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ATTORNEY-CLIENT PRIVILEGED REPORT, REVISED

DATE: November 26, 2024
TO: Michael Moore, County Administrator (County of Beaufort)
FROM: Ashley Story, White and Story, LLC 
RE: Independent Investigation re 20 Barrel Landing Road Property (**20 Barrel Landing**)
Transaction

SCOPE OF ASSIGNMENT

On October 15, 2024, officials from the County of Beaufort (County) received an email from a concerned citizen regarding the County's purchase of 20 Barrel Landing earlier this year. In general, the allegations contained in that email correspondence, with attached documentation, question whether it was disclosed to County Council that Brittany Ward (Ward), Beaufort County Attorney for Administration and Departments, had a direct familial relationship with 20 Barrel Landing owners. The allegations further questioned her involvement in the purchase of 20 Barrel Landing. The County engaged me¹ to perform an investigation to establish the facts surrounding the purchase of 20 Barrel Landing.

INVESTIGATION

I interviewed and gathered information from County employees, two County Council Members, and individuals not employed by the County.² I reviewed applicable documentation³ provided by the County, the witnesses, and previously sent by a concerned citizen.

¹ The County has not previously engaged me to perform any work – legal or otherwise – before this matter. Prior to my involvement here, I had never met nor worked with any of the individuals associated with this matter, including the current or former County Administrator, his staff, County Council, and the Open Land Trust.

² All witnesses were cooperative and assisted during this investigation.

³ Documents reviewed as records possessed by the County and/or its employees in furtherance of County business would be disclosable pursuant to the S.C. Freedom of Information Act.

By way of background, the County does maintain a Conflict of Interest Policy.⁴ *See* 3.6 Conflict of Interest and Business Ethics. Ward's role⁵ with the County involved, among other duties, assisting the County with real estate transactions. The Rural and Critical Lands Preservation Program (RCLPP)⁶ provides a mechanism for the County to protect land using taxpayer dollars secured through a bond referendum. County employees that work with the RCLPP and a third-party contractor identify and purchase land through the RCLPP for public access; these properties are evaluated for connectivity and appropriateness for public access. In Ward's role, she would assist in the transactional and due diligence aspects of the process once properties were identified by other staff members, with the assistance of the Open Land Trust, a third party 501(c)3, who contracts with the County for land preservation efforts. Ward was not involved in identifying 20 Barrel Landing. The County, in collaboration with the RCLP Board⁷ and a third-party⁸ contractor, determines properties that the County is interested in purchasing for passive parks, easements, and fee simple purchase for the RCLPP. The general process⁹ for property acquisition through the RCLP Board is as follows:

1. Interest in a particular property is usually sparked by the RCLPP¹⁰ identifying a property and reaching out to the owner, or the owner has an interest in selling the property. The process is voluntary. In either event, the owner(s) must complete an application and submit it to the RCLPP for review.
2. RCLPP presents¹¹ properties of interest to RCLP Board following the (1) submission of the owner's application and (2) completion of a scoring rubric of the property completed independently by a County employee and the Open Land Trust.
3. RCLP Board accepts or rejects RCLPP's suggestion regarding the property. If accepted, it recommends to the CSLU Committee to move forward with the due diligence process.

⁴ The State Ethics Act is controlling law and was considered; however, it is understood that there is a complaint pending before the State Ethics Commission, and that body has the jurisdiction and decision-maker with regard to that matter.

⁵ In comparison, at the time the County sought and did purchase 20 Barrel Landing, her counterpart attorney's role was to assist County Council directly by preparing agendas for meetings, organizing the material and back-up material, and coordinating speakers, among other duties assigned. Both attended County Council meetings and County Council committee meetings as part of their roles; Ward communicated directly to the County Administrator. It is for this reason that Ward informed the County Administrators and her attorney counterpart, as discussed more fully below, of her relationship to 20 Barrel Landing's owners.

⁶ The RCLPP has been in existence for many years. *See* Ord. No. 2019/47.

⁷ County Council appoints RCLP Board members. *See* Ord. No. 2019/49 Sec. 2-281. A County employee presents the RCLP Board's recommendations to the Community Services and Land Use Committee (CSLU Committee), which was formally identified as the Natural Resource Committee or NRC.

⁸ At the time the County considered and ultimately purchased 20 Barrel Landing, the Open Land Trust was the third-party organization contracted (*see* Ord. No. 2019/47 at Sec. 26-30(b)) to assist in this process. It is a separate entity with its own board of directors and employees.

⁹ For specificity of the process, *see* Ord. No. 2019/47 at Sec. 26-32.

¹⁰ This group meets quarterly. Ward does not attend these meetings.

¹¹ The Open Land Trust presented 20 Barrel Landing to the RCLP Board like it does for other properties.

4. The CSLU Committee approves or disapproves of performing due diligence. If approved, due diligence begins.
5. Due diligence¹² includes acquiring an appraisal, a survey or surveys, an environmental analysis, etc. *See* Ord. No. 2019/47 at Sec. 26-33.
6. Once due diligence is completed, RCLPP returns the property for discussion with the RCLP Board; if the RCLP Board decides to move forward with purchase, that recommendation is forwarded to the CSLU Committee.
7. Once before the CSLU Committee, the CSLU Committee makes a final recommendation on the property to County Council.
8. County Council votes to purchase or decline purchase of the property. Until County Council votes to purchase, no contracts are entered into or signed by any party.

The following timeline is representative of the pertinent dates relating to this matter:

DATE	EVENT
SEPTEMBER 11, 2000	County Council voted to purchase thirty acres at Barrel Landing.
JULY 13, 2021	A local commercial real estate agent texted Ward and her husband about a property, 20 Barrel Landing Road, that was well situated for a motorcycle shop ¹³ . 20 Barrel Landing had been listed for sale for eight or nine years ¹⁴ , and a “For Sale sign ¹⁵ ” was visible at 20 Barrel Landing on Google Maps.
JULY 16, 2021	The Orrs ¹⁶ put in a letter of intent to purchase 20 Barrel Landing. Ward recalls discussing the letter of intent with the County Administrator at the time. Following this letter of intent, the Orrs engaged in a lengthy due diligence period from July 16, 2021,

¹² The Open Land Trust shepherds applications through the due diligence process, and County staff review the due diligence.

¹³ Ward’s husband owns a motorcycle shop that has been in operation since 2016 and had been searching for commercial property to expand his business.

¹⁴ A County employee recalled that 20 Barrel Landing had been for sale since 2018. The Passive Parks Department had an interest in the County acquiring 20 Barrel Landing because it was a “donut hole” after that department discussed identifying “low hanging fruit” properties that were contiguous with those the County already owned. That department prioritized properties like 20 Barrel Landing, which possessed road access to surrounding County property, because when the County owns property that can only be accessed via adjacent property owned by another party, if the proper access, easement, and utility agreements are not in place between the County and that party, trespass issues can arise, generating potential liability to the County. That department first identified 20 Barrel Landing as a parcel of interest and provided 20 Barrel Landing, along with several others, in a list to the Open Land Trust. That list was not shared with Ward. After some time, that department resubmitted the same list, including 20 Barrel Landing, to the Open Land Trust some time in 2021. Again, the list was not discussed with Ward; it was not part of Ward’s role. That department reviewed the tax record and saw that 20 Barrel Landing was sold to Orr. Subsequently, Orr submitted an application to the RCLPP after it was determined that 20 Barrel Landing was not suitable for the use of the motorcycle shop.

¹⁵ The County removed this sign once it purchased 20 Barrel Landing.

¹⁶ The Orrs are Ward’s parents.

DATE	EVENT
	through December of 2021, to ensure 20 Barrel Landing was the appropriate site for the motorcycle shop envisioned by Ward's husband.
WEEK OF JULY 21, 2021	Ward was directed by the County Administrator to review all County properties to determine if there were any surplus ¹⁷ properties that the County could sell. Ward obtained GIS maps for County properties as part of the County Administrator's directive, discussed above.
AUGUST 3, 2021	The Orrs sign a purchase agreement for 20 Barrel Landing.
AUGUST 19, 2021	County Council conducts special called meeting. Ward presents the surplus property study, which includes multiple properties and specifically eight parcels on or near Barrel Landing for the surplus endeavor. Ultimately, five properties are deemed surplus.
SEPTEMBER 22, 2021	Plans for Ward's husband's motorcycle shop on 20 Barrel Landing are presented to the Staff Review Team (SRT). The County Planning Department communicates with Ward, and Ward discloses that the plans are for 20 Barrel Landing owned by her parents.
OCTOBER 25, 2021	The surplus property ordinance is presented to County Council by Ward for first reading. Thereafter and upon final reading and approval, the County sold the surplus properties identified by creating a website for that purpose and auctioning the properties; Ward was involved in that process.
DECEMBER 4, 2021	Orrs sign Limited Warranty Deed for 20 Barrel Landing (\$290,000).
DECEMBER 6, 2021	The Orrs sign a Limited Power of Attorney, allowing Ward to execute the purchase of 20 Barrel Landing on their behalf for \$246,500.
DECEMBER 10, 2021	Mortgage ¹⁸ executed for the Orrs and their purchase of 20 Barrel Landing.
DECEMBER 16, 2021	The Orrs' Limited Powers of Attorney, Limited Warranty Deed, and Mortgage for 20 Barrel Landing are filed.
2022 - 2023¹⁹	

¹⁷ This directive related to the property inventory was for the purpose of identifying surplus property to sell and not related to any endeavor to purchase property for the County. Ward was never notified or informed that the County had an interest in 20 Barrel Landing for purchase at the time the Orrs bought it.

¹⁸ Ward explained that her parents secured a four-year balloon note with the intent to convert it into a construction loan for the purpose of building the motorcycle shop.

¹⁹ Throughout 2022 and into 2023, Ward recalls that her husband and parents spent a great deal of time reviewing architectural plans for the proposed motorcycle shop on 20 Barrel Landing; soil testing was conducted, engineering plans were secured, contractors were consulted, and financing was discussed. Ultimately, her husband and parents abandoned these plans after contracting prices tripled from those originally presented.

DATE	EVENT
JANUARY 25, 2023	County staff and Open Land Trust staff meet to discuss target projects near existing property owned by the County. 20 Barrel Landing is discussed. Ward does not attend this meeting. Upon receiving an inquiry about 20 Barrel Landing, Ward notifies the Passive Parks Department ²⁰ that her parents own 20 Barrel Landing and further informs that Ward previously communicated her parents' ownership of 20 Barrel Landing with her counterpart attorney and the then County Administrator. Ward informed that department she could have no part of those discussions because of this relationship, and Ward further reiterated she would not provide her father's contact information to begin any discussions. Ward also communicated with the County Administrator and informed him that she disclosed this information to that department. ²¹
APRIL 5, 2023	Orr submits application ²² to the RCLP Board for purchase of 20 Barrel Landing.
MAY 11, 2023	During a RCLP Board Retreat meeting, Orr presents 20 Barrel Landing to RCLP Board upon the introduction of item "Project Barrel Landing Orr Fee". The RCLP Board voted to recommend to the CSLU Committee due diligence be conducted.
JUNE 12, 2023	The CSLU Committee conducts a meeting and voted to undertake due diligence negotiations.
JULY 26, 2023	Appraisal issued for 20 Barrel Landing for \$434,000.
AUGUST 1, 2023	Ward sends email re her relationship to the Orrs ²³ to disclose her conflict with 20 Barrel Landing.
SEPTEMBER 8, 2023	S.C. Attorney General's Office corresponds with Hulbert relating to S.C. statutes governing county land purchases.
NOVEMBER 9, 2023	RCLP Board recommends that County Council purchase 20 Barrel Landing. During this meeting, the Open Land Trust discloses that

²⁰ That department confirmed that Ward (1) disclosed that her parents owned 20 Barrel Landing and (2) further advised she could not be involved in any part of the process.

²¹ Following these communications, Ward did not communicate about 20 Barrel Landing with her colleagues.

²² In Orr's application, he values 20 Barrel Landing at an amount greater than that returned by the appraisal at a later date; the County purchased 20 Barrel Landing for the appraised value, which, again, was less than Orr's estimated value.

²³ Ward wanted to ensure that the former County Administrator's immediate successor was apprised of her parents' ownership of 20 Barrel Landing and did so in writing to memorialize this with him and Human Resources. Before transmitting this email, she discussed this with him in person, and that was corroborated. Ward did not have any involvement in the RCLP Board's decision to recommend the purchase of 20 Barrel Landing to the CSLU Committee; likewise, Ward did not have any involvement in the CSLU Committee's recommendation to full Council to purchase 20 Barrel Landing. Ward did not advise or participate in the process to acquire 20 Barrel Landing. Because Ward did not participate with County Council directly about 20 Barrel Landing, she was not aware of whether it was informed directly of her involvement.

DATE	EVENT
JANUARY 8, 2024²⁴	20 Barrel Landing is owned by family of a senior staff member of the County.
JANUARY 22, 2024	CSLU Committee recommends that County Council to purchase 20 Barrel Landing for the appraised value ²⁵ .
FEBRUARY 1, 2024	County Council conducts a meeting and votes to purchase 20 Barrel Landing. A resolution is signed, authorizing the Interim County Administrator to purchase 20 Barrel Landing. Thereafter, the purchase agreement was signed and recorded.
OCTOBER 15²⁶ AND 16, 2024	The Orrs sign a deed to the County for 20 Barrel Landing. A concerned citizen emails County Council concerning the purchase of 20 Barrel Landing.
OCTOBER 18, 2024	County Human Resources contacts the S.C. Law Enforcement Division concerning this matter.

CONCLUSION AND RECOMMENDATIONS

A recommendation to purchase 20 Barrel Landing was not made to County Council prior to the Orrs' December 2021 purchase.

Ward was not aware that 20 Barrel Landing would advance the County's objectives in that area, because, at the time she was informed of 20 Barrel Landing by a realtor, it was not being considered by County Council. Furthermore, Ward had no involvement in identifying 20 Barrel Landing as one of interest for the County; that role belonged to the Passive Parks Department. That department did not disclose to Ward that it desired 20 Barrel Landing. Ward notified the County Administrator before 2023, his successor, and her attorney counterpart about her parents' ownership and recused herself from the process. She verbally provided such notice and also did so in writing. She satisfied the terms of the County's Ethics policy. The Passive Parks Department identified 20 Barrel Landing and submitted it, along with other properties, to the Open Land Trust for exploration and discussion with the RCLPP.

When the RCLPP (and Board) considered the purchase of 20 Barrel Landing, they were made aware of a County employee's connection to the Orrs. This was disclosed by the Open Land Trust to the RCLP Board before it ultimately recommended to the CSLU Committee that 20 Barrel Landing be purchased by the County. Ward's relationship to 20 Barrel Landing owners was not shared with County Council; it was reported to the RCLP Board that a senior staff member was related to 20 Barrel Landing's owner. .

²⁴ In the concerned citizen's email communications, it is noted that Ward is seen during County Council's meeting sending text messages on her phone; in fact, Ward sent text messages to five County employees during that meeting concerning the County's closure email to staff that was issued that same afternoon. These texts did not include information about 20 Barrel Landing.

²⁵ All witnesses were aligned in the fact that the County usually purchases land through the RCLPP for the appraised value and sometimes for less. No one could recall a specific instance when the County paid more than the appraised value.

²⁶ Ward tenders her resignation prior to this email correspondence.

Moving forward, the County may consider taking the following actions:

1. Waiving the attorney-client privilege with regard to the final report and sharing it with the public, including any relevant documents.
2. Revising its ethics policy/procedure for employees to follow, which provides for written disclosure of conflicts and directs employees to a particular individual for reporting purposes. Employees should be advised of any revisions and be provided training on the same, to include the applicable ethics law that governs these situations. As the County administration undertakes this consideration with its employees, County Council may likewise benefit from similar training to reinforce the policy at the highest level.
3. Approaching the administration's organizational structure relating to its attorneys such that attorneys do not have a bifurcated structure (County Council v. Administration). I understand that work has already been implemented concerning this item prior to this investigation and the underlying recommendations, and administration is encouraged to move forward with those endeavors.
4. Reviewing and evaluating the past practice of using resolutions flowing from the RCLPP Ordinance for property purchases. It is my understanding that, moving forward, the County has already implemented steps to secure property purchases/easements from the RCLPP through ordinances as opposed to resolutions.
5. Reviewing administration's personnel policies and procedures with Human Resources to determine what if any actions are warranted as a result of this report.
6. Continuing to promote transparency and openness to build trust within the community.

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