lot of the people we sit down with are repeat offenders. But you ought to show people when they cross a certain line, there are consequences.”

CONTRADICTIONARY MISSIONS?

A recurring criticism of DHEC is that it has a cozy relationship with businesses it regulates.

“Businesses do have an inside track,” said Ben Gregg, executive director of the S.C. Wildlife Federation and a former board member for the state Department of Natural Resources.

“When a company needs a permit for pollution, they go one on one with DHEC. By the time the public gets involved, the company and DHEC already have a relationship. Industry gets first bite of the apple,” Gregg said.

For years, DHEC's motto “Promote, Protect, Prosper” was on agency letterheads.

The three words reflect the policy statement in the state's Pollution Control Act, which says “maximum employment” and “industrial development” should be weighed when considering purity standards for air and water.

These days, as the state's growing population means people live closer to one another, DHEC's Hunter insists health and environmental protection are the agency's top goals.

...responence,

From: Lisa Nielsen [lisanielsen [REDACTED]]
Sent: Wednesday, March 16, 2011 3:09 PM
To: Haley, Nikki
Subject: Hoechst poisoning

Dear Governor Haley,

I wrote to you last week and have heard nothing back. I know your schedule is hectic, but our needs are urgent. My community in upstate S.C. was used as collateral damage for a large industry. Despite what we have been told by DHEC we have found overwhelming evidence that our concerns are real. DHEC allowed a visit by local citizens only to find a ten year gap in their records. We then went to Columbia to retrieve this ten year gap...again missing. This evidence is a crucial piece for our case but it has been disposed of. We are not at a complete loss here, we do have some in house documents from DHEC to Hoechst that actually permitted unsafe levels of air, land and water pollution that has damaged our community severely. Some of the money our state so desperately needs has been used in ground water remediation for the last 25 years at this particular site. Fines were never levied on this company so that they would remain happy and in our area. There is a groundswell of concern and I intend on making this a VERY loud complaint about the corruption within this agency. I know you must be aware of the corruption in the lower part of the state concerning DHEC. I have been in touch with those folks and we are joining forces. This will be a huge embarrassment for our state and will cost millions to address. I AM ASKING FOR YOUR HELP FOR THE LAST TIME. I hope you look into this matter before it escalates into a public debacle for our state. The level of pollution in our state for the sake of big industry will leave a legacy of cancer, a dying environment and a loss of a once pristine state.

Sincerely,

Lisa Nielsen
864-322-7538
864-346-3655

*DHEC called DHEC
Carl Roberts*

*Cindy Crick -
Trey Gowdy*

walls have been tested

RECEIVED

MAR 1 2011

Re: *Shuster* ~~Shuster~~ ?

Answer *[Signature]*

Called 4.22.2010

Discussed Issue

f. gave content

information

105713

nhcorrespondence,

From: Lisa Nielsen [lisanielsen [REDACTED]]
Sent: Monday, March 21, 2011 10:16 PM
To: Haley, Nikki
Subject: train wreck in Spartanburg

Dear Governor Haley,

It took you no time to get to the train wreck incident in Spartanburg... you are in the right area for the train wreck that has been going on for 30 years. Please direct your prompt response to our "wreck" as you did the most current as many more people have died due to this catastrophe. You have ignored my requests so far, please as our elected official help us investigate the complete farce of an agency known as DHEC. I am but one of many who will be demanding this investigation in a very public manner.

Lisa Nielsen
864-322-7538

RECEIVED

MAR 22 2011

Re: Shustel
Answered _____

10711

nhcorrespondence,

RECEIVED

From: Lisa Nielsen [lisanielsen [REDACTED]]
Sent: Tuesday, March 08, 2011 3:00 PM
To: Haley, Nikki
Subject: killed by DHEC

MAR 08 2011

Referred to Hall
Answered _____

Governor Haley,

I am writing to you in regards to my community in Spartanburg, S.C. I was born and raised in a small, rural farming community adjacent to I-85. A large industry moved to our area in the late 60's called HOECHST. We felt lucky because it raised our tax base and provided much needed jobs. What we did not realize is that it would ultimately cost us our lives and health. Please watch "The Shadow of Sickness" at WSPA.com. Search the story...all three parts and you will understand our plight. There will be a follow up story that will uncover DHEC's collusion in this matter...yes, we have the proof. Please e-mail or feel free to call. We understand DHEC can be sued for a maximum of 250,000\$ per claim, our claims will put an end to them as an agency and reveal the lack of control our state has over them. They actually refused to do a soil test for us stating that it was too expensive!!! Our tax payer dollars sure footed their 5 million dollar cell phone bills last year. The agency put in place to protect did exactly the opposite. DHEC has done ground water remediation at the HOECHST plant site now for 25 years due to the contamination. Your parents don't live there but mine still do!!!!

Thank You for your consideration in this matter,

Lisa Nielsen
864-322-75864
864-346-3655

1
(

109871

nhcorrespondence,

From: Office of the Governor Site Support [lisanielsen [REDACTED]]
Sent: Friday, April 22, 2011 8:59 AM
To: Haley, Nikki
Subject: pollution

First Name: Lisa
Last Name: Nielsen
Company Name/Govt. Agency:

Mailing Address
Address Line 1:
Address Line 2:
City:
State: SC
Zip:
Phone: 864-322-7538

Email: [lisanielsen@\[REDACTED\]](mailto:lisanielsen@[REDACTED])

RECEIVED

APR 22 2011

Referred to *Sheeher*
Answered _____

109871

Comments:

Dear Governor,
Please help people here are sick and dying. We have no where else to turn.

It is out of overwhelming concern for my community's wellbeing that I am writing to you. We live in the shadow of several large industries that have contaminated our water, air and soil un-checked. We have made attempts through our local DHEC and EPA with little or no results. We have requested information about their follow through with regards to these industries waste products and disposal of such. We are repeatedly told that their emissions fall within allowable standards, yet these emissions have been found to be standard for 20-30 years. There has simply got to be a cumulative effect. There has to be a reason why the air smells sweet, the water tastes funny and our people and animals die far before their time due to exposure to such contaminants.

I am fully aware of the issues DHEC has faced recently. This is a state wide problem and one that has to be dealt with quickly. We all have come to a realization that DHEC is an island, self-governed and fully independent of the citizens needs in this state. They are a "Rogue" operation in existence to help large pollution prone industries to come to our state because of their slack regulations. Our tax payer dollars are helping DHEC fund the demise of South Carolina's citizens and the beautiful state we live in.

We are asking for your help in this matter. Spartanburg County has come a long way in exposing this corrupt and irresponsible state agency. They have exposed DHEC's deception and we will all continue forward until we are all heard and DHEC is restructured. Prosperity should never come before lives. They were put in place to protect us and they did just the opposite. They have allowed statewide genocide right under all of our noses. This must be addressed so that the legacy we leave for our children and grandchildren is irretrievably lost.

Thank You
Lisa Nielsen
[lisanielsen@\[REDACTED\]](mailto:lisanielsen@[REDACTED])

June 15, 2011 10: 00 a.m.

Spoke with Thad Brunson of the DOT. Informed me the traffic circle in question was completed in late May early June. It's operational and to his knowledge no citizen complaints have been received.

He also informed me that several more traffic circles were planned in the surrounding area. He stated it was an opinion that traffic circles were an excellent alternative to stop signs and stop lights in many instances.

Thad Brunson 737 6660

Thad also reiterated that the DOT has a very structured protocol, as one would expect regarding the implementation planning and construction of these type projects. He assured me that much thought had gone into this project.

He was personally unaware of the complainant, Donna Rawls.

May 3, 2011

Office of Inspector General

1205 Pendleton Street

Columbia, S. C. 29201

I telephoned your office this morning to report what I feel is a waste and mismanagement of funding by the SCDOT. Katherine, your employee, listened to the details regarding what I consider to be a total waste of monies and told Katherine I would send the original information I sent to Governor Mark Sanford and the reply I received from his office regarding the traffic circle being constructed at the intersection of Nazareth Road, Longs Pond Road and Knotts Road (a subdivision entrance), Lexington, South Carolina.

I truly feel that once you read over the attached information and physically visit the site in question, you will see what I am talking about and have the same concerns I have regarding the traffic circle currently under construction. This circle is not a cost effective means of updating this intersection. In today's environment, SCDOT should be looking for ways to save monies, not spending them on trial situations that are not worthy of the time and effort it takes to put them in place. This project is a total waste of time and money and we don't need this type of abuse/ misuse of monies when budgets are already in the tank. Where the funds are/were obtained should not be an issue. Failure to spend available funding in a cost effective manner should be discouraged. This Boondoggle will come back to haunt SCDOT.....I understand they are planning another traffic circle at Hwy. 6 and Fish Hatchery Road.....you may want to review that job as well.

I look forward to hearing from you soon and would appreciate the opportunity to sit with you personally and discuss this issue.

Respectfully,



Donna Rawls

2032 Nazareth Road

Lexington, S. C. 29073

803 359-6956

Attachments

Lexington, South Carolina
March 1, 2010

Governor Mark Sanford
P. O. Box 12267
Columbia, South Carolina 29211

Governor Sanford:

With the economy in such sad condition, why would SCDOT choose to construct a roundabout of inadequate size, on an inappropriate site and add elements to the construction that could result in the increase of personal injury and property damage? Per SCDOT, the intersection selected already appears in the top 50 statewide ranking under the Highway Safety Improvement Program. Ranked where? 1st, 15th, 49th? (Attachments A & B).

The planned roundabout (traffic circle) is to be constructed at the intersection of Nazareth Road (S-243), Longs Pond Road (S-204) and Knotts Road (entrance to Longs Pond Estates subdivision), Lexington, S. C. (Attachment C). **This construction will adversely impact the entire community.** I cannot get anyone to adequately address my concerns. According to the SCDOT liaison, the project will be completed as planned! We only have until March 31, 2010 to get these issues resolved and no more meetings are currently scheduled. I have talked to the SCDOT design engineers, the SCDOT liaison, Senator Jake Knotts and Chairman Second District Henry Taylor to no avail. Your assistance is needed, requested and sincerely appreciated.

Simply stated... The currently engineered roundabout (circle) is unsatisfactory and the site selected is inappropriate. I'll try to be brief.

Planned roundabout will be too small. Per SCDOT, only one car distance between intersecting points. No stop signs, only yield signs. First car on circle has right-of-way. Due to only one car distance between intersecting points, someone must stop. Not much difference than a 4-way stop. **18-wheelers cannot go in, out or around circle without running over the top of the 6" curbing and over the sides of the pavement (Attachments D, E & F).** It will not take long for the curbing and surrounding pavement to be destroyed by large vehicles squirreling around on top of and off of the paved and cemented areas. Maintenance costs will definitely escalate. **Per SCDOT, all towed vehicles of significant length will have to jump, hop, skip or run over the 6" curb to negotiate the circle.** This would include motor homes, campers, horse trailers, etc. This is not user friendly, nor is it safe. Can cause tire blowouts, bent axles and undercarriage damage. The engineers agreed to change the design of the curbing to "rolled", but **no vehicle should be required to hop any curbs to negotiate the circle, rolled or otherwise.** This is a real safety issue. **Nazareth Road and Longs Pond Road are main arteries to I-20.**

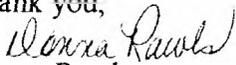
The site is inappropriate. The circle cannot be constructed in the center of the present intersection. Major portion of property must be purchased from Longs Pond Road side.

Cemetery on one corner and subdivision entrance on adjacent property causes placement of circle to be offset. Knotts Road, constructed in 1999-2000, is not straight across from Longs Pond Road. Why did SCDOT approve an Encroachment Permit for road access they knew would be unsafe? When I asked, Lexington County was unable to locate the required SCDOT Encroachment Permit for this subdivision. **State owned roads are to be relocated/shifted to meet subdivision entrance.** Setting a precedent for other subdivisions? (Attachment G) **Per SCDOT, proposed circle will be placed on a platform approximately 2 ½ feet higher than the current road bed on Nazareth Road** (Attachment H). The hydrologist says this is required to prevent flooding. If 2 ½ feet of fill is added, that equates to an approximate 6-foot embankment on the Longs Pond Road side of the circle. Ditches are to be pulled along Nazareth and Longs Pond Roads to prevent possible water damage to low-lying property. Embankments and ditches are real safety concerns. What happens if you miss the circle? Roll down or into an embankment? Run into a ditch and then down the side? Rollovers are more likely. Becoming air-born is probable. **These types of accidents will cause more serious personal injury and physical damage to vehicles.** Water currently is piped under Nazareth Road for the subdivision. Shallow paved ditches are located on Longs Pond Road. The paved ditches work well due to the extremely sandy soil and natural fall of property. Easily maintained. There is currently very little erosion at the intersection. Increased erosion will occur due to the elevated surfaces surrounding circle. Ditches and embankments are harder to maintain. **Students traveling from White Knoll High School to the Technical School on US Hwy. 1 will have a hay day with this thing....kids will play!** Robbie Road is a prime example.

I am **NOT** against roundabouts. If located in the appropriate environment, I feel sure traffic moves smoothly, efficiently and effectively. Internet photos of the roundabout on Rifle Range Road in Mt. Pleasant, S.C. show a beautiful, but **HUGE** circle. It appears to have statuary in the middle with lots of shrubbery, lighting, etc. The Mathis Ferry Road circle is also large (Attachments I & J). Obviously no one is required to negotiate "obstacles" on either of these circles. Perfect locations... no entrances or driveways close to the circle... flat ground... large enough to accommodate every type of vehicle... safe and user friendly. The Nazareth Road, Longs Pond Road site is **NOT** suitable for a roundabout. Please visit the site. If SCDOT wants to "trial" a roundabout, they need to locate the best possible site, monitor it, get the pros and cons from the actual users, make improvements to the design based on their findings and put roundabouts where they will work. What looks good on paper, does not necessarily work in the real application. Why waste money on a truly faulty circle? Why endanger the users? **Please scrutinize this project.**

Looking forward to hearing from you soon. (March 31st due date for project)

Thank you,


Donna Rawls
2032 Nazareth Road
Lexington, S. C. 29073
803 359-6956

Attachments

Rucker, Oscar K

8/12/99 - death

From: Harrelson, Brett
Sent: Thursday, February 11, 2010 4:24 PM
To: Rucker, Oscar K
Cc: Sawyer, Mike J
Subject: Lexington S-204 at S-243

As discussed, the following is the history regarding project selection and ranking of the subject intersection.

2003—Intersection appears in top 50 in statewide ranking under SCDOT's Highway safety improvement program. Location reviewed and evaluated which indicated a total of 13 crashes included one fatal crash and 2 injury crashes over previous 3.4 years (1/99 – 4/03).

2004—Funds were identified and approved to improve location under safety program

2006—Project placed on hold due to environmental and budget concerns

2008—Project reevaluated and design revised to roundabout. Crash stats indicated 10 crashes over previous 3 years (2006-2008) with 3 crashes involving injuries. Location met criteria to receive safety funds. Project and funding approved by Commis to complete project.

Hope this helps. Let me know if you have any questions or need additional information. Thanks.

Brett

Attachment A---SCDOT info.

What was the "plan" for the intersection prior to the reevaluation in 2008 to a roundabout? Was that a better plan for the intersection? A less expensive, less lethal plan?

I have no idea what criteria are used to determine the 50 top Safety Improvement Program Fund recipients? I feel sure the "top 50" changes monthly as accidents occur. There has been one death, a young man on a motorcycle (8/12/99). Very tragic... both families severely impacted.

I feel sure the severity of the accidents, as well as the actual number of accidents, count in determining where "improvement money" needs to be spent.

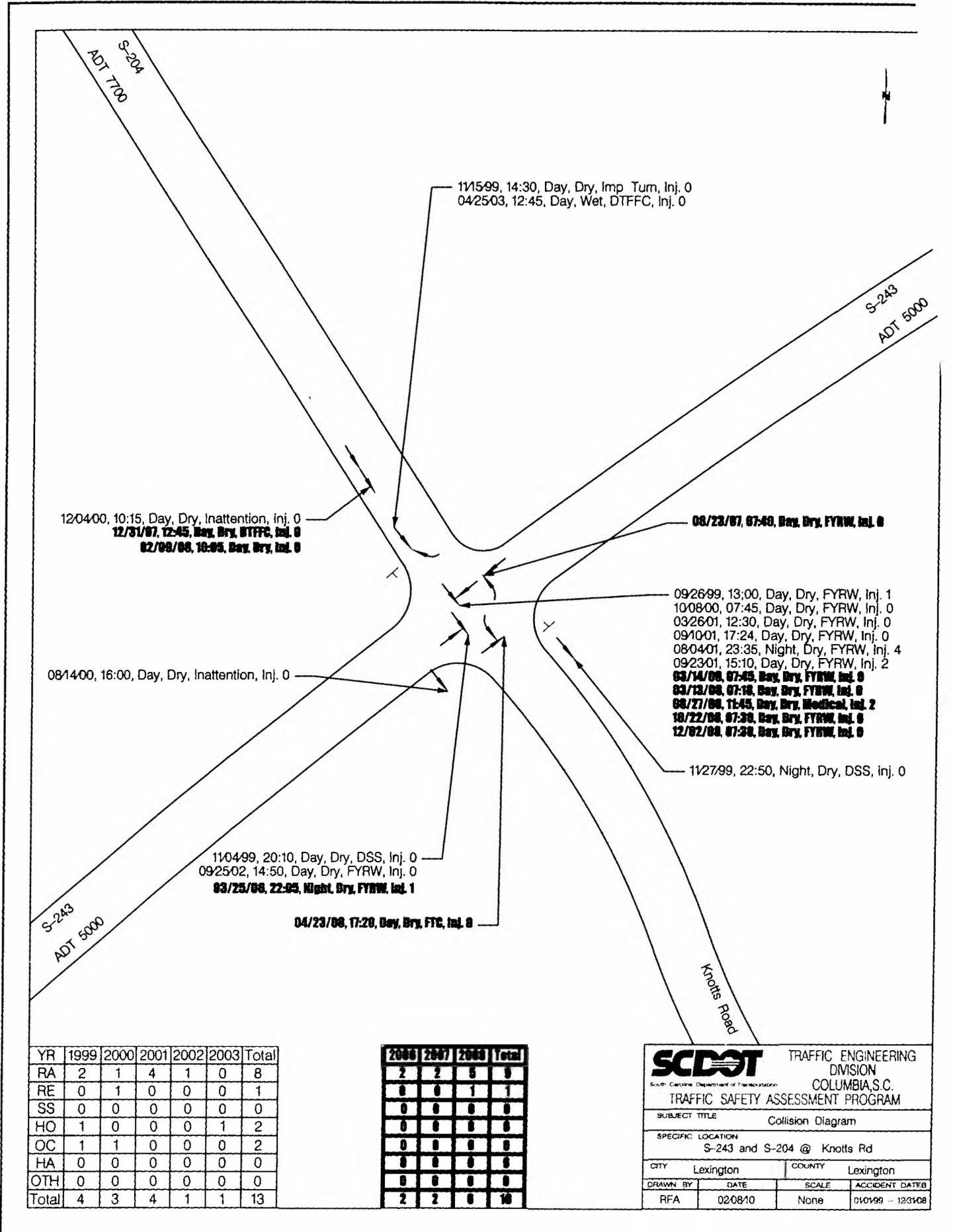
Looks like SCDOT has grouped the intersection accidents in 3+/- years. Is this standard policy for determining funding?

Attachment B—SCDOT info.

Looking at this accident detail sheet for our intersection, of the 23 accidents (01/01/99 – 12/31/08), excluding the death in 1999, only 10 injuries were reported. That equates to only 1 injury per year. The other 13 accidents had no reported injuries. Although "0" accidents would be my preference, is this excessive for intersections?

2/2010

Attachment A



120400, 10:15, Day, Dry, Inattention, Inj. 0
 12/31/07, 12:45, Day, Dry, DTFFC, Inj. 0
 02/08/08, 10:05, Day, Dry, Inj. 0

111599, 14:30, Day, Dry, Imp Turn, Inj. 0
 042503, 12:45, Day, Wet, DTFFC, Inj. 0

08/23/07, 07:40, Day, Dry, FYRW, Inj. 0

09/26/99, 13:00, Day, Dry, FYRW, Inj. 1
 10/08/00, 07:45, Day, Dry, FYRW, Inj. 0
 03/26/01, 12:30, Day, Dry, FYRW, Inj. 0
 09/10/01, 17:24, Day, Dry, FYRW, Inj. 0
 08/04/01, 23:35, Night, Dry, FYRW, Inj. 4
 09/23/01, 15:10, Day, Dry, FYRW, Inj. 2
 03/14/02, 07:45, Day, Dry, FYRW, Inj. 0
 03/12/02, 07:10, Day, Dry, FYRW, Inj. 0
 08/27/02, 11:45, Day, Dry, Medical, Inj. 2
 10/22/02, 07:30, Day, Dry, FYRW, Inj. 0
 12/02/02, 07:30, Day, Dry, FYRW, Inj. 0

08/14/00, 16:00, Day, Dry, Inattention, Inj. 0

11/27/99, 22:50, Night, Dry, DSS, Inj. 0

110499, 20:10, Day, Dry, DSS, Inj. 0
 092502, 14:50, Day, Dry, FYRW, Inj. 0
 03/25/02, 22:05, Night, Dry, FYRW, Inj. 1

04/23/02, 17:20, Day, Dry, FTC, Inj. 0

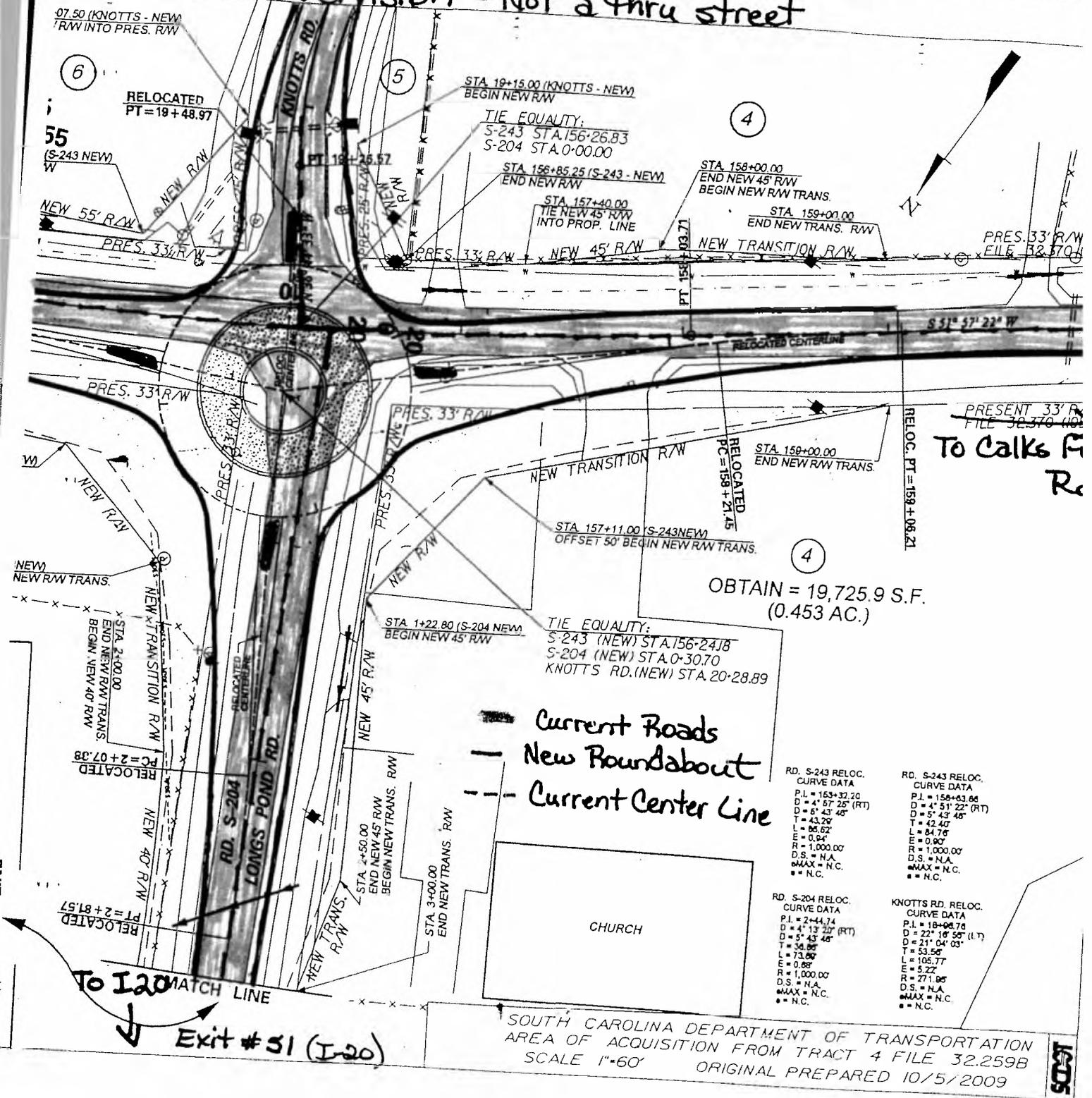
YR	1999	2000	2001	2002	2003	Total
RA	2	1	4	1	0	8
RE	0	1	0	0	0	1
SS	0	0	0	0	0	0
HO	1	0	0	0	1	2
OC	1	1	0	0	0	2
HA	0	0	0	0	0	0
OTH	0	0	0	0	0	0
Total	4	3	4	1	1	13

2006	2007	2008	Total
2	2	0	4
0	0	1	1
0	0	0	0
0	0	0	0
0	0	0	0
0	0	0	0
0	0	0	0
2	2	0	4

SCDOT		TRAFFIC ENGINEERING DIVISION	
South Carolina Department of Transportation		COLUMBIA, S.C.	
TRAFFIC SAFETY ASSESSMENT PROGRAM			
SUBJECT TITLE Collision Diagram			
SPECIFIC LOCATION S-243 and S-204 @ Knotts Rd			
CITY	Lexington	COUNTY	Lexington
DRAWN BY	DATE	SCALE	ACCIDENT DATED
RFA	02/08/10	None	01/01/99 - 12/31/08

Attachment 2

Subdivision - Not a thru street



07.50 (KNOTTS - NEW
R/W INTO PRES. R/W)

6

RELOCATED
PT = 19 + 48.97

55
(S-243 NEW)
W

NEW 55' R/W

NEW R/W

PRES. 33' R/W

STA. 19+15.00 (KNOTTS - NEW)
BEGIN NEW R/W

TIE EQUALITY:
S-243 STA. 156+26.83
S-204 STA. 0+00.00

4

STA. 158+00.00
END NEW 45' R/W
BEGIN NEW R/W TRANS.

STA. 159+00.00
END NEW TRANS. R/W

PRES. 33' R/W
FILE 32.370

RELOC. PT = 158 + 06.21

PRESENT 33' R/W
FILE 32.370 (R)

To Calks R

4

OBTAIN = 19,725.9 S.F.
(0.453 AC.)

TIE EQUALITY:
S-243 (NEW) STA. 156+24.18
S-204 (NEW) STA. 0+30.70
KNOTTS RD. (NEW) STA. 20+28.89

Current Roads
New Roundabout
Current Center Line

RD. S-243 RELOC.
CURVE DATA
P.I. = 153+32.70
D = 4° 57' 25" (RT)
D = 5° 43' 45"
T = 43.29
L = 66.62
E = 0.84
R = 1,000.00
D.S. = N.A.
MAX = N.C.
N.C.

RD. S-243 RELOC.
CURVE DATA
P.I. = 158+03.86
D = 4° 51' 22" (RT)
D = 5° 43' 45"
T = 42.40
L = 64.76
E = 0.80
R = 1,000.00
D.S. = N.A.
MAX = N.C.
N.C.

RD. S-204 RELOC.
CURVE DATA
P.I. = 2+44.74
D = 4° 13' 20" (RT)
D = 5° 43' 45"
T = 36.05
L = 73.05
E = 0.68
R = 1,000.00
D.S. = N.A.
MAX = N.C.
N.C.

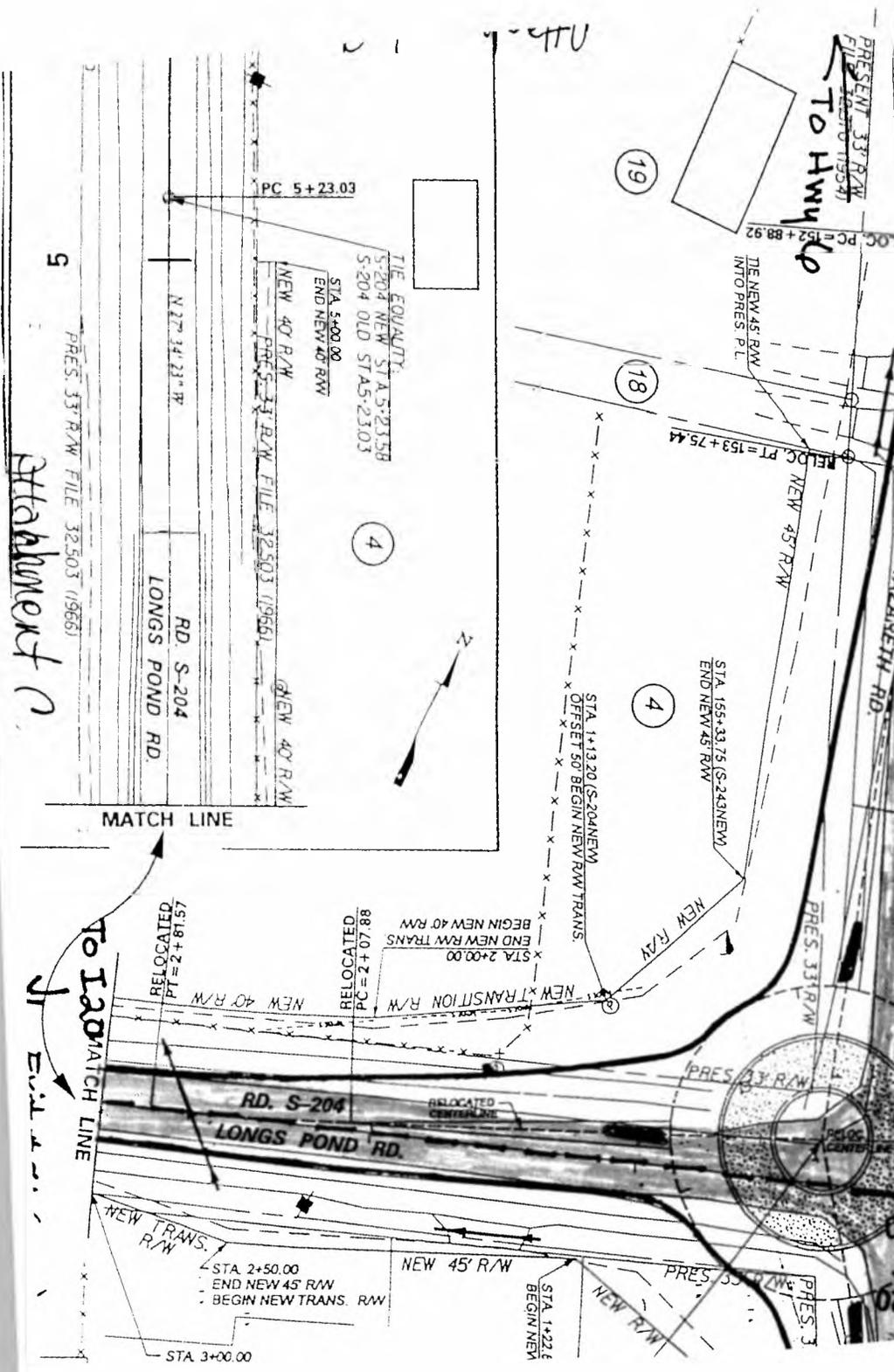
KNOTTS RD. RELOC.
CURVE DATA
P.I. = 18+08.78
D = 22° 18' 55" (LT)
D = 21° 04' 03"
T = 53.56
L = 105.77
E = 5.22
R = 271.95
D.S. = N.A.
MAX = N.C.
N.C.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 4 FILE 32.259B
SCALE 1"=60' ORIGINAL PREPARED 10/5/2009

To I20 MATCH LINE

Exit # 51 (I20)

D. Hashman et al



5
 PRES. 33' R/W FILE 32503 (1966)
 Attachment 2

PRESENT 33' R/W
 FILE 32503 (1966)
 To Hwy 40

PC 5+23.03

TILE EQUALITY
 STA 5:204 NEW STA 5:235B
 S-204 OLD STA 5-231.03

STA 5+00.00
 END NEW 40' R/W

NEW 40' R/W
 PRES. 33' R/W FILE 32503 (1966)
 (NEW 40' R/W)

N 27° 34' 23" W

RD. S-204
 LONGS POND RD.

MATCH LINE

19

18

4

4

THE NEW 45' R/W
 INTO PRES. P.L.

RELDC. PT = 153 + 75.44

NEW 45' R/W

STA 155+33.75 (S-243) NEW
 END NEW 45' R/W

STA 1+13.20 (S-204) NEW
 OFFSET 50' BEGIN NEW R/W TRANS.

STA 2+00.00
 END NEW R/W TRANS
 BEGIN NEW 40' R/W

RELOCATED
 88.70 + 2 = 90.70
 PC

NEW 40' R/W

RELOCATED
 PT = 11
 51.9 + 2 = 53.9

To I-40 MATCH LINE
 Exit 100

RD. S-204
 LONGS POND RD.

RELOCATED CENTERLINE

NEW TRANS.
 R/W

STA 2+50.00
 END NEW 45' R/W
 BEGIN NEW TRANS. R/W

STA 3+00.00

NEW 45' R/W

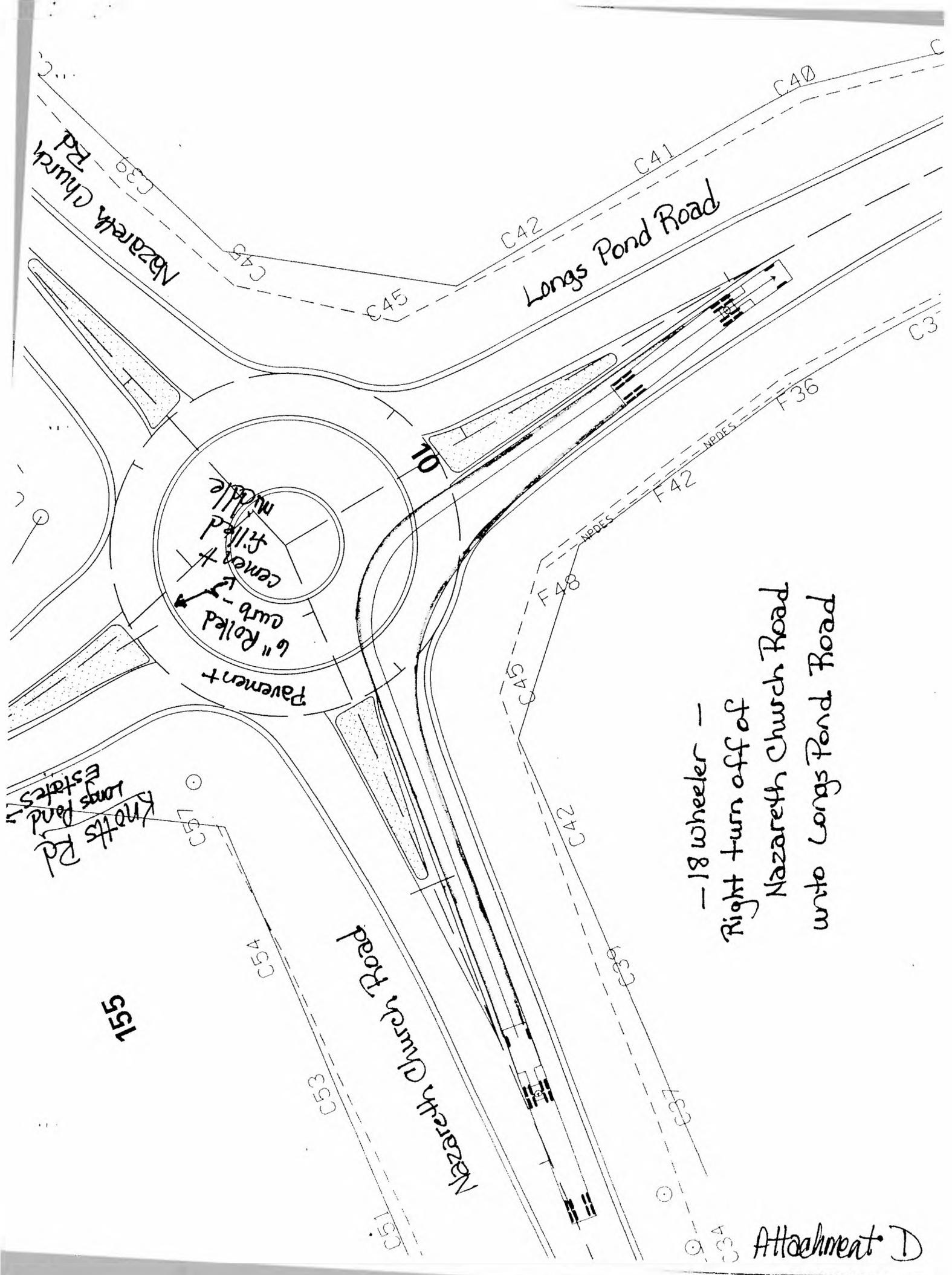
STA 1+22.6
 BEGIN NEW

NEW R/W

PRES. 33' R/W

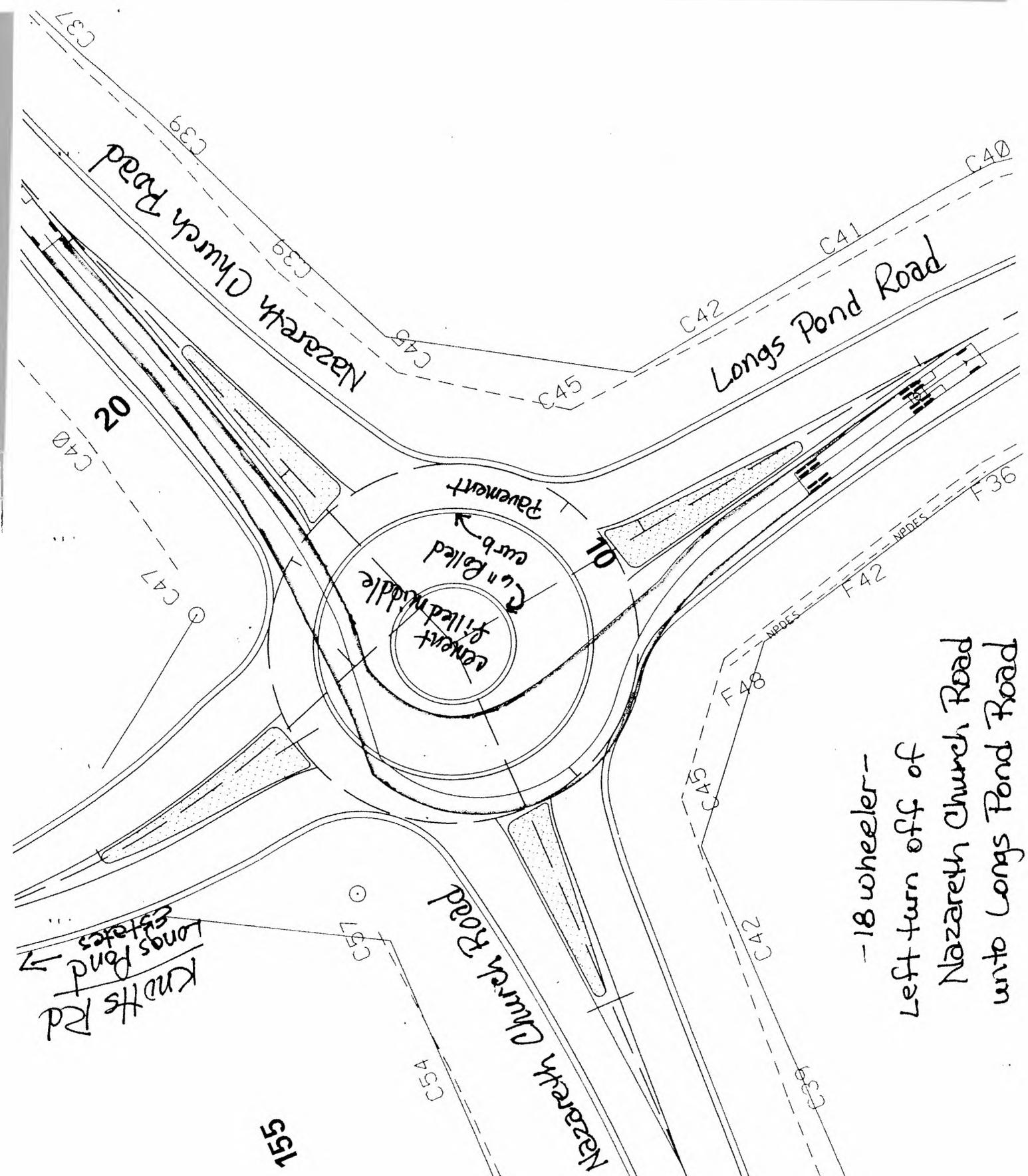
PRES. 33' R/W





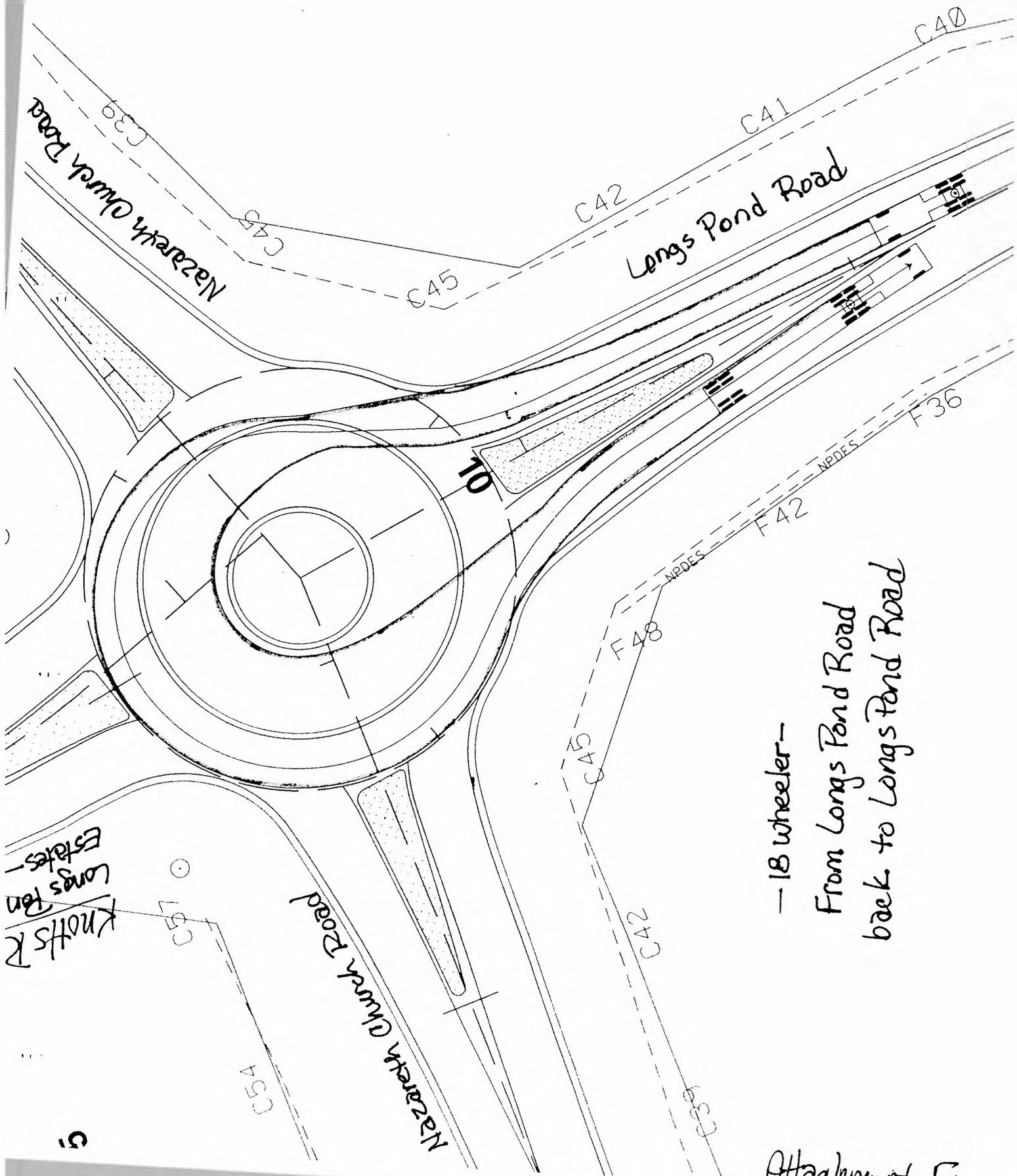
- 18 wheeler -
 Right turn off of
 Nazareth Church Road
 unto Longs Pond Road

Attachment D



-18 wheeler--
 left turn off of
 Nazareth Church Road
 unto Longs Pond Road

Attachment F



— 18 wheeler—
 From Longs Pond Road
 back to Longs Pond Road

Attachment F

WELCOMING COMMITTEE NEWS

Please join us in welcoming the following new families to Longs Pond Estates:

Deborah Yandle – 428 Knotts Court
Ronald and Natalie Jendrzewski –
1312 Knotts Haven Loop
Timothy and Vicki Beck – 160 Knotts Road
Charles and Donna Regina Hughes –
1356 Knotts Haven Loop

Congratulations to Leslie and Eric Dillinger on the birth of their son, Luke Alexander. He was born on September 28th and weighed 8 lbs. 9 ozs.

We are also looking for any ideas folks might have for the baskets. If you have a business card or trinket for your business that you'd like to have included, please let us know. (welcome@longspond.org).

Welcoming Committee.
Debbie Kessel
Sheryl Wood
Michelle Herman

TRAFFIC CIRCLE COMING SOON

As you all are aware, there has been much debate and discussion to improve the traffic flow at Longs Pond and Nazareth Roads. This is an area of concern for our development due to the fact that it will greatly affect our entrance.

The Department of Transportation (DOT) has decided to develop a traffic circle to assist with the improvement of the traffic flow. According to research, a traffic circle reduces accidents by as much as 70%.

With the development of the traffic circle, Longs Pond Road will shift toward the ball field and line up with our entrance. The project will make our entrance wider and traffic from our development will merge around the circle.

The project is tentatively scheduled to take place in the spring of 2010. At present, they are now in the phase of "right-away acquisition". This is where the DOT sends a representative to purchase land that is needed or ask permission for an easement for the needed property. Our board should be contacted by the end of the year regarding this. The project should be let (awarded thru a bid process) to a contractor in March, 2010 and construction should begin in May, 2010.

Please be aware these dates are tentative and could change. The board will keep the members of the HOA updated as more information becomes available.

YARD OF THE MONTH

The winner for September is John & Sandra Owens at 1430 Knotts Haven Loop. They join the list of past winners:

August – Mark & Amy Eberflus, 165 Knotts Road
July – Kelly Brock, 1532 Knotts Haven Trail
June – Brian & Danielle Paulen, 1374 Knotts Haven Loop
May – Crystal Teer & Troy Blume, 1449 Knotts Haven Loop
April – Steve & Kathy Vardas, 1341 Knotts Haven Loop

Leslie Shipp
Yard of the Month Committee

NEIGHBORHOOD CONCERN



In the past we have spoken regarding pets, and in particular about pet owners' responsibilities to keep control of their pets. Dogs have been our main focus whether it has been addressing leash laws or pooper scooping issues. However, whatever pet we own, we all feel the same about our pets – they are part of our families.

A resident has complained about cats roaming the neighborhood. The cats are unwelcome in the yard and can be a nuisance. Because of this, several cats have been captured and turned over to animal control. No notice was put up about stray cats being captured or "found." As a result, we received the following letter from a concerned neighbor.

Personally, I have lost two cats in the past few months that were family pets. At first, after hearing the complaint, I was upset that this person had possibly turned my pets over to animal control. I have gone to the Ball Park Road office looking for my pets but they have not been there.

After thinking about it for a time, I realized that it is my fault that they are missing because neither of the cats had collars or microchips. But, have you ever tried to keep a collar on a cat? It is impossible and even unsafe. The way they get into everything it is a hazard to have a collar that is likely to get caught on something and possibly choke the cat.

In light of all of this, I have looked up the leash laws for cats. Regardless of collar or not, a cat should not be out of his owner's yard. If the animal is, the owner should have control over the cat and it should respond to his owner's commands.

Attachment 6

Long's Pond ESTATES

Homeowners Association Newsletter

www.longspond.org

October 2009

NOTES FROM THE PRESIDENT

Along with Fall and the cooler temperatures, comes a change in our board members. As they leave their positions on the board, we'd like to take this opportunity to thank Chad Keller and Patrick Hedgepath for their service on the board and to our community. At the last HOA meeting, Jason Hentz and Laura Murray were appointed to the Board of Directors. I'd like to extend a warm welcome and thank you to these folks for volunteering their time.

The board also elected positions at their last meeting. Here are the newly appointed officers:

Connie Parson, President
Debbie Kessel, Vice President
Randall Mungo, Treasurer
Jason Hentz, Secretary
Laura Murray, Board Member at Large

Please email us anytime with any comments or concerns you may have. We welcome your suggestions. Also, if you have any interest in volunteering on any committees, please let us know. Our email is board@longspnd.org.

Connie Parson
President

TREASURER'S REPORT

Well the year is winding down and like many of you, I'm looking forward to the holidays. I would like to thank those of you that volunteered your time and efforts this past year. Currently, only 6% have not paid their dues. This number is down from last year, which is good for the entire neighborhood. Unfortunately, a lien will be placed on those that did not pay their dues.

Some of you may have seen some yellow signs posted at the front entrance and community lot. The county had posted the property due to failure to pay the taxes. We immediately contacted Lexington County to see what had gone wrong. The county had sent our tax bills to the wrong address. We were able to get the taxes paid and the address corrected.

We hired a management company in March and they have been very helpful in many ways. The management company reviewed our insurance and recommended that we include a Directors and Officers policy to protect the Board members, as a whole, from any legal actions. The Board voted to add this policy, so our policy premium did increase more than originally budgeted.

Another advantage of working with the management company is that the next year's budget has to be completed by the end of October. With their help, we have a budget that the Board voted to approve. This budget will be available at the December meeting. You will see some improvements in the proposed budget as the categories are shown in more detail.

Financially we've had a good year. We cut back on several items this year such as the amounts given to the yard of the month winners, the amount of pine straw put out, and used William Douglas to print and mail the newsletters.

If I can be of any service to any of you, please feel free to contact me.

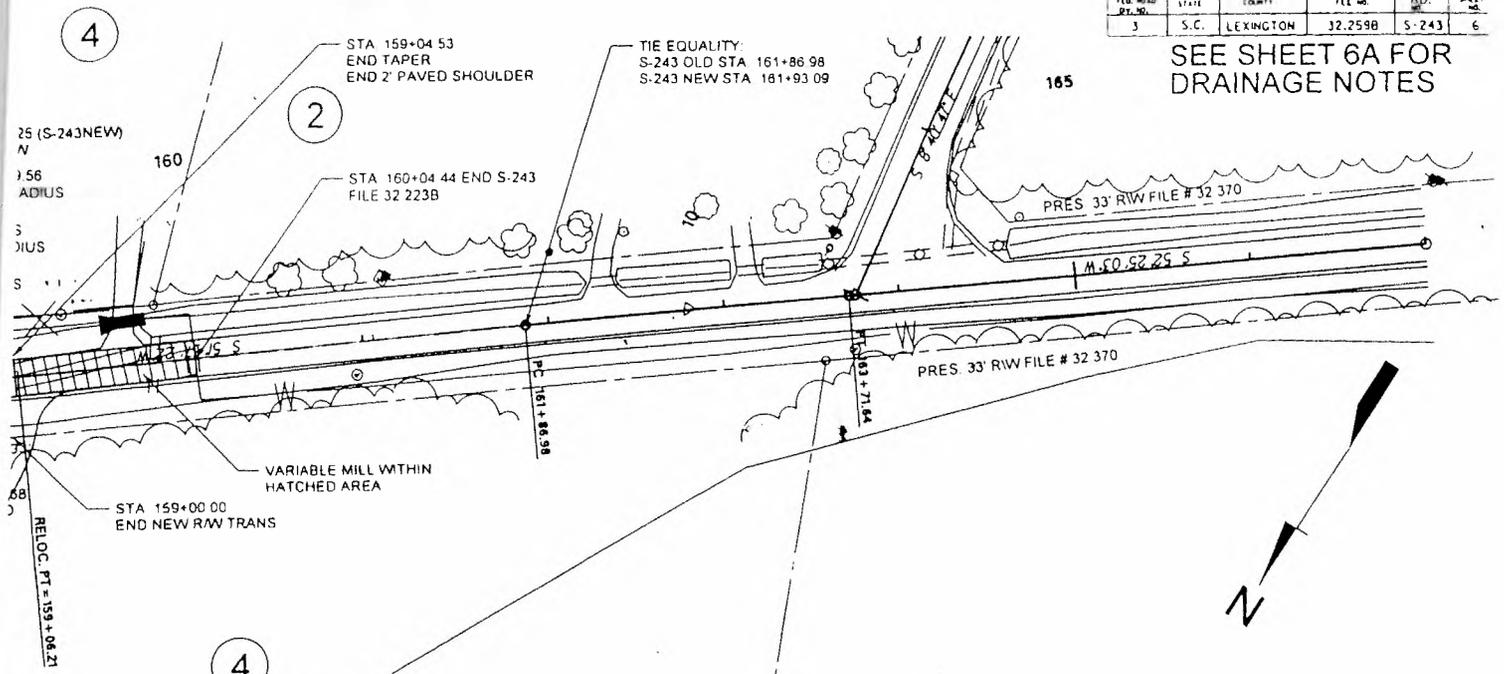


There will be a December HOA meeting and holiday get together on **Tuesday, December 1, 2009 at 7:00 p.m.** Light horserves and desserts will be provided following a short meeting. In an effort to save the HOA money, it will be held at the Red Bank Community Center. More details will follow but the change in meeting place will save the HOA \$800 a year.

Attachment 5

FED. ROAD DIST. NO.	STATE	COUNTY	FILE NO.	RD.	SHEET NO.
3	S.C.	LEXINGTON	32.2598	S-243	6

SEE SHEET 6A FOR DRAINAGE NOTES



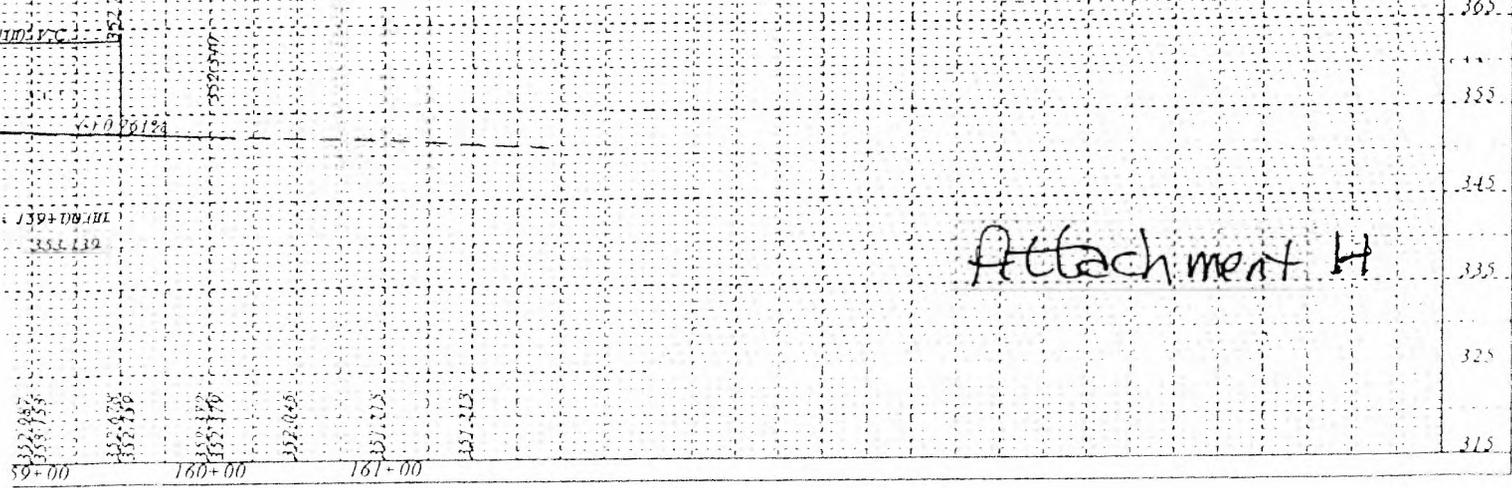
RELOC. CURVE DATA

P.I. = 158+63.86
 D = 4° 51' 22" (RT)
 D.S. = 5° 43' 48"
 T = 42.40'
 L = 84.76'
 E = 0.90'
 R = 10000.00'
 D.S. = N.A.
 eMAX = N.C.
 e = N.C.

POWER OWNED BY SCE&G
 TELEPHONE OWNED BY ALL-TEL
 GAS OWNED BY SCE&G
 WATER OWNED BY LEXINGTON COUNTY JOINT MUNICIPAL
 SEWER OWNED BY SEPTIC
 CABLE OWNED BY TIME WARNER



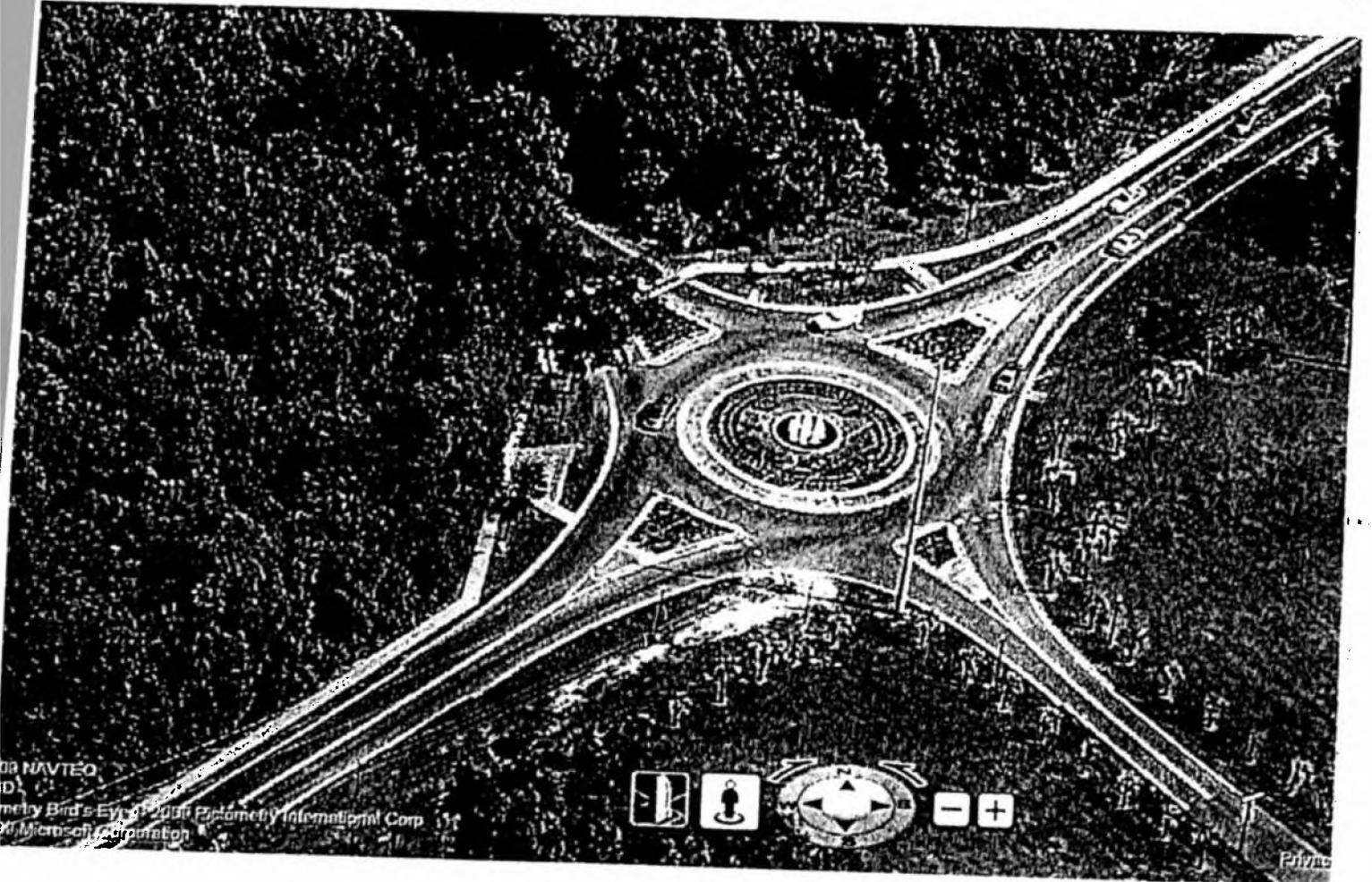
Road Elevation of Long Pond Road not shown.



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bing

1632 rifle range road. mt pleasant. sc



Attachment I

1/22/2011