

CONCORDIA PARISH RECREATION
DISTRICT NO. 1



INVESTIGATIVE AUDIT
ISSUED JULY 13, 2016

**LOUISIANA LEGISLATIVE AUDITOR
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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

July 13, 2016

**MR. JOHNNIE WOODRUFF, CHAIRMAN
AND BOARD OF COMMISSIONERS
CONCORDIA PARISH RECREATION DISTRICT NO. 1**
Ferriday, Louisiana

We have audited certain transactions of the Concordia Parish Recreation District No. 1. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the validity of complaints we received.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

The accompanying report presents our findings and recommendations, as well as management's response. This is a public report. Copies of this report have been delivered to the District Attorney for the 7th Judicial District of Louisiana, the Louisiana Board of Ethics, and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

CONCORDIA REC DIST NO 1

TABLE OF CONTENTS

	Page
Executive Summary	2
Background and Methodology.....	3
Findings and Recommendations:	
Personal Use of Equipment by District Director	4
District Contracted with Immediate Family Member of Former Board Chairman in Possible Violation of State Law	5
District May Have Violated State Law While Contracting for Services.....	6
Board Members Received Excessive Compensation	7
Possible Donation of District Funds.....	8
Recommendations	9
Legal Provisions.....	11
Management’s Response	Appendix A

EXECUTIVE SUMMARY

Personal Use of Equipment by District Director

Concordia Parish Recreation District No. 1 (District) Director Ronald Wilkerson stated that he used the District's lawnmowers for personal purposes. In addition, it appears that Mr. Wilkerson used the District's charge account to incur charges for fuel while he used the lawnmowers for personal purposes. By using District equipment and funds for personal purposes, Mr. Wilkerson may have violated state law.

District Contracted with Immediate Family Member of Former Board Chairman in Possible Violation of State Law

From May 2014 to November 2015, the District issued payments totaling \$3,450 for transportation services to Lee Travels, LLC and Lee Private Bus, businesses owned and operated by an immediate family member of former Board Chairman Robert Lee. State law prohibits public servants from contracting and/or participating in transactions involving the governmental entity and their immediate family members. Because the District contracted with Mr. Lee's immediate family member's LLC and unincorporated business, Mr. Lee may have violated state ethics laws.

District May Have Violated State Law While Contracting for Services

From December 21, 2015 to May 20, 2016, the District issued 16 payments totaling \$44,500 to Turner's House Painting & Remodeling to remodel two District buildings at Learned Park. Although this was a public works project as defined by state law, the District failed to use a licensed contractor, allowed work to be performed without a written contract, and failed to require the contractor to provide a surety bond. By allowing an unlicensed contractor to perform services without a written contract or surety bond, District management may have violated state law.

Board Members Received Excessive Compensation

Records indicate that the District paid excessive per diem payments to Board members in possible violation of state law. In addition, we found that the former Board chairman received per diem payments for meetings he did not attend. By receiving excessive per diem payments and/or payments for meetings not attended, District Board members may have violated state law.

Possible Donation of District Funds

From January 2013 to December 2015, the District donated public funds totaling \$65,883 to at least 14 organizations without proper documentation and/or cooperative endeavor agreements to demonstrate the receipt of equivalent value for the amounts expended. Because the District cannot demonstrate the receipt of equivalent value for funds provided to other organizations, District management may have violated the Louisiana Constitution, which prohibits the donation of public funds, and state law.

BACKGROUND AND METHODOLOGY

Concordia Parish Recreation District No. 1 (District) was created by an ordinance of the Concordia Parish Police Jury on November 27, 1957, in accordance with Louisiana Revised Statute (La. R.S.) 33:4562. The District is governed by a board of five commissioners who are qualified voters and residents of the District. The commissioners are appointed by members of the Concordia Parish Police Jury. Each commissioner serves a five-year term. Pursuant to La. R.S. 33:4563, the District's purpose is to own and operate playgrounds and other facilities and to engage in activities which would promote recreation and the general health and well-being of youths.

The Louisiana Legislative Auditor received complaints concerning the personal use of District equipment and funds. This audit was initiated to determine the validity of those complaints. The procedures performed during this audit included:

- (1) interviewing District employees;
- (2) interviewing other persons, as appropriate;
- (3) examining selected District documents and records;
- (4) gathering and examining external parties' documents and records; and
- (5) reviewing applicable state laws and regulations.

FINDINGS AND RECOMMENDATIONS

Personal Use of Equipment by District Director

Concordia Parish Recreation District No. 1 (District) Director Ronald Wilkerson stated that he used the District's lawnmowers for personal purposes. In addition, it appears that Mr. Wilkerson used the District's charge account to incur charges for fuel while he used the lawnmowers for personal purposes. By using District equipment and funds for personal purposes, Mr. Wilkerson may have violated state law.^{1,2,3}

Mr. Wilkerson's duties for the District include maintenance and cutting grass at the District's baseball facilities at Ferriday Junior High School and Learned Park located next to Ferriday Senior High School. The District owns three riding lawnmowers and a trailer which are stored at Mr. Wilkerson's residence. The District has a charge account at Delta Fuel for Mr. Wilkerson to purchase fuel for the lawnmowers. Records indicate that Mr. Wilkerson purchased a total of 1,283 gallons of fuel totaling \$3,423 from Delta Fuel during the period January 2014 through December 2015.

During our audit, we observed Mr. Wilkerson's activities and noted that on March 23, 2016, he purchased fuel for the District's lawnmowers from Delta Fuel. Shortly afterward, we observed Mr. Wilkerson, Assistant Director Jerry Mayes, and one other individual cut grass at the District's baseball facilities next to Ferriday Junior High School. After cutting the grass at the District's baseball facilities, we observed Mr. Wilkerson drive the District lawnmower north on 7th Street to a private residence where he also cut grass. We then observed Mr. Wilkerson driving the lawnmower west on Utah Avenue. Mr. Wilkerson then turned right (north) on 8th Street and proceeded to the end of the block (8th Street and Delaware Ave.) where he began cutting grass at a private residence on Delaware Avenue.

Mr. Wilkerson acknowledged that he cut grass using the District's lawnmowers at the private residences on 7th Street and Delaware Avenue for family members. He stated that he only used the District's lawnmowers and fuel to cut their grass on a couple of occasions. Mr. Wilkerson stated that the only other times he has used the District's lawnmowers for personal purposes was to cut the grass behind his house, to cut grass for a local church, and on a couple of occasions when he took the mowers to former District Board of Commissioners (Board) Chairman Robert Lee's house to cut a small strip of grass that ran alongside of the property. According to Mr. Wilkerson, he has never used the District's lawnmowers to charge a fee for his services and that there were instances when he used personal funds to purchase fuel for the lawnmowers.

By using District equipment and funds for personal purposes, Mr. Wilkerson may have violated state law.^{1,2,3}

District Contracted with Immediate Family Member of Former Board Chairman in Possible Violation of State Law

From May 2014 to November 2015, the District issued payments totaling \$3,450 for transportation services to Lee Travels, LLC and Lee Private Bus, businesses owned and operated by an immediate family member of former Board Chairman Robert Lee. State law prohibits public servants from contracting and/or participating in transactions involving the governmental entity and their immediate family members. Because the District contracted with Mr. Lee's immediate family member's LLC and unincorporated business, Mr. Lee may have violated state ethics laws.^{4,5}

Records indicate that the District paid Lee Travels, LLC \$1,950 on May 7, 2014, for transporting a group of Ferriday Junior High School students to Kemah, Texas. In addition, the District paid Lee Private Bus \$1,500 on November 10, 2015, for transporting the Satin Dolls, a local dance group, to dance competitions in Baton Rouge and New Orleans, Louisiana. According to Louisiana Secretary of State records, Robert-James Lee, brother of former Board Chairman Robert Lee (Chairman Lee), is listed as one of three members of Lee Travels, LLC. Further, Robert-James Lee was listed as the co-owner/operator on the contract between Lee Travels, LLC and the District for transportation services. Although Lee Private Bus is not registered with the Louisiana Secretary of State as a business entity, Robert-James Lee informed us that he also owns and operates Lee Private Bus.

District Secretary Treasurer Justina Cook stated that District Board members wanted to do business with a local company, and Chairman Lee sought advice from the Concordia Parish Police Jury (Police Jury) about contracting with Lee Travels, LLC. According to Ms. Cook, the Police Jury informed Chairman Lee that the District could do business with Mr. Lee's brother without there being a conflict of interest. Ms. Cook recalled that Lee Travels, LLC provided the Board with a contract and an invoice for their services but could not recall who participated in the discussion to approve the contract with Lee Travels, LLC.

Louisiana Revised Statute (La. R.S.) 42:1113(B)⁴ provides that no appointed member of any board or commission, member of his immediate family,^A or legal entity in which he has a substantial economic interest, shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member. Because Lee Travels, LLC and Lee Private Bus were either owned (or co-owned) and operated by Chairman Lee's brother, Chairman Lee may have violated La. R.S. 42:1113(B). In addition, La. R.S. 42:1112(B)⁵ prohibits public servants and appointed board members from participating in transactions involving the governmental entity, in which an immediate family has a substantial economic interest. Although District records do not indicate who contracted with Lee Travels, LLC and Lee Private Bus, bank records indicate that Chairman Lee signed the District check issued to Lee Private Bus on November 12, 2015. By signing a District check payable to a business owned by his immediate family member, Chairman Lee may have violated La. R.S. 42:1112(B).

^A La. R.S. 42:1102(13) states, "'Immediate family' as the term relates to a public servant means his children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse."

District May Have Violated State Law While Contracting for Services

From December 21, 2015 to May 20, 2016, the District issued 16 payments totaling \$44,500 to Turner's House Painting & Remodeling to remodel two District buildings at Learned Park. Although this was a public works project as defined by state law, the District failed to use a licensed contractor, allowed work to be performed without a written contract, and failed to require the contractor to provide a surety bond. By allowing an unlicensed contractor to perform services without a written contract or surety bond, District management may have violated state law.^{6,7}

La. R.S. 38:2241(A) requires written contracts to be used for all public works projects that exceed \$5,000 (except in instances where an emergency is deemed to exist) for the construction, alteration, or repair of public works. La. R.S. 38:2241(A) further requires that contractors on public works projects in excess of \$25,000 provide a bond with good, solvent, and sufficient surety in a sum of not less than fifty percent of the contract price not later than 30 days after the work has begun. Both the bond and contract are to be filed with the Clerk of Court. Finally, La. R.S. 37:2163 requires the use of state-licensed contractors and subcontractors for projects exceeding \$50,000.

District records indicate that as of May 20, 2016, the District had made 16 payments totaling \$44,500 to Turner House Painting & Remodeling for remodeling two buildings owned by the District and located at Learned Park in Ferriday, Louisiana. Invoices submitted to the District by Turner House Painting & Remodeling suggest that the renovations would cost a total of \$60,569, including labor and materials. Based on the total cost of the renovations, the District had an obligation to contract with Turner House Painting & Remodeling in writing and require that Turner House Painting & Remodeling provide a surety bond as required by state law. A review of District records indicates that the District did not enter into a written contract with Turner House Painting & Remodeling, nor did the District require Turner House Painting & Remodeling to provide a surety bond.

In addition to the requirements of the Public Bid Law (La. R.S. 38:2211, *et seq.*), state law requires the use of state-licensed contractors and subcontractors for projects exceeding \$50,000. Although the total cost of remodeling the buildings at Learned Park was to exceed \$50,000, we were unable to find any evidence indicating that Turner House Painting & Remodeling, nor its owner Rydell Turner, are licensed Louisiana contractors.

According to Mr. Turner, Chairman Lee approached him about constructing new buildings at Learned Park. He stated that after examining the buildings, he suggested that remodeling the buildings would be more cost efficient. He stated that he provided Chairman Lee with an estimate of \$60,569 to remodel the two buildings which included \$41,000 for labor and \$19,569 for materials. Mr. Turner indicated that although he is not currently a licensed contractor, he used to be licensed, but the license became too expensive to maintain.

By allowing an unlicensed contractor to perform services without a written contract or surety bond, District management may have violated state law.^{6,7}

Board Members Received Excessive Compensation

Records indicate that the District paid excessive per diem payments to Board members in possible violation of state law. In addition, we found that the former Board chairman received per diem payments for meetings he did not attend. By receiving excessive per diem payments and/or payments for meetings not attended, District Board members may have violated state law.^{3,8}

La. R.S. 33:4564(B) provides that members of the board of commissioners shall each receive a per diem of 10 dollars for each meeting they attend, but shall not be paid for more than 12 meetings in each year. Such per diem shall be paid out of the funds of the District. District Board minutes indicate that Board members voted to increase their monthly per diem to \$30 for each meeting they attended as well as a \$300 monthly stipend for Chairman Lee during the January 2008 Board meeting. In addition, Board members voted to increase their per diem to \$40 per meeting attended in November 2012 and increased Chairman Lee's monthly stipend to \$500 during the December 2014 Board meeting. According to Ms. Cook, the increase to Mr. Lee's stipend was to cover additional expenses that Mr. Lee incurred while traveling to take care of District business.

During our audit, we compared the per diem amounts provided for by La. R.S. 33:4564(B) to the amounts paid to District Board members from January 1, 2013 to December 31, 2015. We found that eight Board members received per diem payments (including stipend payments) totaling \$15,100 in excess of the per diem amounts provided for in state law. This amount included excessive payments to Chairman Lee (who received monthly stipends ranging from \$300-\$500) totaling \$12,880 and excessive payments totaling \$2,220 to the remaining seven Board members who received monthly per diem payments of \$40. In addition, we found that Chairman Lee was paid monthly even if he did not attend Board meetings. To illustrate, District Board minutes indicate that Chairman Lee did not attend four Board meetings during this period, but received his stipend in each of those months.

Board member Josephine Washington stated that when she became a member of the Board, members received a \$30 monthly per diem. She stated that in 2012 the Board voted to increase the per diem amount to \$40 per month. She stated that during a 2008 meeting, Chairman Lee informed the Board that he needed a stipend to cover his expenses for travel around the parish handling the District's business. Ms. Washington stated that the Board voted to increase his per diem/stipend to \$300 per month and later voted to increase the amount to \$500 per month.

Attorney General Opinion 05-0216 states that, "there is no provision in law which authorizes the payment of any kind of stipend or per diem to members of the Commission for work performed in connection with his or her appointment. Thus, the payment of a stipend or per diem is improper." *Attorney General Opinion 06-0114* further states that "if the maximum salary and/or per diem of a public official or employee is fixed by statute, that salary and/or per diem constitutes the maximum that can be received by the official or employee in the absence of legislation providing otherwise." By receiving per diem payments in excess of statutory

maximums and/or payments for meetings not attended, District Board members may have violated state law.^{3,8}

Possible Donation of District Funds

From January 2013 to December 2015, the District donated public funds totaling \$65,883 to at least 14 organizations without proper documentation and/or cooperative endeavor agreements to demonstrate the receipt of equivalent value for the amounts expended. Because the District cannot demonstrate the receipt of equivalent value for funds provided to other organizations, District management may have violated the Louisiana Constitution,⁹ which prohibits the donation of public funds, and state law.³

Louisiana Attorney General Opinion 16-0022 states that for an expenditure or transfer of public funds to be permissible under Louisiana Constitution Article VII, Section 14(A), the public entity must have the legal authority to make the expenditure and must show: (i) a public purpose of the expenditure that comports with the governmental purpose for which the public entity has legal authority to pursue; (ii) that the expenditure or transfer, taken as a whole, does not appear to be gratuitous; and (iii) that the public entity has a demonstrable, objective, and reasonable expectation of receiving at least equivalent value in exchange for the expenditure of public funds. In addition, according to La. R.S. 33:4563, the purpose of recreation districts created under La. R.S. 33:4562, shall be to “own and operate playgrounds and other facilities; or generally to engage in activities which would promote recreation and any related activity designed to encourage recreation and promote the general health and well being of youths.”

District records indicate that from January 2013 to December 2015, the District made 48 payments totaling \$65,883 to 14 different organizations. Of this amount, we found that payments totaling \$47,396 appear to have been incurred to support recreational activities. Based on documentation provided by the District, these payments appear to have been made for the following purposes:

- \$26,736 - Assistance to private sports teams for uniforms, sports equipment, and travel expenses.
- \$16,160 - Payments to instructor for adult exercise classes.
- \$4,500 - Sponsorship of sports camps and dance workshops.

Although these expenses appear to comport with the governmental purpose for which the District has the legal authority to pursue (activities which promote recreation), the District could not provide us with appropriate supporting documentation to show how the organizations spent these funds or who received the benefit of these funds. For example, although the District provided funds to these organizations for classes, camps, workshops, and travel expenses, the District could not provide lists of the individuals who attended these events. As such, the District cannot demonstrate the receipt of equivalent value for the funds provided to these organizations.

In addition, we found that the District donated funds to organizations totaling \$18,487 which do not appear to comport with the governmental purpose for which the District has the legal authority to pursue (activities which promote recreation). These expenditures included the following:

- \$5,000 - Donation to a local nonprofit to purchase a building.
- \$1,500 - Purchase of 32 Kindles for elementary school students.
- \$1,660 - Sponsorships to attend the Concordia Chamber of Commerce annual dinner.
- \$1,000 - Assistance for students to travel to Costa Rica to practice Spanish.

The District could not provide us with cooperative endeavor agreements or other documentation to demonstrate the receipt of equivalent value for the funds provided to these organizations. Further, because these activities do not appear to support the governmental purpose the District has the legal authority to pursue, these expenditures appear to be gratuitous.

From January 2013 to December 2015, the District donated public funds totaling \$65,883 to at least 14 organizations without proper documentation and/or cooperative endeavor agreements to demonstrate the receipt of equivalent value for the amounts expended. Because the District cannot demonstrate the receipt of equivalent value for funds provided to other organizations, District management may have violated the Louisiana Constitution,⁹ and state law.³

Recommendations

We recommend that the District:

- (1) implement a policy prohibiting the personal use of District equipment;
- (2) maintain a complete and accurate record of all District assets and equipment;
- (3) monitor the proper use, storage, and maintenance of equipment;
- (4) develop and implement detailed policies and procedures to ensure that all contractual arrangements are proper;
- (5) implement written policies and procedures to ensure compliance with the Code of Governmental Ethics (La. R.S. 42:1101, *et seq.*);
- (6) ensure that all employees and Board members are properly trained regarding state ethics and governmental laws;

- (7) comply with the Code of Governmental Ethics and prohibit contracting with District employees and Board members;
- (8) ensure that all laws (La. R.S. 38:2211, *et seq.*) pertaining to contracts and public bids are followed;
- (9) ensure that vendors and professional service providers have valid, written contracts prior to performing services;
- (10) ensure that contracts and related documentation are maintained in an organized manner and in a central location;
- (11) seek legal advice to determine the appropriate actions to be taken, including recovery of excessive amounts paid to District Board members; and
- (12) implement written policies and procedures to ensure that all District expenditures comply with the Louisiana Constitution, which prohibits the donation of public funds.

LEGAL PROVISIONS

¹ **Louisiana Revised Statute (La. R.S.) 14:68(A)** states that, “Unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other’s consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the movable permanently. The fact that the movable so taken or used may be classified as an immovable, according to the law pertaining to civil matters, is immaterial.”

² **La. R.S. 14:134(A)** provides that, “Malfeasance in office is committed when any public officer or public employee shall: (1) Intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; or (2) Intentionally perform any such duty in an unlawful manner; or (3) Knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him, or to perform any such duty in an unlawful manner.”

³ **La. R.S. 42:1461(A)** provides that, “Officials, whether elected or appointed and whether compensated or not, and employees of any ‘public entity,’ which, for purposes of this Section shall mean and include any department, division, office, board, agency, commission, or other organizational unit of any of the three branches of state government or of any parish, municipality, school board or district, court of limited jurisdiction, or other political subdivision or district, or the office of any sheriff, district attorney, coroner, or clerk of court, by the act of accepting such office or employment assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property, or other thing of value belonging to or under the custody or control of the public entity in which they hold office or are employed.”

⁴ **La. R.S. 42:1113(B)** states, “Other than a legislator, no appointed member of any board or commission, member of his immediate family, or legal entity in which he has a substantial economic interest, shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member.”

⁵ **La. R.S. 42:1112(B)** states, “No public servant, except as provided in R.S. 42:1120, shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any of the following persons has a substantial economic interest: (1) Any member of his immediate family. (2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know. (3) Any person of which he is an officer, director, trustee, partner, or employee. (4) Any person with whom he is negotiating or has an arrangement concerning prospective employment. (5) Any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes anything of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, and who by reason thereof is in a position to affect directly the economic interests of such public servant.”

La. R.S. 42:1112(D) states, “No appointed member of any board or commission, except as otherwise provided in R.S. 42:1120.1 or 1120.4, shall participate or be interested in any transaction involving the agency when a violation of this Part would result.”

⁶ **La. R.S. 38:2241(A)** states, in part, that, “Whenever a public entity enters into a contract in excess of five thousand dollars for the construction, alteration, or repair of any public works, the official representative of the public entity shall reduce the contract to writing and have it signed by the parties.... For each contract in excess of twenty-five thousand dollars per project, the public entity shall require of the contractor a bond with good, solvent, and sufficient surety in a sum of not less than fifty percent of the contract price for the payment by the contractor or subcontractor to claimants as defined in R.S. 38:2242.... The bond shall be executed by the contractor with surety or sureties approved by the public entity and shall be recorded with the contract in the office of the recorder of mortgages in the parish where the work is to be done not later than thirty days after the work has begun.”

⁷ **La. R.S. 37:2163(A)(1)** states, in part, that, “It is the intention that only contractors who hold an active license be awarded contracts either by bid or through negotiation....”

⁸ **La. R.S. 33:4564(B)** states, in part, “...The members of the board of commissioners shall each receive a per diem of ten dollars for each meeting they attend, but shall not be paid for more than twelve meetings in each year. Such per diem shall be paid out of the funds of the district.”

⁹ **Louisiana Constitution Article VII, Section 14(A)** states, in part, “Prohibited Uses. Except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.”

APPENDIX A

Management's Response

CONCORDIA RECREATION DISTRICT NO. 1

P. O. BOX 107

Ferriday, Louisiana 71334

BOARD MEMBERS

Johnnie "Rip" Woodruff-Chairman
Cameron Davis
Glenn Henderson
Linda Woods Mills
Jasmine Schiele Emery-Co-Chairman
Josephine Taylor Washington

July 5, 2016

**Mr. Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
P O Box 94397
Baton Rouge, LA 70804-9397**

Dear Mr. Purpera:

We would like to thank you for your input concerning Concordia Parish Recreation District No. 1 practices exercised by our employees and/or contractors and the use of our equipment and proceeds. We have been informed of the preliminary findings and a draft report conducted by your agency.

Concordia Parish Recreation District No. 1 will undertake a comprehensive review of our policies and procedures along with the practices exercised concerning purchases made on behalf of our recreation district, along with the location, use and maintenance of the equipment owned by our district.

This plan will engage in and alter the existing policies, procedures and practices concerning the use, storage and maintenance of equipment and the expenditure of any proceeds under the ownership, management and control of the recreation district.

If you have any further comments or questions, please contact us.

Sincerely,


**Johnnie "Rip" Woodruff
Chairman**