

BOARD OF COMMISSIONERS:

*J. Marie Green, Chair
Barbara Mickens, Vice Chair
Weston A. Furgess, Jr., Secretary
Thomas Clark
Wilbert Lewis
George D. Martin, Jr.
Joseph B. Weeks*



October 17, 2016

Via Hand Delivery and E-Mail

The Honorable Nikki R. Haley
Office of the Governor
South Carolina State House, First Floor
Columbia, South Carolina 29201

Re: Letter from Certain Members of the
Richland County Legislative Delegation
Dated October 13, 2016

Dear Governor Haley,

We regret the necessity to write to you at a time when we are under a state of emergency in our State of South Carolina, additionally having had the President most recently declare that a major disaster exists for our state. However, we feel compelled to address you expeditiously in response to the above referenced letter you received October 13, 2016 from certain members of the Richland County Legislative Delegation. This letter was authored by ten of the seventeen members of Richland County Delegation (these particular individuals referred hereafter as Certain Delegation Members). However with the one-sided, incomplete and inaccurate information that the Certain Delegation Members have published, RCRC feels it can no longer be silent.

The Executive Director, James Brown, III retired on October 14, 2016 after 34 years of public service. But with the many inaccuracies we wish to give you a fuller picture of those things we can discuss without impacting the legal rights of the Commission and the individuals involved.



Nationally Accredited:
The Richland County Recreation Commission
became South Carolina's first nationally
accredited parks and recreation agency in 2006.

Equal Opportunity Statement: The Richland County Recreation Commission is dedicated to the concept of equal opportunity. The Commission will not discriminate on the basis of race, color, religion, sex, age, disability, national origin, or marital status, in its employment practices or in the participation policies for its facilities.

As you know, the Richland County Recreation Commission is comprised of a seven-member Board whose appointments are first recommended by the Richland County Delegation and second, confirmed by you - the Governor. The Commission Board members serve in a non-paid voluntary capacity because of their love for Richland County and its citizens and their passion for recreation. Each member serves a five (5) year term. Please see EXHIBIT 1 – Current Board Members and Terms of Office.

Certain Delegation Members, apparently unhappy with the majority decisions of the Richland County Recreation Commission Board, are now requesting that you, our State Governor, would utilize your governing powers in order to remove certain members by way of demanding the resignation of five Recreation Board Members. They wish to retain only two of the existing seven-member board - two Board members whose voting just happens to be more to their liking. These two members just like the full Board are public servants of Richland County all of whom make conscientious decisions and are voluntary and duly-appointed members. The Board has (appropriately) not spoken about pending legal matters, but with the multiplicity of inaccurate allegations Certain Delegation Members have submitted for publication, we feel we can no longer remain quiet.

Highlights of Inaccurate Statements and Misrepresentations

- As you can see from EXHIBIT 1 some members such as Joseph Weeks and Thomas Clark were appointed in February 2016 (after the period of time the allegations and unproven incidents in question occurred). Yet the Certain Delegation Members are calling for the removal of only Joseph Weeks simply because they disapprove of his voting record. If the same scrutiny was placed on these Certain Members' voting record none would currently be serving.
- Contrary to their contention, the Commission has taken action when complaints have been received by the agency's Human Resources Department or the Board. Actionable complaints were addressed immediately. Complaints not received by Human Resources or the Board cannot be investigated.
- One such complaint was received by the Board on December 9, 2015. Due to the nature of this complaint, RCRC engaged the legal services of an outside impartial attorney to review the complaint and advise the Board of legal risks. This firm has provided legal services to legal services to RCRC since about 1994. The attorney is a certified specialist in employment and labor law. She trained all employees on harassment in the workplace including protocols for bringing concerns or claims for internal review and investigation after the Commission's receipt of an anonymous letter in August 2014.
- On only ONE occasion did the Certain Delegation Members "reach out" to the Commission - in a letter addressed to the Board Chair. They sent a letter to the Commission Board on July 13, 2016 requesting among other things the employment status of a specific employee and asking if the Insurance Reserve Fund was handling the civil lawsuits. The Board immediately addressed the questions fully as they were presented in an effort to demonstrate urgency and mutual concern and cooperation. However, the Certain Delegation Members went to local media characterizing the response as untruthful rather than asking RCRC for clarifying or additional explanation. For Example the Certain Delegation Members letter asked who was paying the costs of defending current lawsuits. All governmental officials know that the Insurance Reserve Fund covers the cost of litigating lawsuits. With regard to this civil litigation, since it is ongoing active litigation, despite the plaintiff's attorneys choosing to

litigate the cases in the media and Certain Delegation Members commenting to the press about the litigation, RCRC chose to litigate the matter, as required by ethics rules, in the courts, and not in the local media. Certain Delegation Members chose to misrepresent the over-budgeted legal fees as being associated with the current litigation, when in fact some of the fees were for the bond project, related construction and other issues. The media and Certain Delegation Members continually reference “inside sources”. Those “inside sources” provided inaccurate information that was then used for the “narrative” the Certain Members wished to advance.

- On a SECOND occasion the Certain Delegation Members felt the need to send an unnecessary FOIA request at a time when the Commission was totally transparent with requested information. After submitting documents totaling 730 pages and going back five (5) years of history, again, rather than open dialogue with the Commission regarding concerns, the Certain Members of the Delegation spun the information negatively in the media by making derogatory comments in the media and calling press conferences. The Commission Board acted responsibly and ethically by refraining from adjudicating the matter in the press and allowing the legal process to follow its proper course.
- The Certain Delegation Members requested a copy of the work product produced by the independent counsel. This was the work product of the independent attorney. As you are aware legal matters are discussed in executive session and this legal matter followed that process. Any material that is covered under the attorney-client privilege, attorney work product privilege, or materials prepared by counsel in anticipation of the ongoing civil litigation against the RCRC has and will be treated accordingly. The Certain Delegation Members’ characterization of the work product providing “conclusive evidence of Director Brown’s wrong doing” is speculative. As this matter is in civil litigation the work product and related privileges will not be waived.
- The assertion that the “Five Commissioners expended in excess of \$35,000 for the report” is misleading. The legal review included the approval and involvement of the entire Board and agency administration. The independent attorney was not hindered in any way and included all appropriate individuals in her interviews.
- The RCRC and the individuals’ rights to have legal counsel cost money and the assistance of counsel should be protected as a

cornerstone of our legal system. We trust that RCRC and the individuals will continue to be provided the same rights, privileges and protection afforded every citizen to have and receive legal advice and counsel.

- While RCRC has fully cooperated with the criminal investigation, it is our understanding that the current indictment came from independent sources not previously known by the Board or RCRC staff.
- There is a political overlay wherein the County has for years tried, unsuccessfully (Davis et al v. Richland County, South Carolina Supreme Court 2007) to change the method by which Board members are appointed. This effort appears to have resurfaced as a result of the recent allegations in the civil suits and other charges. Politics should not undercut the hard work over a period of years of the RCRC employees. See EXHIBIT 2 – RCRC’s National Accreditation Award where the agency passed 150 of 151 standards (and trust me – we are working on the 1 missed standard – an Employee Education Plan).
- Mr. Brown asked for and was granted a paid leave of absence at a point in his 34-year career where he has no written disciplinary actions – not one. Subsequently, upon a formal indictment being issued on October 12, 2016 – See EXHIBIT 3, the Chair took immediate action on that day of suspending the Executive Director without pay – See EXHIBIT 4 - and asking for an Executive Session on October 17, 2016 to discuss the matter further with the Full Board. Mr. Brown submitted his retirement on the morning of October 14, 2016 prior to the new allegations cited against him by the Richland County Sheriff’s Department.

The Commission Board categorically denies the so called six “significant acts of malfeasance and other wrong doing” and will address each in the remainder of this letter.

ONE

The Commission did not disregard allegations of a hostile work environment as these allegations were never brought to the Board prior to December 9, 2015 - the date a formal complaint was submitted to the Board Chair. The Assistant Executive Director, Division Head of Parks and the CFO – the THREE highest ranking officials in charge of the day-to-day operations of the agency and who in court documents are accused of a variety of malfeasants are either on LOA or terminated.

TWO

The Board approved the attached **Employment of Relatives Policy**, after much discussion, research and Ethics Commission review. No hiring of any relatives to our knowledge was contrary to policy or Ethics Law.

THREE

Compensation of the Executive Director was in fact approved by the Board by way of a three-year contract in order to have a more accountable and responsible compensation package. The Executive Director’s compensation is commensurate with other agency heads with 34+ years of experience and education. At the time of the salary approval he was the head of the only accredited agency in South Carolina.

FOUR

The ONE formal complaint against the Executive Director was previously discussed.

FIVE

Again, we would like to express that the RCRC and the individuals' rights to have legal counsel's advice and work with them protected is a cornerstone of our legal system. The Certain Delegation Members' reported to you that \$105, 445 was spent to defend lawsuits between July 2015 and July 2016. This in fact is not the case – as the first lawsuit was not received by RCRC until March 2, 2016. Not having its own internal counsel, the agency appropriately uses outside attorneys for legal matters including but not limited to employment matters, contract review, land purchases, bond projects, etc. And what the Certain Members of the Delegation don't tell you is in prior budget years legal expenses have been negligible. During the budget crisis in 2009, State agencies experienced budget shortfalls. Therefore RCRC implemented a large reduction in force. Three employees chose to file suits rather than accept a fair severance package (which was their right and our duty to defend). The Assistant Executive Director, CFO and Executive Director selected positions to be eliminated at that time. The budget shortfall was outside of the control of RCRC.

SIX

For the past 10 years The Richland County Recreation Commission was the only accredited agency in South Carolina - leading the way in the highest level of professionalism and oversight any agency has ever subjected itself to. 2016 was the second time the agency was reaccredited (this takes place every five years). RCRC received the CAPRA award at the National Recreation and Park Association's annual conference in St. Louis. Despite passing 150 of 151 standards (including some new standards for 2016), members of the press chose to question whether we deserve the honor, while others chose to attempt to sabotage the agency. This honor does not fit with the script they have tried to portray. They have even gone as far as to inappropriately criticize the agency for not openly discussing matters that are in litigation with the CAPRA Commission. Matters that are in litigation are currently not one of the 151 Standards to be met. It should be noted that through this tumultuous time there have been little to no service complaints from the citizens we serve. And as always, complaints received are handled with urgency and expeditiously.

SPECIFIC REBUTTLES TO THE SO CALLED GROUNDS LISTED THE LETTER

GROUND ONE

Other than the ONE complaint previously addressed in this letter - no other formal reports have been made by employees to the Human Resources Department or the Board. Reports not made cannot be acted upon. The argument that employees had no one to report sexual harassment allegations to does not hold up under scrutiny. The agency has a legal obligation to act upon sexual harassment allegations when received. The quoted former employee on page 3 in the Certain Delegation Members letter is an out spoken critic of the agency. Very little of the information in her letter is factual. Normally we would not comment regarding former employees, however since she has opened the dialogue by reporting false information, we will review the situation. She was treated fairly over her career with the Richland County Recreation Commission receiving no less than nine (9) documented salary increases over her 10-year career. During an agency reorganization in the early part 2015 she was transferred (out of business necessity) to a park position at the same salary as her previous position. She was not happy with the transfer and felt it was a demotion that was in some way beneath her. The transfer was at the same salary - no reduction in pay and during the hours 2:00pm to 9:00pm. The park positions are the foundation of recreation delivery at the Richland County Recreation Commission. Park Managers and Assistant Managers are held in the highest regard and all work the same 2:00pm to 9:00pm schedule. The employee failed to report to the Certain Delegation Members that she terminated herself by inappropriate misconduct reviewed by the S.C. Department of Workforce Development who responded in this way:

"You were discharged from your job with your most recent bona fide employer for improper actions on the job. Your actions were contrary to what an employer has a right to expect. You were discharged for misconduct connected with the employment under the South Carolina Code Section 41-35-10(2)(a). The Certain Delegation Members made absolutely no attempt to ascertain the work history of this employee prior to publishing the rhetoric as fact.

GROUND TWO

The Executive Director's son (currently on suspension without pay), his brother and his daughter do work for the Commission. Two were hired prior to his promotion to Executive Director and the other worked her way up to a full-time position from part-time (she was originally hired part-time in 2011). None are supervised by the Executive Director. The Executive Director's brother was originally hired in 1989 by the former Executive Director Mr. Pat Connolly. The Executive Director's son was originally hired in 1999 also by Mr. Pat Connolly. Both individuals were hired prior to Mr. Brown's promotion to the leadership role as full-time Executive Director on November 4, 2010. Relatives of the Board Chair are two nephews whose employment does not go against any nepotism policy or Ethics Law. Both nephews were hired prior to Mr. Brown becoming the Executive Director (2008 and 2009 respectively) and Board Members have no hiring authority and no control over day-to-day operations per the Board By-laws. The agency has repeatedly informed the Certain Delegation Members that the Vice-Chair does not have relatives employed within the agency. However, they rely on reports from questionable online media information and continue to incorrectly identify our staff members as being her relatives and embarrass agency staff by PUBLISHING NAMES AND SALARY INFORMATION CONTRARY TO THE FREEDOM OF INFORMATION ACT (FOIA). This is illustrated in their EXHIBIT E Attachment in the letter to you. They continue to coerce employees over and over into providing confidential information – in most respects inaccurate. Two exemplary custodians are repeatedly reported by the Certain Members of the Delegation as relatives of Mr. Brown despite being advised that no current relationship exists under the nepotism policy. The Certain Members of the Delegation compare the salary of a long-tenured (14 years) employee to a short-tenured (5 years) employee – again reporting names and actual salary which is contrary to FOIA. The final employee referenced is not a relative of Mr. Brown and worked his way up from a part-time assistant manager position to a Site Manager and perhaps mentioned because Mr. Brown is an honored graduate of Benedict College and Benedict College is a strong supporter of the Commission as RCRC is of them. While these Certain Delegation Members purport to want to help employees they continually published confidential and

inappropriately gathered information and embarrass innocent staff members – all to meet their ends.

GROUND THREE

Mr. Brown's salary was benchmarked against peer data throughout the state and his salary is commensurate with 34 years of experience and education. The salary and contract are Board approved.

GROUND FOUR

The complaints cited in Ground Four are hearsay. The quotes of the so-called whistleblower are unfounded. Those employees who the "Whistleblower" claims had no clue as to what they should be doing are no longer with the Commission.

GROUND FIVE

As previously addressed - again we would like to express that RCRC and the individuals' right to have legal counsel's advice and work with them is protected and is a cornerstone of our legal system.

GROUND SIX

Commissioners can only act on what they are made aware of.

In order to assist employees through this difficult time, RCRC will be exploring the availability of an anonymous Employee Assistant Program (EAP) services and will assist with benefits if budgeted funds are available.

Finally, in closing the Certain Delegation Members do not cite any precedents for removal of Commissioners for disagreement with their voting records. All actions are voted on during regular or special meetings and are matter of public record.

The information in this report was prepared by the Richland County Recreation Commission staff in order to assist the Board in responding to the letter authored by Certain Members of the Delegation and submitted to the Governor on October 13, 2016.

EXHIBIT 1

**Richland County Recreation Commission
Board of Commissioners
As of February 27, 2016**

Title	Commissioner	Initial Appt.	Current Term Expiration	Reappointments
Ms.	J. Marie Green, Chair	February 27, 2002	February 27, 2017	February 27, 2012
Ms.	Barbara Mickens, Vice Chair	March 3, 2008	February 27, 2019	February 27, 2014
Mr.	Weston A. Furgess, Jr. Secretary	February 27, 2010	February 27, 2020	February 27, 2015
Mr.	Wilbert Lewis	February 27, 2007	February 27, 2017	February 27, 2012
Mr.	George D. Martin, Jr.	February 27, 2008	February 27, 2018	February 27, 2013
Mr.	Thomas Clark	February 27, 2016	February 27, 2021	
Mr.	Joseph B. Weeks	February 27, 2016	February 27, 2021	



Commission for Accreditation of Park and Recreation Agencies

Let it be known that the

Richland County Recreation Commission

has fully demonstrated its commitment to the park and recreation field by complying with a body of standards deemed essential to the quality of services delivered and the professionalism of its operational system, and having accomplished best management practices is hereby, upon recommendation by the members of the Commission for Accreditation of Park and Recreation Agencies, conferred

Agency Accreditation

effective on this 4th of October, 2016
and recognized as an accredited park and recreation agency
for a period of five years.



EXHIBIT 3

News Release

OFFICE OF ATTORNEY GENERAL ALAN WILSON
STATE OF SOUTH CAROLINA

For Immediate Release
Oct. 12, 2016

Contact: Hayley Thrift Bledsoe
(803) 734-3670
hthrift@scag.gov

Richland County Grand Jury Indicts Richland Co. Recreation Commission Director James Brown III

(COLUMBIA, S.C.) South Carolina Attorney General Alan Wilson announced a Richland County Grand Jury has returned an indictment against Richland County Recreation Commission Executive Director James Brown, III.

Brown was indicted on Oct. 12, 2016 on 1 count Misconduct in Office. The offense is a misdemeanor, punishable by up to 10 years in prison.

The indictment alleges that from 2012 to 2015, Brown used his position as Executive Director to coerce and attempt to coerce female employees into having sexual contact with him.

The investigation was a collaborative effort by the Richland County Sheriff's Office, the South Carolina Law Enforcement Division, the FBI, the U.S. Attorney's Office and the Attorney General's Office.

The case will be prosecuted by the Attorney General's Office.

Attorney General Wilson stressed all defendants are presumed innocent unless and until they are proven guilty in a court of law.

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Thomas Clark
Wilbert Lewis
George D. Martin, Jr.
Joseph B. Weeks



EXECUTIVE DIRECTOR

James Brown, III

7473 Parklane Road

Columbia, SC 29223

Phone: (803) 741-RCRC (7272)

Fax: (803) 741-2028

Email: info@rcrc.state.sc.us

www.richlandcountyrecreation.com

EXHIBIT 4

October 12, 2016

The Commission has denied all allegations against the agency and note that there are no charges against the Commission. Based on today's action by the Richland County Grand Jury, Executive Director, James Brown III, has been suspended without pay. As this is a legal matter, the Richland County Recreation Commission has no further comment other than Mr. Brown is entitled to defend these allegations and under our system of law is presumed innocent until proven guilty.

J. Marie Green

Richland County Recreation Commission Board Chair



Nationally Accredited:

The Richland County Recreation Commission became South Carolina's first nationally accredited parks and recreation agency in 2006.

Equal Opportunity Statement: The Richland County Recreation Commission is dedicated to the concept of equal opportunity. The Commission will not discriminate on the basis of race, color, religion, sex, age, disability, national origin, or marital status, in its employment practices or in the participation policies for its facilities.

IMPORTANT NOTICE

NOTHING CONTAINED IN THIS POLICY CREATES A CONTRACT RIGHT. CONSISTENT WITH SOUTH CAROLINA LAW, ALL EMPLOYEES ARE EMPLOYED "AT WILL" WHICH MEANS THAT THE EMPLOYEE HAS THE RIGHT TO TERMINATE HIS OR HER EMPLOYMENT AT ANY TIME, WITH OR WITHOUT NOTICE OR CAUSE, AND THAT THE COMMISSION RETAINS THE SAME RIGHT. EXCEPTIONS TO THE POLICY THAT ALL EMPLOYEES ARE EMPLOYED "AT WILL" MAY BE MADE ONLY BY WRITTEN AGREEMENT SIGNED BY THE COMMISSION AND THE EMPLOYEE AND APPROVED BY VOTE OF THE BOARD.



EXHIBIT 5

Employment of Relatives

Human Resources
Policy No. 070

Review Date: March 21, 2016
Last Revised: June 15, 2015

Policy Statement

Relatives. Household or Close Family members of current Richland County Recreation Commission employees may not be hired, promoted or reassigned to a position in which the current Richland County Recreation Commission employee directly supervises or manages. This policy is adopted to prevent the appearance of favoritism by a supervisor and to prevent potential safety, security and employee morale issues.

1. Definition of Relative, Household or Close Family Member:

A relative. Household or Close Family member is an individual who is a spouse, parent, brother or sister (and their spouse or children), child (and their spouse), mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild, first cousin, or step-parents or step-children of a current Richland County Recreation Commission employee. Additionally, unrelated associates residing together or otherwise engaged in an apparently romantic relationship (such as a domestic partner, co-habitant or significant other) are treated as being Close Family members for purposes of this policy.

2. Marriage

If employees marry, become Household or Close Family members after employment and a conflict of interest or a management problem of supervision, safety, security or morale result (determined at the sole discretion of the Richland County Recreation Commission) or, if a reorganization creates such a conflict, reasonable time may be provided to resolve the matter. If resolution is not possible, the Richland County Recreation Commission may require one or both of the employees to transfer or resign.

3. South Carolina Ethics Act:

The Richland County Recreation Commission complies with all aspects of the South Carolina Ethics Act as it relates to employment of relatives in Section 8-13-750, and any other applicable Sections. See attached Addendum A.

4. Additional information

Additional information regarding the State Ethics Act including how to file a claim can be obtained online at Ethics.sc.gov

ADOPTED BY RICHLAND COUNTY RECREATION COMMISSION BOARD

BOARD MEETING DATE: March 21, 2016
(Date Approved)

APPROVED: 2. Marie Green

Employment of Relatives – Addendum A

Human Resources
Policy No. 070

Review Date: March 21, 2016
Last Revised: June 15, 2015

1. South Carolina Ethics Act – January 1, 1992. SECTION 8-13-700

(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use that does not result in additional public expense.

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated.

2. South Carolina Ethics Act – October, 1991. SECTION 8-13-750 Employment, promotion, advancement, or discipline of a family member, of a public official, member, or employee.

(A) No public official, public member, or public employee may cause or participate in the employment, appointment, promotion, transfer, or advancement of a family member to a state or local office or position in which the public official, public member, or public employee supervises or manages.

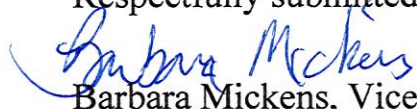
(B) A public official, public member, or public employee may not participate in an action relating to the discipline of the public official's, public member's, or public employee's family member.

Respectfully submitted,

A handwritten signature in blue ink that reads "J. Marie Green". The signature is fluid and cursive, with the first name "J." being small and the last name "Green" being more prominent.

J. Marie Green, Chair

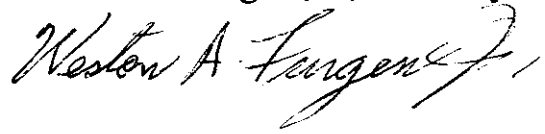
Respectfully submitted,

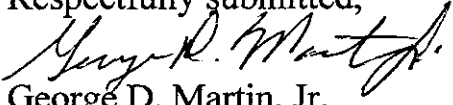
A handwritten signature in blue ink, appearing to read "Barbara Mickens". The signature is written in a cursive style with a large initial "B" and "M".

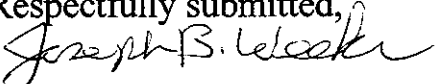
Barbara Mickens, Vice Chair

Respectfully submitted,

Weston A. Furgess, Jr, Secretary

A handwritten signature in cursive script, reading "Weston A. Furgess, Jr.", written in black ink.

Respectfully submitted,

George D. Martin, Jr.

Respectfully submitted,

Joseph B. Weeks