

A G E N D A

OCONEE COUNTY COUNCIL MEETING

TUESDAY, APRIL 1, 1997

7:00 PM

1. Call to Order
2. Invocation
3. Approval of Minutes
4. Discussion & Update Regarding the Advertising for an Architect for the Seneca Health Clinic - Mr. Robert Craig, Administrator, Appalachia I Public Health District
5. Consideration of Acceptance of Department of Commerce Liveable Communities Grant No. 3-W-96-008 for the Oconee Family Learning Center - Mr. Dirk Reis/Ms. Judy Romano, SC Appalachian Council of Governments
6. Discussion Regarding Land Use - Mr. Terry Harper
7. Third & Final Reading of Ordinance 97-3, "AN ORDINANCE GRANTING A CABLE TELEVISION FRANCHISE TO NORTHLAND CABLE TELEVISION, INC., ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE COUNTY; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR COUNTY REGULATION AND USE OF THE CABLE SYSTEM; AND PRESCRIBING PENALTIES FOR VIOLATION OF THE FRANCHISE PROVISIONS" - Mr. Bill Swain, Northland Cable
8. Consideration of Acceptance of Consent Agreement By & Between South Carolina Department of Health & Environmental Control & Oconee County Regarding Seneca Municipal Solid Waste Landfill - Mr. Jack Hirst, Solid Waste Director & Goldie & Associates
9. Old Business
10. New Business
11. Adjourn

A G E N D A

April 1, 1997 - 7:00 pm

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Prior to the regular Council Meeting at 7:00 pm there will be an open meeting April 1, 1997 at 6:30 pm in Council Chambers, 208 Booker Drive, Walhalla, SC for the public to express their concerns to Council. Anyone wishing to speak will need to sign in and give the subject they wish to express their concerns on.

There will be a meeting of the Purchasing, Contracting, Real Estate, Building & Grounds Committee Monday, March 31, 1997 at 6:00 pm in Council Chambers for the purpose of discussing the possibility of having a recorded message available to the public regarding the Council agenda.

Old & new business will be discussed as necessary

MEMBERS, OCONEE COUNTY COUNCIL

Ms. M. Fran Burrell, District I Mr. J. Harold Thomas, District II
Mr. Harry R. Hamilton, District III Mrs. Ann H. Hughes, District IV
Mr. Charles R. "Chuck" Timms, District V

MINUTES, OCONEE COUNTY COUNCIL MEETING

The regular meeting of the Oconee County Council was held Tuesday, April 1, 1997 at 7:00 pm in Council Chambers with all Council Members and the County Attorney present.

Members of the press notified (by mail):
Journal/Tribune, Keowee Courier, Westminster News, Anderson Independent, Greenville News, WGOG Radio, WSNW Radio, WCCP Radio, WPEK Radio, The Times Upstate, Northland Cablevision, WYFF TV, WSPA TV & WLOS TV.

Press

Members of the press present: Dick Mangrum - WGOG Radio, Allison Glass - Anderson Independent & Ashton Hester - Keowee Courier.

The meeting was called to order by Supervisor - Chairman Orr who welcomed the guests and media.

Call to Order

The invocation was given by Mr. Hamilton

Invocation

Mr. Timms made a motion, seconded by Mrs. Hughes, approved 5 - 0 that the minutes of the March 18, 1997 be adopted as printed.

Minutes

Mr. Robert Craig, Administrator, SC Appalachia I Public Health District, addressed Council regarding the need for a new building for the Seneca Health Clinic. Mr. Craig informed Council that there had been a verbal commitment of \$300,000 from the state for the new building if the county would furnish the balance. The total estimated cost for the new building is \$900,000.

Health Department

The Law Enforcement Safety, Health, Welfare & Services Committee scheduled a meeting Tuesday, April 15, 1997 at 1:30 pm at the clinic for the purpose of touring same.

LEC Meet

Mr. Charles Kennedy, Adult Education Director, Mr. John Palmer, Literacy Coordinator & Ms. Judy Romano of the SC Appalachian Council of Governments addressed Council regarding the acceptance of Grant #3-W-96-008 for an Oconee Family Learning Center at Gignilliat Park School. The grant is in the amount of \$250,000, the School District will have to furnish \$50,000 as their matching portion. After a brief discussion, Mr. Orr assigned this to the Law Enforcement, Safety, Health, Welfare & Services Committee for a recommendation regarding the acceptance of this grant.

CDBG Grant

Mr. Terry Harper addressed Council regarding land use stating he did not feel it would be in the best interest of the county to adopt a land use plan.

Land Use

Upon request of Mr. Bill Swain, Northland Cable, Mr. Thomas made a motion, seconded by Mr. Hamilton, approved 5 - 0 that Ordinance 97-3, "AN ORDINANCE GRANTING A CABLE TELEVISION FRANCHISE TO NORTHLAND CABLE TELEVISION, INC. ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE COUNTY SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR COUNTY REGULATION AND USE OF THE CABLE SYSTEM; AND PRESCRIBING PENALTIES FOR VIOLATION OF THE FRANCHISE PROVISIONS" be adopted on third and final reading.

Ord 97-3

Mr. Thomas made a motion, seconded by Mr. Hamilton, approved 5 - 0 that Mr. Harold Gibson be appointed to replace Mr. Richard Addis of the Economic Development Commission with his term commencing July 1, 1997 and expiring December 31, 1997 as this is an unexpired term.

Economic Dev.

Upon recommendation of the Purchasing, Contracting, Real Estate, Building & Grounds Committee, Council voted unanimously that funds (approximately \$1,200) be placed in the Council budget for fiscal year 1997-98 for a phone line, the upkeep of the phone line and a tape system whereby citizens can call and acquire information regarding the Council agenda. Further, that this line be monitored for one year for usage and if it is not being used that it no longer be funded.

Purchase Committee

Mr. Timms made a motion, seconded by Mr. Hamilton, approved 5 - 0 that Ms. Brenda Martin's resignation as member of the Parks, Recreation & Tourism Commission be reluctantly accepted and she be sent a letter of appreciation for her service to the county as a member of this commission.

PRT Resignation

Ms. Burrell made a motion, seconded by Mrs. Hughes, approved 5 - 0 that Ms. Betty Plisco be appointed to the Arts & Historical Commission representing District I, replacing the late Mr. Ernst Hesterberg. The term will commence immediately and expire December 31, 1999.

Arts Appt.

Upon request of Mr. Alex James, PRT Director, Mrs. Burrell made a motion, seconded by Mr. Timms, approved 5 - 0 that PRT be permitted to apply for a Tourism Marketing Partnership Program grant in the amount of \$1,134.00

PRT

Mr. Orr assigned the attached proposed price increases at the Rock Crusher to the Roads & Transportation Committee.

Rock Crusher

Mr. Orr asked the Purchasing, Contracting, Real Estate, Building & Grounds Committee to make a recommendation whether or not the county should require persons, firms or entities bidding on county work should have workers' compensation.

**Workers'
Comp.**

The Personnel & Intergovernmental Committee scheduled a meeting Tuesday, April 8, 1997 at 5:30 pm to discuss the proposed OCONEE COUNTY PERSONNEL MANUAL.

**Personnel
Meet**

Ms. Burrell made a motion, seconded by Mr. Hamilton, approved 5 - 0 that Council go into executive session for the discussion of legal and contractual matters.

**Executive
Session**

When open session resumed, Mr. Thomas made a motion, seconded by Mr. Hamilton, approved 5 - 0 that the administration be authorized to attempt negotiations with SCDHEC for more favorable terms to the county on the attached Consent Agreement By & Between the South Carolina Department of Environmental Control & Oconee County regarding an extension to the date for requiring compliance with the financial assurance portion of the Municipal Solid Waste Landfills Regulation R.61-107.258, that the administration be given the authority to execute the agreement regardless of the success of the negotiations extending the time in which to provide DHEC with a financial assurance plan and payment of up to \$600 to Goldie & Associates to assist in the preparation of the cost estimate portion of the financial assurance plan.

**Open
Session
(Solid
Waste)**

Mr. Hamilton made a motion, seconded by Mr. Thomas, approved 5 - 0 that the administration be authorized to negotiate with private land owners to secure options and/or purchase of soil for the closure process of the Seneca landfill consistent with the appropriated funds.

Upon request of Mr. Jack Hirst, Solid Waste Director, Ms. Burrell made a motion, seconded by Mrs. Hughes, approved 5 - 0 that Oconee County participate in a textile recycling program with Carolina Textile Recycling in which they will pay the county \$100 per ton for old clothing, etc. Carolina will provide the containers for this program for sixty to ninety days and if the county is happy with the service at the end of that time they would like to continue the program up thirty-six months. During this time the county would benefit from any increase in the costs of these items.

Adjourn: 10:05 pm

Adjourn

Minutes, Oconee County Council Meeting
April 1, 1997 - 7:00 pm
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Submitted By:

Opal O. Green
Opal O. Green
Council Clerk

Reviewed By:

Harrison E. Orr
Supervisor-Chairman
Oconee County Council

Oconee County Health Department

Promoting Health, Protecting the Environment

208 Booker Drive

Walhalla, SC 29691

Telephone (803) 638-4170 FAX (803) 638-4173

Mr. Harrison Orr
Oconee County Supervisor
208 Booker Drive
Walhalla, SC 29691

March 5, 1997

Dear Mr. Orr:

Thank you for meeting with Dr. Campbell and me on February 14 to tour the Seneca Clinic. As you were able to see, the area formerly occupied by Land's Pharmacy would not be a good long term solution for the Health Department or for the County. It would take a major renovation effort with a large capital expenditure by the County to make the space useable. I am glad that you agreed that it did not make sense to put that much money into something that would just be a "temporary fix."

I'm sorry that I was not able to get on the agenda for the March 4, 1997 County Council meeting. Unfortunately neither Dr. Campbell nor myself will be available to come to the March 18 meeting due to a prior commitment that we both have that cannot be rescheduled. I have spoken to Opal Green about putting me on the agenda for the April 1 meeting and I plan to send her something in writing confirming this.

It is my understanding that the purpose of me attending the County Council meeting is to update the Council members and in particular the new Council members about the status of the project and what we are trying to accomplish. Since the purpose of me attending is to "update" rather than to ask for "approval" I am asking that we be allowed to go ahead and advertise for an architect. We have money in a specific line item in the Health Department's budget which is to cover the cost of an architect doing preliminary plans for budget purposes.

The staff at the Health Department has spent many hours planning and identifying what an architect needs to include in his plans. I have also had two meetings with Marianne Dillard in order to provide information that the County needs. This work was completed in December 1996 and now we are looking at the possibility of waiting until April before we even run an advertisement.

The reason that I feel a sense of urgency is that the Health Department has met with the Legislative Delegation and received their verbal commitment to try to secure \$300,000 in funding at the State level with the assumption that Oconee County provides the remaining \$600,000 of the initial cost estimate. They accepted the \$10,000 that Oconee County put up for the architect as a good faith effort and in fact started to lay the groundwork in 1996 to secure funding at the State level. If we continue to experience delays I am afraid that we will jeopardize the progress that has been made on all fronts and risk losing this potential of receiving money from the State.

Thank you for your consideration of this request to allow us to go ahead and advertise for an architect. I'll follow up with a telephone call in a few days to see what you think about this.

Sincerely,

A handwritten signature in cursive script that reads "Bob".

Robert K. Craig
Administrator

THOMAS C. ALEXANDER
SENATOR, OCONEE AND PICKENS COUNTIES
SENATORIAL DISTRICT NO. 1

HOME ADDRESS:
150 CLEVELAND DRIVE
WALHALLA, SC 29891
RESIDENCE: (864) 838-2153
BUSINESS: (864) 838-2988
DELEGATION: (864) 838-4237



SENATE ADDRESS:
SUITE 806 GRESSETTE BLDG.
P. O. BOX 142
COLUMBIA, SC 29202
(803) 212-6024

COMMITTEES:
GENERAL
LABOR, COMMERCE AND INDUSTRY
MEDICAL AFFAIRS
TRANSPORTATION

STUDY COMMITTEE:
TEXTILE-APPAREL INDUSTRY

January 8, 1997

Becky F. Campbell, Ph.D.
District Health Director
Appalachia Public Health District
220 McGee Road
Anderson, SC 29625-2104

Dear Dr. Campbell:

Thank you for your recent letter regarding the Seneca Health Department. I was pleased to receive the update and to learn of the good faith measure by the County Council.

You can be assured of my continued full support of the project, and I pledge to do all that I can to secure the \$300,000 funding through the State. As a matter of fact, I began to lay the groundwork in 1996 and will proceed in this legislative session.

Please keep me up to date with any new developments on the project. I look forward to working with all of you and seeing this project completed.

Thanks for all you and your staff do for the citizens of our communities.

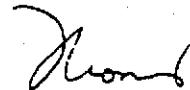
With warmest personal regards,


Thomas C. Alexander

TCA:jb

*Being requested
in state budget*

My Best to you For 1997!



JAN 15 1997

APPALACHIA I HEALTH DISTRICT
Seneca Clinic Update

- December 14, 1990 Oconee County Master Space Plan - Poor condition of Seneca Clinic noted.
- April 3, 1991 Problems with leaking roof, rats, inadequate space reported to County by Acting Health Director, Ronald Rolett, .MD.
- April 17, 1991 County Council backs off plan to issue \$5 million in bonds to pay for construction and expansion of county buildings and for health center in Seneca.
- June 22, 1991 Oconee County Considers renovation of Seneca pre-school for senior citizen center and health department.
- July 29, 1991 Space in Seneca pre-school determined to be inadequate and renovations would be expensive.
- June 7, 1993 Presentation to Oconee County Council for consolidation of health department facilities. Request assigned to committee.
- June 18, 1993 Meeting with Representative Lindsay Graham. Representative Graham agrees to pursue funding and support.
- July 9,16,23,
1993 Seneca Spruce Up Committee. Joint effort to paint and clean up. Participation from Oconee County Health Department and DHEC Central Office in Columbia
- October 26, 1993 Oconee County Council unanimously approves motion to "write letter to Legislative Delegation indicating that Oconee County recognizes there is a need to upgrade the Oconee County Health facilities, especially in the Seneca area and that the County will commit the same funds that are presently being appropriated for the Seneca Clinic towards the new facility."
- March 8, 1994 City of Seneca offers land bordered by Third and Walnut Streets adjacent to Existing library for use by the Health Department. Two year commitment.
- April 28, 1995 Investigation of Pediatric Associates' (Dr. William Lee) office as a site for the Seneca Clinic. Size is adequate but sale price is high. Building is over 30 years old and an estimated \$100,000 will be needed to bring building up to Code in addition to the sale price.

June-July, 1995	Investigation of: <ol style="list-style-type: none"> 1. JEDA Bonds 2. Development by private developer with lease back to county 3. Remodeling/Renovation of other existing facilities. 4. Potential grants.
August 1995	Hazardous electrical conditions identified by building inspector corrected. A number of outlets however, are still not grounded.
October 16, 1995	Meeting with Legislative Delegation. Verbal commitment to request State funds for up to 1/3 of the building cost if Oconee County will provide the balance.
December 14, 1995	Tour of building by Oconee County Councilman Harry R. Hamilton.
January 16, 1996	Presentation to Oconee County Council of facility needs. Council stated that our 6,000 square foot request is too small and that we should ask for 9,000 square foot to allow for growth.
January 30, 1996	Meeting with County Supervisor and staff, Health Department staff and Wilma Rankin to discuss problems.
February 7, 1996	Requested Seneca City Council extend option on site adjacent to library.
February 21, 1996	Meeting with Senator Thomas Alexander in Columbia to tell him of the January 16 meeting with Oconee County Council. Verbal commitment from Senator Alexander to ask Representatives Sandifer and Cain if they will support asking the State for \$300,000.
May 14, 1996	Jim Smith's evaluation indicates that it will be too costly to renovate Land's Pharmacy for use by the Health Department.
July 17, 1996	Roof repairs complete.
August 6, 1996	County Council meeting. Council placed money back into the budget for the architect.
October 1, 1996	Met with Marianne Dillard to determine what County was going to require for architect bid.
November 8, 1996	Met with Health Department staff to review internal programming needs.
December 18, 1996	Developed write-up to give Marianne Dillard regarding advertisement for architects plus space programming needs.
January 8, 1997	Letter from Thomas Alexander to Becky Campbell saying he's working on trying to secure State funding.
February 14, 1997	Harrison Orr tours Seneca Clinic.

DEPARTMENT OF COMMERCE
Division of Community Grant Programs
1122 Lady Street, Suite 700, Post Office Box 927
Columbia, South Carolina 29201

GRANT AWARD

Grantee: Oconee County

Date of Award: March 19, 1997

Grant Title: Oconee Family Learning Center

Category: Liveable Communities

Grant Period: 03/97 - 03/99

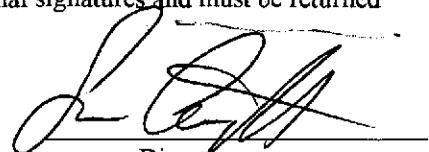
Award Amount: \$250,000

Grant Number: 3-W-96-008

In accordance with the provisions of Title I of the Housing and Community Development Act of 1974 (P.L. 93-383), as amended and on the basis of the grant application submitted, the Division of Community Grant Programs (DCGP) hereby awards funds to the above named Grantee a grant, in the amount shown above, for the projects specified in the application and within the purposes and categories authorized. The acceptance of this award creates a contract between the State of South Carolina and the Grantee legally binding the Grantee to carry out the activities set forth in the approved grant application in accordance with the terms and conditions of the Grant Agreement. All contracts to be paid in whole or in part with funds from this grant must be submitted to DCGP for approval prior to execution. The special conditions for this grant, if any, are as follows:

1. The grantee must send the CDBG administrator or other appropriate personnel to all CDBG training sponsored by the Division of Community Grant Programs, unless attendance is waived.

This contract shall become effective, as of the date of award, upon return of two copies of this grant award which have been signed in the space provided below. Both copies must have original signatures and must be returned within 15 days from the date above.



Director

ACCEPTANCE FOR THE GRANTEE:

Signature of Official with authority to execute this contract

Date

Typed Name and Title of Authorized Official

ATTEST:

Signature of Elected City or County Council Member

Signature of Elected City or County Council Member

CFDA NO: 14.228

STATE OF SOUTH CAROLINA
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM



GRANT AGREEMENT

The Grant Award serves as the signature page for this Community Development Block Grant (CDBG) Program Grant Agreement for Oconee County, CDBG #3-W-96-008. Three identical Grant Award pages have been included for signature by appropriate representatives of the Grantee. Two of the Grant Award pages, with the required original signatures, must be returned **within 15 days**. The third Grant Award page with original signatures should be maintained in the Grantee's files along with this Grant Agreement.

STATE OF SOUTH CAROLINA
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

GRANT AGREEMENT

Upon receipt by the State of the appropriately signed Grant Award, the State agrees to provide to the Grantee the Federal assistance under Title I of the Housing and Community Development Act of 1974, as amended, subject to the terms and conditions of this Grant Agreement, applicable laws, regulations and all other Federal and State requirements now or hereafter in effect. This Grant Agreement is effective with respect to such assistance as of the date of the Grant Award and consists of the Grant Award hereto attached, together with the State approved application, including any Assurances, certifications, maps, schedules or other submissions made, or to be made, with respect thereto.

1. Definitions: Except to the extent modified or supplemented by this Grant Agreement, any term defined in Title I of the Housing and Community Development Act of 1974, as amended, shall have the same meaning when used herein. The following terms are specifically used in this Grant Agreement:
 - (a) ACT means Title I of the Housing and Community Development Act of 1974, as amended.
 - (b) Agreement means this Grant Agreement, as described herein and any amendments or supplements.
 - (c) Applicant means the entity designated in the approved application which is part of this Agreement.
 - (d) Assistance means the grant funds provided, or to be provided, to the Grantee by the State, pursuant to this Agreement.
 - (e) Assurances when capitalized, means the certifications and assurances submitted pursuant to the ACT and other requirements of the State.
 - (f) CDBG means Community Development Block Grant.
 - (g) Grantee means each entity designated as the recipient of the Assistance in the Grant Award and signing the acceptance provision of the Grant Award.
 - (h) HUD means U.S. Department of Housing and Urban Development.
 - (i) Program means the community development program, project, or other activities, including the administration thereof, funded in whole or in part, under this Agreement.
 - (j) State means the State of South Carolina or that Agency, Agency Division, or Office of State Government herein, the responsibility for administering the Community Development Block Grant program for the State of South Carolina, as appropriate.
2. Federal and State Laws: This Agreement renders the Grantee responsible for compliance with all Federal or State laws, Executive Orders, and regulations applicable to the receipt and administration of Assistance provided under this Agreement. Such laws, Executive Orders, and regulations include, but are not limited to, the following:

- (a) Financial Management Requirements: The Grantee must comply with the applicable requirements of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and to OMB Circular A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

The Grantee must also comply with the Audit Requirements of OMB Circular A-128. The Grantee must make available to the State or Federal Government, or their representatives, all records related to the matters and activities covered by this grant for the purposes of audit and inspection.

- (b) Environmental Review: The Grantee is required to assume responsibility for environmental review decision making in accordance with Section 104(f) of the ACT; 24 CFR Part 58, Environmental Review Procedures for Title I CDBG Programs; and 40 CFR Part 1500-1508, National Environmental Policy Act regulations.
- (c) Equal Employment Opportunity: In accordance with the applicable Federal and State laws, Executive Orders and regulations, the Grantee cannot discriminate on the basis of race, color, religion, sex, national origin, familial status, or disability in the admission of or access to, treatment in or employment in, its Federally assisted programs or activities.
- (d) Non-Discrimination Under Title VI of the Civil Rights Act of 1964: This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L.88-352) and HUD regulations with respect thereto including the regulations under 24 CFR Part I.
- (e) Ineligible Contractors Under Executive Order 11246 and State Regulations: The Grantee agrees that it will refrain from entering into any contract or modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order. The Grantee will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State of South Carolina pursuant to Part II, Subpart D of the Executive Order. In addition, the Grantee may not award contracts to any contractors who are ineligible to receive contracts under any applicable regulations of the State of South Carolina.
- (f) "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities: This Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) as amended, State of South Carolina regulations issued pursuant thereto, and any applicable rules and orders of the State issued thereunder prior to the State authorization of the Grant Award.
- (g) Federal Labor Standards Provisions: Except with respect to the rehabilitation of residential property designed for residential use for less than eight units, the Grantee and all contractors engaged under contracts in excess of \$2,000 for the construction, completion or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements pertaining to such contracts and the applicable requirements of the regulations of the State of South Carolina, governing the payment of wages and the ratio of apprentices and trainees to journeymen, provided, that if wage rates higher than those required under such regulations are imposed by the State of South Carolina or local law, nothing hereunder is intended to relieve the Grantee of its obligation, if any, to require payment of the higher rates. The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of 29 CFR 5.5.

- (h) MBE Obligation: The Grantee agrees to ensure that minority business enterprises (MBE), as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement.
- (i) Fair Housing: The Grantee is prohibited from taking any action that in any way makes unavailable or denies a dwelling to any person because of race, color, religion, sex, national origin, familial status or disability. The Grantee must comply with Title VIII of the Civil Rights Act of 1968, as amended, Executive Order 11063, the South Carolina Fair Housing Law.
- (j) Fair Housing Plans: The Grantee will provide the State with a Fair Housing Plan which includes a written description of the action(s) the Grantee will undertake to affirmatively further fair housing. The State reserves the right to withhold all or a portion of the funds to be provided under this Grant Award until such plan has been received and approved.
- (k) Age Discrimination Act of 1975: The Grantee shall ensure that no person shall be excluded from participation, be denied program benefits, or be subject to discrimination, on the basis of age under any program or activity under this Agreement.
- (l) Section 504 of the Rehabilitation Act of 1973: Every recipient of Federal funds, including subgrantees, must comply with Section 504 of the Rehabilitation Act of 1973, as amended. The Grantee agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- (m) Acquisition and Relocation: In carrying out the activities funded in whole or in part under this Agreement, the Grantee is required to comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 as amended and the implementing HUD regulations at 49 CFR Part 24 and 24 CFR Part 570.

- (n) Lead Based Paint Hazards: The construction or rehabilitation of residential structures with assistance provided under this Agreement is subject to the HUD Lead-Based Paint regulations at 24 CFR Part 35.
- (o) Compliance with Air and Water Acts: (Applicable to construction contracts and related subcontracts exceeding \$100,000) Activities funded in whole or in part under this Agreement are subject to the requirements of the Clean Air Act, as amended; 42 USC 7401 et seq.; the Federal Water Pollution Control Act, as amended; 33 USC 1251 et seq.; and the regulations of the Environmental Protection Agency with respect thereto at 40 CFR Part 15, as amended from time to time, and the S. C. Stormwater Management and Sediment Reduction Act.
3. Personnel: The Grantee agrees that it has the necessary personnel, or will hire the necessary personnel, to carry-out the activities described in the Grant Application. All persons employed must be fully qualified and authorized to carry out such activities under such Federal, State and local laws, as may be applicable.
4. Amendments: Any changes to this Agreement, including changes in activities and budgets of the Grant Application, must be approved in writing by the State and shall be incorporated in written amendment(s) to this Agreement, except as may be provided in the following section "Budget Changes".
5. Budget Changes: Any change in a line item of the budget which is greater than ten percent (10%) of the line item or greater than \$10,000, must have prior written approval by the State. This applies to the collective total of the line item, regardless of the source of funds. However, no increase for the budget item *General Administration* is allowed without prior written approval by the State, regardless of the amount or percentage of increase or the source of funds. Without written approval from the State, the maximum amount which may be budgeted for general administration from CDBG funds is fifteen percent (15%) of the total activity costs, excluding administration costs.
6. Funding Overruns/Underruns: The Grantee must meet its funding commitment. In the event there are cost underruns on the project, the savings will accrue to the State unless a regulatory requirement by another Federal funding agency supersedes, or unless the savings could be accrued to another grant program funded by the State of South Carolina. In the event there are cost overruns on the project, this Agreement creates no obligation on the part of the State to provide funds for the cost overruns.
7. Incurrence of Costs and Release of Funds: The Grantee may not obligate or expend CDBG funds on any activities described in the grant application, except those exempted under 24 CFR Part 58, until the State has approved the Grantee's Request for Release of Funds and related certifications. In no case, without prior written approval by the State, may the Grantee incur costs or expend funds to be paid or reimbursed with CDBG funds. Funds obligated or expended without the State's written approval shall be considered ineligible costs and are not eligible for payment with CDBG funds.
8. Reporting Requirements: The Grantee agrees to complete and submit all reports, in such form and according to such schedule, as may be required by the State.
9. Program Progress: Significant activity must be underway within 6 months of the date of this Agreement unless otherwise approved by the State. If, within 6 months of the date of this Agreement, substantial progress is not being made, the State reserves the right to terminate this Agreement and require the repayment of any CDBG funds provided to the Grantee under this Agreement. Determination of substantial progress will be based on the Grantee's compliance with the Grantee's Implementation Schedule, DCGP P-1, as approved by DCGP.

10. Project Completion: All activities are expected to be completed within 24 months of the date of Grant Award. Unless otherwise defined by the State, completion is the final documentation of funds expended, accomplishment of National Objectives, and receipt by the State of the Grantee's Close-out Report. Future funding may be contingent upon timely and acceptable compliance with this Agreement. Extensions to program periods may be made at the discretion of the State.
11. Change of the Use of Real Property: Unless the Grantee obtains prior written approval from the State, there may be no change in the use or planned use of any real property acquired in whole or in part or improved in whole or in part using CDBG funds in excess of \$25,000. This requirement shall apply from the date the CDBG funds are first spent for the property or the improvement until five years after final close-out of the CDBG grant from which the Assistance was provided.
12. Copyright: Except as otherwise provided in this Agreement, the Grantee or any third party or contractor paid through this grant is free to copyright any books, publications, or other copyright able materials developed in the course of or under this grant. However, HUD and the State reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for Federal government and State purposes: the copyright in any work developed under this grant or through a contract under this grant; and any rights of copyright to which a subgrantee or contractor purchases ownership with grant support. The Federal government's rights and the State's rights identified above must be conveyed to the publisher, and the language of the publisher's release form must ensure the preservation of these rights.
13. Prohibition Against Payments of Bonus or Commission: The Assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining State approval of the application for such assistance, or State approval of applications for additional assistance, or any other approval or concurrence of the State required under this Agreement, the ACT or HUD regulations with respect thereto. However, reasonable fees for bona fide technical, consultational, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.
14. Ownership: Title to property acquired in whole or in part with grant funds shall be vested in the Grantee, subject to divestment by the State, where its use for approved community development activities is discontinued. Grantees should exercise caution in the use, maintenance, protection, and preservation of such property. The Grantee must submit, in the form prescribed by the State, a list of all non-expendable property acquired with CDBG funds pursuant to this Grant Agreement at the time of close-out, and the Grantee must agree to be subject to audit by the State or its duly authorized representatives for verification of the information. A physical inventory must be conducted every two years for the life of the property.
15. Maintenance of Records: Records for non-expendable property purchased totally or partially with Assistance provided under the Agreement must be retained for three years after final disposition of the property. All other pertinent grant records including financial records, supporting documents, and statistical records shall be retained for a minimum of three years after the final grant close-out. However, if any litigation, claim, or audit is started before the expiration of the three year period, then all records must be retained for three years after the litigation, claim, or audit is resolved.
16. Access: All records with respect to all matters covered by this Agreement shall be made available at any time for audit and inspection by HUD, the State, or their representatives upon request.
17. Confidential Information: Any reports, information, data, etc., given to, prepared by, or assembled by the Grantee under this Agreement, which the State requests to be kept confidential, shall not be made available to any individual or organization by the Grantee without prior written approval of the State.

18. Obligations of Grantee with Respect to Certain Third Party Relationships: The Grantee shall remain fully obligated under the provisions of the Agreement notwithstanding the Grantee's designation of, or contract with, any third party or parties for the undertaking of all or any part of this Agreement. The Grantee shall require that any such third party comply with all applicable requirements of this Agreement.
19. Conflict of Interest: The Grantee shall comply with the more restrictive provisions of 24 CFR Part 85.36, 24 CFR Part 570.611, or the Code of Laws of South Carolina Section 8-13-100 et. seq., as applicable.
20. Sanctions: If the Grantee does not comply with the provisions of this Agreement, the State may take any or all of the following actions: require repayment of all or a portion of any Assistance provided; require the Grantee to take corrective actions to comply with this Agreement; cancel, terminate, or suspend, in whole or in part, the Assistance in this Agreement; or, refrain from extending any further assistance to the Grantee until such time as the Grantee is in full compliance.
21. Liability: The Grantee agrees to repay to the State, upon demand by the State, moneys equal to the amount of the CDBG funds provided to the Grantee pursuant to this Agreement which the State has determined that the Grantee, its agents or assigns, have caused to be advanced and/or expended in violation of this Agreement or in violation of any Federal, State, or local laws or policies governing the use of CDBG funds. This provision also applies to any monies determined by the State to be income generated by funds provided to the Grantee pursuant to this Agreement. The State is the sole arbiter in all matters concerning the eligibility of costs and the interpretation of the provisions of law, statute and policy, as well as the terms and conditions of this Agreement, except to the extent that the State's prerogative may be superseded by the Federal government or by a Court of Law having jurisdiction over such matters.
22. Termination of the Agreement: The State may, upon written notification to the Grantee, terminate all or part of the funding to be provided pursuant to this Agreement for failure to comply with the terms and conditions of this Agreement. This Agreement may also be terminated, in whole or in part, with the mutual consent of the State and the Grantee, upon written notification.
23. Terms and Conditions: The State reserves the right to add or delete terms and conditions of this Agreement as may be required by revisions and additions to changes in the Federal regulations and laws governing the State's Community Development Block Grant Program.
24. Severability: If any provision of this Agreement is or becomes illegal, invalid, or unenforceable in any respect, the legality, validity, and enforceability of the other provisions of this Agreement shall not in any way be affected or impaired thereby.
25. Indemnification: The State shall not be liable for failure on the part of the Grantee or any other party to perform all work in accordance with all applicable laws and regulations. The Grantee agrees to defend, indemnify, and hold harmless the State from and against all claims, demands, judgments, damages, actions, causes of actions, injuries, administrative orders, consent agreement and orders, liabilities, penalties, costs, and expenses of any kind whatsoever, including, without limitation, claims arising out of loss of life, injury to persons, property, or business or damage to natural resources in connection with the activities of the Grantee and any other third parties in a contractual relationship with the Grantee, or a subsidiary, whether or not occasioned wholly or in part by any condition, accident, or event caused by any act or omission of the State as a result of the Assistance.
26. Venue: In addition to the previously cited Federal Laws and Regulations, this Grant Agreement is also made under and shall be construed in accordance with the laws of the State of South Carolina. By executing this grant, the Grantee also agrees to submit to the jurisdiction of the courts of the State of South Carolina or the appropriate Federal courts for all matters arising or to arise hereunder.

BLOCK 1: CONTROL INFORMATION (STATE OFFICE USE ONLY) APPLICATION#: LC96010

GRANT # : _____ GOV. UNIT: _____ GRANT PERIOD: _____ AWARD DATE: _____

AGENCY CODE: _____ DISTRICT: _____ COUNTY: _____ PROGRAM AREA: _____ A/R: _____

BLOCK 2: PROJECT TITLE: Oconee Family Learning Center Project

BLOCK 3: APPLICATION TYPE

INDIVIDUAL JOINT

BLOCK 5: APPLICANT INFORMATION
APPLICANT NAME & ADDRESS:

Oconee County

208 Booker Drive

Walhalla, SC ZIP CODE: 29691

TELEPHONE#: (803) 638-4242

SECONDARY APPLICANT (JOINT APPLICATION):

ZIP CODE: _____

TELEPHONE#: _____

Intergovernmental Agreement Date: _____

BLOCK 4: FUNDING SOURCE

	AMOUNT	PERCENT
A. CDBG FEDERAL FUNDS REQUESTED	\$250,000	80%
B. LOCAL CASH/FORCE ACCOUNT	\$32,000	15%
C. LOCAL INKIND	\$18,000	5%
D. *OTHER	_____	_____
E. GRAND TOTAL	\$300,000	100%

* IDENTIFY SOURCES: _____

School District of Oconee County

BLOCK 6: GENERAL INFORMATION

A. PROPOSED GRANT PERIOD:
From: 3/97 To: 3/99

B. CHECK ONE OF THE FOLLOWING:
 Advance or Reimbursable

BLOCK 7: PROGRAM CATEGORY

Community Revitalization Livable Communities
 Appalachian Regional Commission Planning Assistance
 Economic Development Other (Identify Below)

BLOCK 8: NATIONAL OBJECTIVE

A: LMI Benefit
 B: Slum/Blight
 C: Urgent Need

BLOCK 9: ADMINISTERING AGENCY

CONTACT PERSON: Judith J. Romano TITLE: Grants Administrator

ADDRESS: Appalachian Council of Governments,
PO Drawer 6668, Greenville, SC

TELEPHONE #: (803) 242-9733 FAX#: (803) 242-6957 ZIP CODE: 29606

BLOCK 10: PROJECT SUMMARY Project will rehabilitate the old Gignilliat School in Seneca into the Oconee Family Learning Center, which will serve at-risk families. 1,395 persons will be served.

BLOCK 11: AUTHORIZED SIGNATURE

Norman Crain, Supervisor/Chairman
TYPED NAME & TITLE OF CHIEF EXECUTIVE/ADMINISTRATIVE OFFICIAL

Norman A. Crain
SIGNATURE

DATE

*subject to final review and acceptance of grant by county Council.

CDBG APPLICATION BUDGET

9/96 REVISED

GRANT NUMBER

[]

A 471

ACTIVITY DESCRIPTION	DETAIL CODE	CDBG FEDERAL FUNDS REQUESTED COLUMN 1	GRANTEE CONTRIBUTION COLUMN 2
Acquisition.....	12001A	: 00	: 00
Property Disposition.....	12120A	: 00	: 00
Clearance.....	12055A	: 00	: 00
Code Enforcement.....	12035A	: 00	: 00
Rehabilitation-Private Property.....	12030A	: 00	: 00
Rehabilitation-Commercial.....	12215A	: 00	: 00
Rehabilitation-Personnel.....	12031A	: 00	: 00
New Housing Construction.....	12250A	: 00	: 00
Relocation... <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent.....	12020A	: 00	: 00
Water Facilities.....	12096A	: 00	: 00
Sewer Facilities.....	12097A	: 00	: 00
Flood and Drainage Facilities.....	12085A	: 00	: 00
Street Improvements.....	12005A	: 00	: 00
Community Center/Facility.....	12145A	: 00	: 00
Other Public Facilities Improvements..... Identify <u>Family Learning Center</u>	12125A	242,000 : 00	29,000 : 00
Removal of Architectural Barriers.....	12180A	: 00	: 00
Interim Assistance.....	12015A	: 00	: 00
Public Services.....	12170A	: 00	: 00
Economic Development Assistance to "Non Profit"	12220A	: 00	: 00
Economic Development Assistance to "For Profit"	12255A	: 00	: 00
Other Activities..... Identify _____	12260A	: 00	: 00
Engineer/Architect.....	12240A	: 00	21,000 : 00
Planning Only.....	12075A	: 00	: 00
General Administration.....	12040A	8,000 : 00	: 00
GRAND TOTAL.....		250,000 : 00	50,000 : 00

NARRATIVE

1. Need

- a) Describe the problem, its extent, and the need for CDBG assistance.

Please see attached.

- b) Provide the number of individuals or housing units affected by the problem or need as follows:

Number of persons: 1,395

Number of LMI persons: 894

Number of housing units:

- Attach sources of documentation, if available, regarding the extent of need (i.e., letters from preliminary engineering report, etc.)

NARRATIVE

1. Need

a) Describe the problem, its extent, and the need for CDBG assistance.

Oconee County has a great need for a comprehensive approach to the problems of illiteracy and a poorly trained workforce. This problem affects every age of person in the County, from young children growing up in impoverished households, to adults struggling to cope with a changing workplace. The County is already addressing many of these problems, but is in need of a facility which will enable families to address all of their educational and social service needs in one place, and meet the needs of every family member, from the pre-schooler to the adult learner.

In 1993, there were 14,500 children under age 18 in the County, out of a population of 60,100. An increasing number of these children live in single parent families. Single parent families face a greatly increased risk of being economically unstable; in 1989, 39% of children in single parent families in Oconee County lived in poverty, compared to 6.8% of children in married couple families. And these numbers have been increasing over the past four decades. In 1993, 121 babies (16% of all babies born in the County) were born to single mothers; almost 48% of these children were minority. In the area immediately around the Gignilliat School, 368 children are eligible for free lunches, and 49 for reduced price lunches. These children are at an increased risk of doing poorly in school, and later, in the workplace.

The teen pregnancy rate is also rising in the County. In 1994, there were 60 pregnancies in women younger than age 18. The rate of live births for these pregnancies was only 48, and 29 (60%) of these teen mothers did not return to school after delivery. In 1993, 195 babies, 26% of all county babies, were born to mothers who had not completed the twelfth grade, nor obtained a GED. This number is significantly lower than the statewide average of 22%. Research shows that a child's success in school is strongly influenced by the education of his mother. The high infant mortality rate and under-education of young mothers in Oconee County are indicators of future poor performance for the children born to these mothers.

Statistics for school-age children bear this out. The number of children in the County testing not ready for school is increasing. In 1993, 24% of entering first graders tested not ready. By 1994 this number had increased to almost 29%, and in 1995, to almost 34%. The figures for the two elementary schools located near the proposed Oconee County Family Learning Center are even more disturbing; 42% and 44% of children tested in these two schools were not ready to enter first grade.

These high numbers of under-achieving children continue into later grades; almost 23% of Oconee County children in the third grade are over-age for their grade, and almost 18% of

eight and nine year olds are being placed in special education classes. Thus, an unacceptably large number of students begin school without a good prospect of success in school, and ultimately, of graduation. The prospect for children living near the proposed Center is even more bleak, as so many of these children are testing not ready for even the first grade.

These numbers continue into the higher grades in the County. Annually, approximately 25% of county children fail to graduate from school. This ensures that they will, like many of their parents, be locked out of the secure jobs that could provide a degree of stability for them and their children.

Oconee County has traditionally had an employment base founded on textiles, which were low wage, low skill jobs. High school diplomas were not needed to work in the mills, so the County's poorly skilled labor force was not an issue. However, the County's industrial base has become, in recent years, increasingly technological and diverse; manufacturing still makes up 42% of the jobs in the County, versus 23.8% for the state overall. The number of jobs, even factory jobs, open to those without a high school diploma is diminishing rapidly. The result of an insufficient pool of qualified workers has been an influx of better educated people commuting into the County to skim off the better paying, more high tech jobs, while Oconee County residents are left the scraps of low paying or part-time jobs, or welfare. The gap between the haves and have nots in the County is widening, even as the manufacturing base diversifies.

Poverty traps individuals and families in dependency. Many poor people face additional barriers to self improvement, such as a lack of transportation or a telephone, that further prevent them from being self sufficient. In Oconee County, almost 9% of households are without a vehicle; almost 24% of minority households do not have a car. This is a critical problem in a rural area such as Oconee County, because there is no public transportation at all.

As all of these statistics show, the cycle of illiteracy and poverty in Oconee County is continuing unabated. It will only be broken through a concerted effort on the part of local education and social service agencies to provide coordinated services to the at-risk population of the County.

2. Priority Community Development Needs

- a) Explain how the proposed project addresses the applicant's identified priority community development need(s).

Please see attached.

- b) Explain the basis for selection of the proposed activity over other priorities identified in the needs assessment.

Please see attached.

- Attach a copy of the needs assessment public hearing minutes and a copy of the applicant's needs assessment showing how the needs were prioritized.

2. Priority Community Development Needs

a) Explain how the proposed project addresses the applicant's identified priority community development needs.

The Oconee Family Learning Center will meet the identified, priority need of providing comprehensive services to at-risk families in one location.

Oconee County has gone through an extensive planning process concerning the Oconee Family Learning Center. The County decided, over a year ago, that a comprehensive approach was needed to the problems faced by at risk children, youths, and adults. An advisory committee, made up of 18 community leaders, has been meeting on a regular basis to plan which services should be offered at the Family Learning Center, and how those services could be best coordinated. The advisory committee included representatives from the School District of Oconee County, the business community, social service agencies, the public housing authority, utilities, the Sheriff's Department, the School Board, United Way, Tri-County Technical College, the Library System, and county government.

The Committee has conducted a thorough study of the needs of the low income residents of the County, and decided that, based on the limited resources available, a comprehensive, one-site approach to the problems would most effectively leverage the services available. Attached is a study completed by the School District of Oconee County, entitled "Adult/Child Educational Successes". The study details the need for this facility, and the innovative approach developed by the School District and the Advisory Committee. Also attached is a list of the members of the Advisory Committee, and a resolution of support.

b) Explain the basis for selection of the proposed activity over other priorities identified in the needs assessment.

Because such a thorough study has been done on this issue, and an innovative, low cost solution is available, the County determined that applying for a Livable Communities grant for this project would best meet the County's needs at this time. Although the County also lists water and sewer projects as a high priority on its Needs Assessment Plan, these needs could not be met under a Livable Communities grant, because of the grant's current criteria, and the cost involved.



ACES

Adult / Child Educational Successes

*A Comprehensive Community
Response to Literacy*

Presented by:
Oconee Adult Education
Oconee County, South Carolina

ABSTRACT

The Oconee Adult Education / Literacy Program

Hamilton Career Center
100 Vocational Drive
Seneca, South Carolina 29672

Telephone: 684 / 885-5014

Contact: Veronica Main
Program Facilitator

Research shows that family literacy rejuvenates the family unit and improves parenting which results in a greater percent of the children being ready to embrace and succeed in their school experiences. Family literacy participants have been shown to put a greater value on literacy activities in the home as well as in school.

Oconee Adult Education, Anderson/Oconee Head Start in partnership with the school district's early childhood education program, and the Parents' Center have developed a collaborative project for family literacy called *ACES (Adult/Child Educational Successes)*. This program targets the at-risk families of Oconee County with pre-school children. ACES will be coordinated by Oconee Adult Education.

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INTRODUCTION

Oconee Adult Education and the Literacy Program have provided services to the County's under-educated residents for 30 and 20 years respectively. Anderson/Oconee Head Start has worked toward getting at-risk children ready for school for 30+ years, and the Parents' Center involves its participants in the acquisition of effective parenting skills in an effort to improve the educational and social achievement of their children.

These three successful agencies have agreed to collaborate on a joint family literacy program (ACES) targeting the at-risk families of Oconee County with pre-school children. ACES will be coordinated by Oconee Adult Education which will also provide educational programs in Literacy, ABE (Adult Basic Education), and ESL (English As A Second Language) for the parents. Anderson/Oconee Head Start and the school district pre-school program will provide instruction designed to prepare the children for school. The Parents' Center will provide training in effective parenting skills. A licensed day care facility, operated by Oconee Adult Education, will provide enriched care for 0-2 year olds whose parents are enrolled in the program. At-risk children can, therefore, participate in age-appropriate developmental activities from birth to age 5.

The model for ACES is based on recent research and the study of successful programs across South Carolina and the nation. The advantage of family literacy over separate programs for adults and children is that it increases motivation for literacy development as a family unit which results in the child being better prepared for school and parents more able to act as coach and supporter. Studies show a correlation between the literacy level of the parents and the educational achievement of their children. The first component of ACES will address this by providing the appropriate level of education instruction for each adult.

INTRODUCTION

continued

In addition to increased support, the children will receive quality pre-school instruction specifically designed for school readiness in the second component of the program.

The third major component of ACES will be training in effective parenting skills, which include topics such as budgeting, healthy living, and becoming involved with and supportive of the child's school experience as well as some personal enrichment activities. The parenting component will also draw on all available community resources to provide the individualized service the families might require in their quest to become more productive members of society and independent of the social services cycle.

The fourth component of ACES will be an opportunity for parents and children to learn together, thereby strengthening the family unit through activities and communication skills.

The following information regarding Oconee County was taken from KIDS COUNT compiled by the Health and Human Services Finance Commission. These statistics show that there is a very real need for a comprehensive effort to address the multitude of problems faced by a significant number of Oconee County families.

In 1993, there were 14,000 children under age 18 in Oconee County.

At this juncture it must be identified that the "family" is the source of a child's love, protection, and identity. Children are solely dependent on their families for material needs, stimulation, and guidance. All families have strengths, but many today face exceptional challenges as they are unable to compete for jobs in an increasingly

DEMOGRAPHICS

All statistical information quoted has been taken from KIDS COUNT - compiled by the Health and Human Services Finance Commission.

The Family

technological workplace due to the lack of individual educational achievement.

BIRTHS TO TEEN MOTHERS

In 1993, 45 babies were born to mothers younger than age 18. These babies represent 6.1% of all children born in the county; 5.7% of all Caucasian babies and 8.7% of all Black and other minority babies were born to teen mothers. 73.8% of babies born to teens in 1993 were born to single mothers.

BIRTHS TO MOTHERS NOT COMPLETING HIGH SCHOOL

A child's success is strongly influenced by the education of their parent(s). In 1993, 195 babies, 26.4% of all babies, were born to mothers (all ages represented) who had not completed the 12th grade.

BIRTHS TO SINGLE MOTHERS

Births to single mothers have increased steadily over four decades. In 1993, 121 babies, 16.4% of all babies, were born to single mothers. A decade earlier, 1983, the percentage was 9.7% and in 1960 it was 4.4%. In 1993, 11.3% of Caucasian children, and 47.6% of Black and other minority children were born to single mothers.

DIVORCE RATE

In 1993, 1,723 marriage licenses were issued, while 307 divorce decrees - involving 250 children - were filed. In 1970, only 101 children were impacted upon by divorce.

SINGLE-PARENT FAMILY

An alarming number of children now live in single-parent families. In 1990, 2,377 children lived with only one parent. This was 18.7% of all children and showed an increase from 13.3% in 1980 and 9.9% in 1970. In 1990, 16.1% of all Caucasian children and 40.4% of Black and other minority children lived in single-parent families.

ECONOMIC STATUS

All statistical information quoted has been taken from KID COUNT - compiled by the Health and Human Services Finance Commission.

PARENTS WORKING

Increasingly children must share their parents with employers. In order to meet family financial needs, most parents work and thus have less time to spend with their children. In the under-educated population multiple jobs are not unusual and create an even greater strain and opportunity for disaster.

Poverty and low income make it difficult for many families to provide the material and environmental enrichment that is fundamentally necessary for healthy child development.

POVERTY

In 1989, 1,949 children and youth under the age of 18 lived in families with incomes below poverty. Over 14.1% of all children and youth lived below the poverty level: 12.1% of Caucasian and 29.6% of Black and other minority children.

Children and the elderly are the age group most seriously affected by poverty. In 1989, 16.6% of all children 0-5 and 13.0% of children 6-17 lived in what is commonly defined and accepted as poverty. Historically the poverty rate among the elderly was much higher; during the last two decades, federal policy actions have substantially improved the economic status of the senior citizen but have not done so for children.

Single-parent families are most likely to be economically unstable. In 1989, 39.1% of children in single-parent families lived in poverty, but only 6.8% of children in married-couple families were poor. Children in single-parent families make up 58.9% of all county children living in poverty.

ECONOMIC STATUS

continued

HEALTH

All statistical information quoted has been taken from KID COUNT - compiled by the Health and Human Services Finance Commission.

BARRIERS TO SELF-SUFFICIENCY

Poverty often traps families in dependency. Because of poverty, many families have barriers such as lack of transportation or a phone that prevents them from becoming self-sufficient. In the county, 8.6% of households are without a vehicle; 7.3% of Caucasian and 23.9% of Black and other minority families are without transportation. This issue becomes more critical in rural areas, such as Oconee County, where there is no public transportation available.

This same economic population often find themselves without telephones. This again presents a serious disadvantage when competing for employment. Approximately 9.9% of all households do not have a telephone. This is more often a problem in renter-occupied housing units where 24.3% of households have no telephone.

PRENATAL CARE

Early and continuous prenatal care can make a significant difference in healthy births. Delayed or insufficient prenatal care is associated with low birth-weight and other health risks for infants. In 1993, 160 or 21.7% of pregnant women received less than adequate prenatal care: 162 or 25.5% of Caucasian and 39 or 37.9% of Black and other minority women received no prenatal care at all.

LOW BIRTH-WEIGHT

In 1993, 55 or 7.5% of all babies in the county were born with low birth-weights. Over 16.5% of Black and other minorities and 6.0% of Caucasian babies were born with low birth-weight. During 1991-93, approximately 26 or 1.1% of all babies were born with very low birth-weights.

READINESS AND EARLY SCHOOL PERFORMANCE

All statistical information quoted has been taken from KID COUNT - compiled by the Health and Human Services Finance Commission.

- **FACT:** Far too many children reach school without the readiness skills needed for success in learning.
- **FACT:** As a result, too many students do not experience the success needed to create the motivation and engagement that sustains learning.
- **FACT:** The end result is shown by the number of students who leave the educational program prior to completion without the necessary skills and foundation that is meant to sustain them throughout their lifetime, both professionally, technically and socially.

1st GRADE "READINESS"

1993 COGNITIVE SKILLS ASSESSMENT BATTERY (CSAB)

182, or 24.5%, of the children of this county are not ready for school.

READINESS SUMMARY

A serious problem exists in terms of student readiness and school success in the early grades. With 24.5% assessed "not ready for 1st grade", plus 22.5% are overage in grade 3, with 17.8% of eight and nine year olds being placed in "special education programs", an unacceptably large number of students begin school without a good prospect of success in future school achievement and ultimately, graduation.

PROGRAMMING

Collaboration will be the essential ingredient that will make ACES a success because it will allow utilization of specialized skills of the providers and associated agencies. Drawing on these resources, ACES will provide the proper mix of instruction for parent and child during the scheduled activities at the Oconee Family Learning Center. In addition, supportive services will be available to assist parents in resolving some of the personal issues that make concentration on gaining an education difficult.

Parents need time in basic skills study as well as in parenting instruction and time to try out the concepts they are attempting to master. Parents sometimes are uncomfortable engaging in activities with children so the activities will be structured to allow parents to feel confident in their ability to perform them. Children want to spend time with their parents; therefore, activities will allow both the child and parent to demonstrate the skills and knowledge learned during the instructional periods. Children also need time to improve social skills and this time will be provided. Parent / child interaction will be stressed so that it will be a rewarding experience for both as they not only bond with one another, but as they discover the importance of education and communication in the family relationship. This is a lesson that will last a lifetime if properly instilled.

PROJECT MANAGEMENT

Oconee Adult Education and the Literacy Program will provide and supervise ACES. Instruction will be provided by existing paid staff and volunteer tutors will be assigned by the Literacy Program. Any transportation and child care required by the participants will be coordinated through the various agencies involved. The other major providers of services will be the Anderson/Oconee Head Start Program in partnership with the school district pre-school and the Parents' Center. Several other agencies have agreed in principal to become active participants in the ACES project and provide supportive services, on-site, as needed. This project has already allocated appropriate office and conference space for such agencies. The Department of Social Services new "Jobs Club" will be located in the ACES building as well and we will work closely with them to provide service to their clients who are eligible for the family literacy project.

**EARLY
CHILDHOOD
PARENT, ADULT,
LITERACY
EDUCATION
PROGRAM
GOALS**

**OCONEE
COUNTY GOALS**

GOAL ONE

National Goals One and Six will be strived for in this project:

GOAL ONE:

All children in America will start school ready to learn.

GOAL SIX:

Every adult will be literate and possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

GOAL TWO

PARENT EDUCATION

Within one year adult participants will possess the skills to be more effective parents. The Parents' Center staff will provide the necessary instruction. The target population will be a minimum of 50 participants for the first year of operation with annual increases of 20% per year anticipated.

EARLY CHILDHOOD EDUCATION

Participating children upon entering kindergarten will possess the readiness skills required. The Anderson/Oconee Head Start will provide a half-day program on-site for the 4 and 5 year-old children who will attend the school district kindergarten program for the other half of the day. Transportation will be the responsibility of the school district and meals will be provided by Head Start. The target population will be a minimum of 50 children the first year of operation with anticipated annual growth.

GOAL THREE

LITERACY

All participating adults will acquire skills to meet National Goal Number Six. The Literacy Program will provide the instruction. The target group will be a minimum of 20 adults during the first year of operation with anticipated annual growth.

**OCONEE COUNTY
GOALS**
continued

GOAL FOUR

DIPLOMA / GED

All participating adults will earn the appropriate degree. Per year, 20% of the enrollment in the diploma program will earn the diploma. 25% of the GED enrollees will complete the degree within one year from the date of enrollment. The target group will be a minimum of 30 adults per year.

GOAL FIVE

PARENT CHILD INVOLVEMENT SEGMENT (PACT)

Participating adults with children will be involved in combined activities and at least 20% of the PACT time will be spent in the learning center.

FACILITIES

One unique aspect of this project is the manner in which the facility that will house this project came about. Formerly an elementary school in the district, the buildings and property were transferred to the federal government for use as a military facility. Upon the dismantling of that particular Guard Unit the building is now being returned to the school district thereby saving millions in local tax dollars.

The buildings will be renovated to accommodate the needs of adults and pre-school children. The existing property has 13 classrooms, a gymnasium/auditorium, cafeteria, library and excellent parking and playground areas. The anticipated physical labor required for these renovations will be provided by the Oconee School District maintenance department and Duke Power Company employees who participate under their school volunteer program.

BUDGET

Oconee Adult Education and the Literacy Program currently receive funds from several different sources. The primary funds are from federal and state initiatives. The Oconee School District expends funds for the Literacy Coordinator plus additional funds for salaries and supplies for the operation of the adult night school and the Literacy Program.

Oconee Adult Education has requested the use of the previously discussed facility. The additional funds required for the opening of the building - slated for August of 1996 - would fall into the renovation, operation and maintenance of the facility. Additional start-up funds for the ACES program will need to be raised through alternative funding sources. Additional salaries will be required for a director and staff of the licensed day-care facility and for a custodian. After the first year of operation, it is anticipated that the day-care center will become self-sufficient.

KEY PERSONNEL

Adult Education Director

Charles Kennedy, a 22-year veteran with a Masters in the field of Adult Education.

Literacy Coordinator

John Palmer, an 8-year volunteer tutor and trainer. Extensive classroom teaching experience.

GED Instructor

Susan Baxter, 24-year instructor with a background in Reading and English.

Literacy and ESL Instructor

Veronica Main, 3 years of literacy tutorial/training background, this instructor brings 15 graduate hours in Adult Education as well as Human Resources/Industry Training.

Parent Education Coordinator

Sally Owen, 20-year veteran of the School District.

**PARTNERSHIP
COLLABORATION
OF
LOCAL
AGENCIES**

The following agencies and organizations are developing a collaboration plan for participating directly and/or indirectly with ACES. This has been a joint partnership of service providers in the goal of avoiding duplication of services and expense. This partnership provides for a program that will be, in essence, "a one-stop center" serving the identified needs of the program's participants.

- School District of Oconee County
- Anderson/Oconee Head Start
- Parents' Center
- The Department of Social Services
- United Way of Oconee County
- Anderson/Oconee Alcohol and Drug Abuse Council
- Oconee County Health Department
- Oconee County Mental Health Department
- Clemson University Extension Service
- The Housing Authority
- Oconee Memorial Hospital
- Numerous Civic Clubs and Organizations
- Local Industry
- DHEC - S.C. Dept. of Health and Environmental Control.

PROGRAM EVALUATION DESIGN

The ACES program will be evaluated by utilizing a variety of proven methods. The tools for evaluation will be selected to show the success of various components and the entire collaboration effort. The collaboration, or as we prefer to call it, the partnership, will directly affect the measure of individual components and the overall project.

The early childhood final evaluation will occur as the children enter kindergarten. Through coordination with the Pre-School Center, teachers will utilize the appropriate tests to measure development.

Parents wanting to complete a High School diploma will initially take a form of the TABE TEST (Test of Adult Basic Education). The goal is one grade level improvement per year measured by a post-test.

The Parent and Child Together (PACT) time will not be formally evaluated. However, a comprehensive checklist will be developed and participants will complete same for staff review of program impact.

Literacy students will each be paired with a tutor for instructional purposes. Prior to instruction, literacy students will be administered the TABE test and quarterly TABE tests will be administered thereafter. Reconfiguration of instructional tasks will occur based on test information.

**Addendum A
FAMILY
LITERACY
GOALS**

1. To improve the literacy / English language skills and raise the educational level of parents through instruction.
2. To help parents gain the motivation, skills, and knowledge needed to become employed or to pursue further education or training.
3. To improve parenting skills of adult participants.
4. To enable parents to become familiar with, and comfortable in a school setting.
5. To increase the developmental skills of pre-school children and to better prepare them for academic and social success in school.
6. To improve the parents and children through planned, regular interaction.
7. To enhance community networking of existing agencies, services and community resources in support of literacy.

Susan Rawlings
OVIS
P.O. Box 1828
Seneca SC 29678

Sally Owen
Parents' Center
315 Holland Avenue
Seneca SC 29678

~~Ken Nix~~
Oconee Memorial Hospital
298 Memorial Drive
Seneca SC 29672

Jim Sevic
450 Misty Hill Lane
Seneca SC 29678

~~Rebecca Hancock~~
~~Bennett Wright~~
Anderson/Oconee ADAC
302 North Pine Street
Seneca SC 29678

Melvin Martin
Regional Housing Authority
1107 E. South 6th Street
Seneca SC 29678

Walt Smith
Seneca Light & Water Plant
P.O. Box 4773
Seneca SC 29679

James Singleton
Sheriff Department
S. Church Street
Walhalla SC 29691

Debbie Brown
105 County Acres Road
Walhalla SC 29691

Jean Mitchell
Anderson/Oconee Head Start
P.O. Box 153
Anderson SC 29622

Sue Pratt
United Way of Oconee County
401 E. North 1st Street
Seneca SC 29678

Dan Whitchurst
SC Dept. of Social Services
P.O. Box 739
Walhalla SC 29691

Sam Donald
SDOC
P.O. Box 649
Walhalla SC 29691

Gaynelle Harrison
Tri-County Technical College
7900 Highway 76, P.O. Box 587
Pendleton SC 29670

Veronica Battle
Piedmont Home Textile Inc.
301 S. Laurel Street
Walhalla SC 29691

~~Bill Squires~~
43 Commodore Drive Keys
Salem SC 29676

Martha Bailey
Oconee County Library System
501 West South Broad Street
Walhalla SC 29691

Norman Crain
Oconee County Council
208 Booker Drive
Walhalla SC 29691

Ruth Whitted
Anderson/Oconee Head Start
P.O. Box 153
Anderson SC 29622

Russell C. Karpick
Square D Company
1990 Sandifer Boulevard
Seneca SC 29678

Collaborative Support

The purpose of this collaborative effort is to involve the whole community in an educational/community center where families can develop their educational, employment, family, and community skills. Each family will be supported by center staff and by community agencies as they work toward achieving their goals.

I/We support this collaborative effort which is a pro-active, comprehensive approach to helping at-risk families become more productive members of society without duplication of existing services.



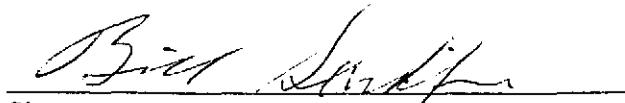
Signature
Oconee Family Learning Center

8-28-96
Date



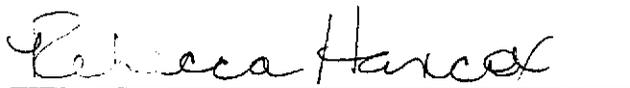
Signature
Thomas Alexander, Senator District 1

9-3-96
Date



Signature
Bill Sandifer, Representative District 2

8-30-96
Date



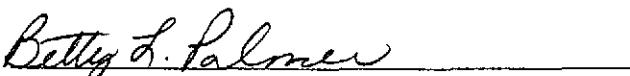
Signature
Anderson/Oconee Alcohol & Drug Abuse Commission

8-30-96
Date



Signature
Anderson/Oconee Head Start

8/30/96
Date



Signature
Clemson Extension Service

8-30-96
Date

Judith L. Allen
Signature
Oconee County Health Department

9/3/96
Date

Martha B. Bailey
Signature
Oconee County Library System

9-3-96
Date

Signature
Oconee County Supervisor

Date

Susan E. Rawlings
Signature
OVIS (Oconee Volunteer Information Service)

9-3-96
Date

David B. Owen
Signature
Parents' Center

9-3-96
Date

Helene H. Horta
Signature
S.C. Regional Housing Authority No. 1.

9/3/96
Date

Budely S. Herring
Signature
Superintendent, School District of Oconee County

9-3-96
Date

Nancy Pratt
Signature
United Way of Oconee County

9-3-96
Date

[REDACTED]

operations. The area of coverage for the regulations should extend at least 3 miles from the airport. An ordinance should be adopted to amend the provisions of Title 6, Chapter 7, Article 9, Code of Laws of South Carolina, 1976, as amended.

D. RESIDENTIAL LAND USE

The concentrated areas of residential land use will expand as the Oconee County sewer system service area is enlarged. In addition, residential usage is expected to intensify and will be allowed along the lakes shorelines. However, because of map size and scale, residential development is not indicated along the shoreline areas on the county's future land use map. As financially and physically feasible, sewer service will be extended to residential areas.

E. INDUSTRIAL/COMMERCIAL LAND USE

Industrial/commercial land use is expected to continue to be concentrated in the Waihalla-Westminster-Seneca area. Concentrated development will occur along S.C. 28 and U.S. 76. The county will encourage responsible commercial and industrial development throughout its jurisdiction. As financially and physically feasible, sewer service will be extended to industrial/commercial areas.

F. PUBLIC LANDS

The county, state, and federal public lands are valuable natural and economic resources for Oconee County. The county will cooperate with the state and federal governments to protect and preserve these public lands. However, the county will consider the impact on public lands when extending the county's sewer lines and installing/constructing other public facilities.

Long Range

- Oconee County will continue to support economic and industrial development.
- While the most immediate need is for the enactment of land use restrictions in the airport service area, the governing body of Oconee County shall have the option to enact such other regulations consistent with applicable law as are necessary and appropriate for the protection of health, safety and welfare in other areas of Oconee County.
- Oconee County will continue to vigorously support agriculture as a vital part of its economy.
- Oconee County will strive to assure the provision of adequate sewer facilities to serve the existing and potential residential and industrial areas with high growth and development probability.
- Oconee County will continue planning for and the provision of adequate, long-term supplies of safe, clear water to its citizens and industries.
- Oconee County will support transportation planning and the provision of adequate facilities for economic development within the county.
- Oconee County will seek high quality, environmentally sound growth for new and existing business and industry, both domestic and international.

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 29 TO TITLE 6 SO AS TO PROVIDE FOR CONSOLIDATION OF EXISTING PLANNING ENABLING LEGISLATION; TO UPDATE EXISTING LEGISLATIVE ACTS; TO REPEAL CHAPTER 27 OF TITLE 4 RELATING TO THE COUNTY PLANNING ACT; TO REPEAL CHAPTER 23 OF TITLE 5 RELATING TO ZONING AND PLANNING BY MUNICIPALITIES; TO REPEAL SECTIONS 6-7-310 THROUGH 6-7-1110 RELATING TO PLANNING BY LOCAL GOVERNMENTS; AND TO REPEAL ACT 129 OF 1963 RELATING TO THE GREENVILLE COUNTY PLANNING COMMISSION.

Be it enacted by the General Assembly of the State of South Carolina:

South Carolina Local Government Comprehensive Planning
Enabling Act of 1994, enacted

SECTION 1. Title 6 of the 1976 Code is amended by adding:

"CHAPTER 29

South Carolina Local Government

Comprehensive Planning Enabling Act of 1994

Article 1

Creation of Local Planning Commission

Section 6-29-310. For purposes of this chapter, 'local planning commission' means a municipal planning commission, a county planning commission, a joint city-county planning commission, or a consolidated government planning commission.

Section 6-29-320. The city council of each municipality may create a municipal planning commission. The county council of each county may create a county planning commission. The governing body of a consolidated government may create a planning commission. Any combination of municipal councils and a county council or any combination of municipal councils may create a joint planning commission.

Section 6-29-330. (A) A municipality may exercise the powers granted under the provisions of this chapter in the total area within its corporate limits. A county may exercise the powers granted under the provisions of this chapter in the total unincorporated area or specific parts of the unincorporated area. Unincorporated areas of the county or counties adjacent to incorporated municipalities may be added to and included in the area under municipal jurisdiction for the purposes of this chapter provided that the municipality and county councils involved adopt ordinances establishing the boundaries of the additional areas, the limitations of the authority to be exercised by the municipality, and representation on the boards and commissions provided under this chapter. The agreement must be formally approved and executed by the municipal council and the county councils involved.

(B) The governing body of a municipality may designate by ordinance the county planning commission as the official planning commission of the municipality. In the event of the designation, and acceptance by the county, the county planning commission may exercise the powers and duties as provided in this chapter for municipal planning commissions as are specified in the agreement reached by the governing authorities. The agreement must specify the procedures for the exercise of powers granted in the chapter and shall address the issue of equitable representation of the municipality and the county on the boards

qualified. The compensation of the members, if any, must be determined by the governing authority or authorities creating the commission. A vacancy in the membership of a planning commission must be filled for the unexpired term in the same manner as the original appointment. The governing authority or authorities creating the commission may remove any member of the commission for cause.

(C) In the appointment of planning commission members the appointing authority shall consider their professional expertise, knowledge of the community, and concern for the future welfare of the total community and its citizens. Members shall represent a broad cross section of the interests and concerns within the jurisdiction.

Section 6-29-360. (A) A local planning commission shall organize itself electing one of its members as chairman and one as vice-chairman whose terms must be for one year. It shall appoint a secretary who may be an officer or an employee of the governing authority or of the planning commission. The planning commission shall meet at the call of the chairman and at such times as the chairman or commission may determine.

(B) The commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The planning commission may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated.

Section 6-29-370. The governing authority may provide for the reference of any matters or class of matters to the local planning commission, with the provision that final action on it may not be taken until the planning commission has submitted a report on it or has had a reasonable period of time, as determined by the governing authority to submit a report.

Section 6-29-380. A local planning commission may cooperate with, contract with, or accept funds from federal government agencies, state government agencies, local general purpose governments, school districts, special purpose districts, including those of other states, public or eleemosynary agencies, or private individuals or corporations; it may expend the funds; and it may carry out such cooperative undertakings and contracts as it considers necessary.

Article 3

Local Planning -- The Comprehensive Planning Process

Section 6-29-510. (A) The local planning commission shall develop and maintain a planning process which will result in the systematic preparation and continual re-evaluation and updating of those elements considered critical, necessary, and desirable to guide the development and redevelopment of its area of jurisdiction.

(B) Surveys and studies on which planning elements are based must include consideration of potential conflicts with adjacent jurisdictions and regional plans or issues.

(C) The basic planning process for all planning elements must include, but not be limited to:

- (1) inventory of existing conditions;
- (2) a statement of needs and goals; and
- (3) implementation strategies with time frames.

(D) A local comprehensive plan must include, but not be limited to, the following planning elements:

- (1) a population element which considers historic trends and projections, household numbers and sizes, educational levels, and income characteristics;
- (2) an economic development element which considers labor force and labor force characteristics, employment by place of work and residence, and analysis of the economic base;
- (3) a natural resources element which considers coastal resources, slope characteristics, prime agricultural

Section 6-29-540. When the local planning commission has recommended and local governing authority or authorities have adopted the related comprehensive plan element set forth in this chapter, no new street, structure, utility, square, park, or other public way, grounds, or open space or public buildings for any use, whether publicly or privately owned, may be constructed or authorized in the political jurisdiction of the governing authority or authorities establishing the planning commission until the location, character, and extent of it have been submitted to the planning commission for review and comment as to the compatibility of the proposal with the comprehensive plan of the community. In the event the planning commission finds the proposal to be in conflict with the comprehensive plan, the commission shall transmit its findings and the particulars of the nonconformity to the entity proposing the facility. If the entity proposing the facility determines to go forward with the project which conflicts with the comprehensive plan, the governing or policy making body of the entity shall publicly state its intention to proceed and the reasons for the action. A copy of this finding must be sent to the local governing body, the local planning commission, and published as a public notice in a newspaper of general circulation in the community at least thirty days prior to awarding a contract or beginning construction. Telephone, sewer and gas utilities, or electric suppliers, utilities and providers, whether publicly or privately owned, whose plans have been approved by the local governing body or a state or federal regulatory agency, or electric suppliers, utilities and providers who are acting in accordance with a legislatively delegated right pursuant to Chapter 27 or 31 of Title 58 or Chapter 49 of Title 33 are exempt from this provision. These utilities must submit construction information to the appropriate local planning commission.

Article 5

Local Planning -- Zoning

Section 6-29-710. (A) Zoning ordinances must be for the general purposes of guiding development in accordance with existing and future needs and promoting the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare. To these ends, zoning ordinances must be made with reasonable consideration of the following purposes, where applicable:

- (1) to provide for adequate light, air, and open space;
- (2) to prevent the overcrowding of land, to avoid undue concentration of population, and to lessen congestion in the streets;
- (3) to facilitate the creation of a convenient, attractive, and harmonious community;
- (4) to protect and preserve scenic, historic, or ecologically sensitive areas;
- (5) to regulate the density and distribution of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports and approaches thereto, water supply, sanitation, protection against floods, public activities, and other purposes;
- (6) to facilitate the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks, and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements. 'Other public requirements' which the local governing body intends to address by a particular ordinance or action must be specified in the preamble or some other part of the ordinance or action;
- (7) to secure safety from fire, flood, and other dangers; and
- (8) to further the public welfare in any other regard specified by a local governing body.

Section 6-29-720. (A) When the local planning commission has prepared and recommended and the governing body has adopted at least the land use element of the comprehensive plan as set forth in this chapter, the governing body of a municipality or county may adopt a zoning ordinance to help implement the comprehensive plan. The zoning ordinance shall create zoning districts of such number, shape, and

Section 6-29-740. In order to achieve the objectives of the comprehensive plan of the locality and to allow flexibility in development that will result in improved design, character, and quality of new mixed use developments and preserve natural and scenic features of open spaces, the local governing authority may provide for the establishment of planned development districts as amendments to a locally adopted zoning ordinance and official zoning map. The adopted planned development map is the zoning district map for the property. The planned development provisions must encourage innovative site planning for residential, commercial, institutional, and industrial developments within planned development districts. Planned development districts may provide for variations from other ordinances and the regulations of other established zoning districts concerning use, setbacks, lot size, density, bulk, and other requirements to accommodate flexibility in the arrangement of uses for the general purpose of promoting and protecting the public health, safety, and general welfare. Amendments to a planned development district may be authorized by ordinance of the governing authority after recommendation from the planning commission. These amendments constitute zoning ordinance amendments and must follow prescribed procedures for the amendments. The adopted plan may include a method for minor modifications to the site plan or development provisions.

Section 6-29-750. In accordance with a special development district parking facility plan and program, which includes guidelines for preferred parking locations and indicates prohibited parking areas, the planning commission may recommend and the local governing body may adopt regulations which permit the reduction or waiver of parking requirements within the district in return for cash contributions or dedications of land earmarked for provision of public parking or public transit which may not be used for any other purpose. The cash contributions or the value of the land may not exceed the approximate cost to build the required spaces or provide the public transit that would have incurred had not the reduction or waiver been granted.

Section 6-29-760. (A) Before enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it, which must be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing must be given in a newspaper of general circulation in the municipality or county. In cases involving rezoning, conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. If the local government maintains a list of groups that have expressed an interest in being informed of zoning proceedings, notice of such meetings must be mailed to these groups. No change in or departure from the text or maps as recommended by the local planning commission may be made pursuant to the hearing unless the change or departure be first submitted to the planning commission for review and recommendation. The planning commission shall have a time prescribed in the ordinance which may not be more than thirty days within which to submit its report and recommendation on the change to the governing authority. If the planning commission fails to submit a report within the prescribed time period, it is deemed to have approved the change or departure. When the required public hearing is held by the planning commission, no public hearing by the governing authority is required before amending the zoning ordinance text or maps.

(B) If a landowner whose land is the subject of a proposed amendment will be allowed to present oral or written comments to the planning commission, at least ten days' notice and an opportunity to comment in the same manner must be given to other interested members of the public, including owners of adjoining property.

(C) An owner of adjoining land or his representative has standing to bring an action contesting the ordinance or amendment; however, this subsection does not create any new substantive right in any party.

(D) No challenge to the adequacy of notice or challenge to the validity of a regulation or map, or amendment to it, whether enacted before or after the effective date of this section, may be made sixty

successors are appointed. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. The governing authority or authorities creating the board of zoning appeals may remove any member of the board for cause. The appointing authorities shall determine the amount of compensation, if any, to be paid to the members of a board of zoning appeals. None of the members shall hold any other public office or position in the municipality or county.

Section 6-29-790. The board shall elect one of its members chairman, who shall serve for one year or until he is re-elected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the governing authority or of the zoning board. The board shall adopt rules of procedure in accordance with the provisions of an ordinance adopted pursuant to this chapter. Meetings of the board must be held at the call of the chairman and at such other times as the board may determine. Public notice of all meetings of the board of appeals shall be provided by publication in a newspaper of general circulation in the municipality or county. In cases involving variances or special exceptions conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which must be immediately filed in the office of the board and must be a public record.

Section 6-29-800. (A) The board of appeals has the following powers:

- (1) to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;
- (2) to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:
 - (a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
 - (b) these conditions do not generally apply to other property in the vicinity;
 - (c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
 - (d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
- (i) The board may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance. A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit such a variance, it may require the affirmative vote of two-thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.
- (ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare;
- (3) to permit uses by special exception subject to the terms and conditions for the uses set forth for such uses in the zoning ordinance; and

appeal on the certified record of the board proceedings. The findings of fact by the board of appeals shall be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning board of appeals for rehearing. In determining the questions presented by the appeal, the court shall determine only whether the decision of the board is correct as a matter of law. In the event that the decision of the board is reversed by the circuit court, the board is charged with the costs, and the costs must be paid by the governing authority which established the board of appeals.

Section 6-29-850. A party in interest who is aggrieved by the judgment rendered by the circuit court upon the appeal may appeal in the same manner as provided by law for appeals from other judgments of the circuit court in law cases.

Section 6-29-860. The governing authority may appropriate such monies, otherwise unappropriated, as it considers fit to finance the work of the board of appeals and to generally provide for the enforcement of any zoning regulations and restrictions authorized under this chapter which are adopted and may accept and expend grants of money for those purposes from either private or public sources, whether local, state, or federal.

Section 6-29-870. (A) A local government which enacts a zoning ordinance which makes specific provision for the preservation and protection of historic and architecturally valuable districts and neighborhoods or significant or natural scenic areas, or protects or provides, or both, for the unique, special, or desired character of a defined district, corridor, or development area or any combination of it, by means of restriction and conditions governing the right to erect, demolish, remove in whole or in part, or alter the exterior appearance of all buildings or structures within the areas, may provide for appointment of a board of architectural review or similar body.

(B) The board shall consist of not more than ten members to be appointed by the governing body of the municipality or the governing body of the county which may restrict the membership on the board to those professionally qualified persons as it may desire. The governing authority or authorities creating the board may remove any member of the board which it has appointed.

(C) The appointing authorities shall determine the amount of compensation, if any, to be paid to the members of a board of architectural review. None of the members may hold any other public office or position in the municipality or county.

(D) The board shall elect one of its members chairman, who shall serve for one year or until he is re-elected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the governing authority or of the board of architectural review. The board shall adopt rules of procedure in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the board must be held at the call of the chairman and at such other times as the board may determine. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which immediately must be filed in the office of the board and must be a public record.

Section 6-29-880. The board of architectural review has those powers involving the structures and neighborhoods as may be determined by the zoning ordinance. Decisions of the zoning administrator or other appropriate administrative official in matters under the purview of the board of architectural review may be appealed to the board where there is an alleged error in any order, requirement, determination, or decision.

Section 6-29-890. (A) Appeals to the board may be taken by any person aggrieved or by any officer,

Section 6-29-950, (A) The governing authorities of municipalities or counties may provide for the enforcement of any ordinance adopted pursuant to the provisions of this chapter providing for the withholding of building or zoning permits, or both, and the issuance of stop orders for any work undertaken by an entity not having a proper building or zoning permit, or both, if it is intended to construct, reconstruct, alter, demolish, change the use of or occupy any land, building, or other structure without first obtaining the appropriate permit or permit approval. No person shall erect, alter, or demolish unless the requirements of this chapter or any ordinance adopted pursuant to it are complied with. It is unlawful for other persons to erect, alter, or demolish any building, structure, or other structure of the construction, conversion, demolition, enlargement, movement, or structural alteration of structure without the approval of the zoning administrator. A violation of any ordinance adopted pursuant to the provisions of this chapter is a misdemeanor. In case a building, structure, or land is or is proposed to be used in violation of any ordinance adopted pursuant to this chapter, the zoning administrator or other appropriate administrative officer, municipal or county attorney, or other appropriate authority of the municipality or county or an adjacent or neighboring property owner who would be specially damaged by the violation may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land. Each day the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues is considered a separate offense.

(B) In case a building, structure, or land is or is proposed to be used in violation of an ordinance adopted pursuant to this chapter, the zoning administrator or other designated administrative officer may in addition to other remedies issue and serve upon a person pursuing the activity or activities a stop order requiring that entity stop all activities in violation of the zoning ordinance.

Section 6-29-960. When the regulations made under authority of this chapter require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under another statute, or local ordinance or regulation, the regulations made under authority of this chapter govern. When the provisions of another statute require more restrictive standards than are required by the regulations made under authority of this chapter, the provisions of that statute govern.

Article 7

Local Planning -- Land Development Regulation

Section 6-29-1110 As used in this article:

- (1) 'Land development' means the changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, lease, or any combination of owner and rental characteristics.
- (2) 'Subdivision' means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record; however, the following exceptions are included within this definition only for the purpose of requiring that the local planning agency be informed

authority. The submission for filing or the recording of a subdivision plat or other land development plan without proper approval as required by this chapter is declared a misdemeanor and, upon conviction, is punishable as provided by law.

Section 6-29-1150. (A) The land development regulations adopted by the governing authority must include a specific procedure for the submission and approval or disapproval by the planning commission or designated staff. These procedures may include requirements for submission of sketch plans, preliminary plans, and final plans for review and approval or disapproval. Time limits, not to exceed sixty days, must be set forth for action on plans or plats, or both, submitted for approval or disapproval. Failure of the designated authority to act within sixty days of the receipt of development plans or subdivision plats with all documentation required by the land development regulations is deemed to constitute approval and the developer must be issued a letter of approval and authorization to proceed based on the plans or plats and supporting documentation presented. The sixty-day time limit may be extended by mutual agreement.

(B) A record of all actions on all land development plans and subdivision plats with the grounds for approval or disapproval and any conditions attached to the action must be maintained as a public record. In addition, the developer must be notified in writing of the actions taken.

(C) Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the planning commission by any party in interest. The planning commission shall act on the appeal within sixty days and the action of the planning commission is final. An appeal from the decision of the planning commission may be taken to circuit court within thirty days after actual notice of the decision.

Section 6-29-1160. The county official whose duty it is to accept and record real estate deeds and plats may not accept, file, or record a land development plan or subdivision plat involving a land area subject to land development regulations adopted pursuant to this chapter unless the development plan or subdivision plat has been properly approved. If a public official violates the provisions of this section, he is, in each instance, subject to the penalty provided in this article and the affected governing body, private individual, or corporation has rights and remedies as to enforcement or collection as are provided, and may enjoin any violations of them.

Section 6-29-1170. The approval of the land development plan or subdivision plat may not be deemed to automatically constitute or effect an acceptance by the municipality or the county or the public of the dedication of any street, easement, or other ground shown upon the plat. Public acceptance of the lands must be by action of the governing body customary to these transactions.

Section 6-29-1180. In circumstances where the land development regulations adopted pursuant to this chapter require the installation and approval of site improvements prior to approval of the land development plan or subdivision plat for recording in the office of the county official whose duty it is to accept and record the instruments, the developer may be permitted to post a surety bond, certified check, or other instrument readily convertible to cash. The surety must be in an amount equal to at least one hundred twenty-five percent of the cost of the improvement. This surety must be in favor of the local government to ensure that, in the event of default by the developer, funds will be used to install the required improvements at the expense of the developer.

Section 6-29-1190. The owner or agent of the owner of any property being developed within the municipality or county may not transfer title to any lots or parts of the development unless the land development plan or subdivision has been approved by the local planning commission or designated authority and an approved plan or plat recorded in the office of the county charged with the responsibility of recording deeds, plats, and other property records. A transfer of title in violation of this provision is a misdemeanor and, upon conviction, must be punished in the discretion of the court. A description by

1031 Shiloh Rd.
Seneca, S. C. 29678
March 26, 1997

Supervisor Harrison Orr
South Church St.
Walhalla, S. C. 29691

Dear Supervisor Orr:

I have been nominated to serve on a Statewide Commission.
Regrettably, I must resign my position, on the Oconee
County Parks, Recreation and Tourism Commission.

It has been a pleasure and learning experience to
serve on this commission.

Sincerely,

Brenda Martin

Brenda Martin

BALLENGER, FEDDER, CAIN & NORTON, L.L.P.
ATTORNEYS AT LAW
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SENECA, SC 29679
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W.J. Fedder (Of Counsel)
Timothy M. Cain, P.A.
Bradley A. Norton

William H. Ballenger (Of Counsel)
Karen F. Ballenger

March 10, 1997

Ms. Marianne Dillard
Purchasing Director
Oconee County Mailroom
208 Booker Drive
Walhalla, SC 29691

Re: Workers' Compensation Coverage

Dear Marianne:

This letter will follow up our several previous discussions concerning whether or not the County should require persons, firms or entities bidding for County work to have workers' compensation insurance coverage.

Enclosed please find a copy of that decision of the South Carolina Court of Appeals in the case of Samuel Terran Neese v. Michelin Tire Corporation and South Carolina Vocational Rehabilitation, Opinion No. 2578 filed on October 14, 1996 in Advance Sheet No. 27. This case provides a good general discussion of the law in South Carolina as it relates to "statutory employees". In this case, the Court of Appeals held that the Claimant was the statutory employee of Michelin Tire Corporation even though the Claimant was employed by an independent contractor, Vanguard Services, Inc. and even though Vanguard and Michelin had an agreement which provided that Vanguard's employees would be the sole employees of Vanguard and that workers' compensation insurance was the sole responsibility of Vanguard.

As the decision indicates, coverage under the workers' compensation act is generally dependent upon the existence of an employer/employee relationship. However, an exception to this general rule includes the one found in §42-1-400 of the Workers' Compensation Act which provides that when an owner undertakes to perform or execute work which is a part of the owner's trade, business or occupation and contracts with any other person to do all or part of the work, the owner is liable to pay any workman employed in such work which the owner would have been responsible to pay if the workman had been immediately employed by the owner.

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As the decision states, "thus, depending on the nature of the work performed by the subcontractor, an employee of a subcontractor may be considered to be a statutory employee of the owner or upstream employer." The factors which a Court would use to determine whether a subcontractor or worker not employed by the County would be the "statutory employee" of the County thus subjecting the County to liability for workers' compensation coverage include:

1. Whether the activity of the subcontractor or worker is an important part of the County's trade or business;
2. Whether the activity performed by the subcontractor or worker is a necessary, essential and integral part of the County's business or operations; or
3. Whether the identical activity performed by the subcontractor or worker has been performed by employees of the County.

If any one of these tests is satisfied, the injured subcontractor or worker would be considered the statutory employee of the County and the County could be held responsible for paying the injured person's medical bills, lost wages and compensation for any permanent disability.

As we have previously discussed, there may be some types of County work which are performed by outside persons which would not meet one of the three (3) tests set forth above. Other types of work being performed for the County by outside persons would meet one of the three (3) tests. This would have to be determined on a case by case basis.

It would, therefore, appear that the options available to the County concerning workers' compensation coverage would include:

1. Requiring workers' compensation coverage on a case by case basis applying the tests discussed by the Court in each particular job or activity;
2. Requiring workers' compensation on all jobs as a matter of policy; or,
3. Not requiring workers' compensation coverage on any job and hoping for the best.

While I do not recommend the third option, it will be up to County Council to make these decisions. As in the past, if it is determined that it is prudent to have the outside employees covered

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but not practical to require that such coverage be provided by reason of the lack of availability of responsive bidders or for a sole source situation, the County could explore having such outside workers added to the County's workers' compensation coverage for the duration of the job which is being performed by the outside employees.

It may also be helpful to determine what the State's policy is concerning these matters as well as what other local government entities are doing.

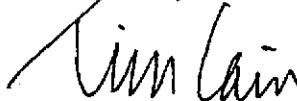
If the County Council chooses to adopt a policy concerning this matter, it could be included in the revised purchasing ordinance if and when such ordinance is adopted.

I hope and trust this information will be of assistance. Necessarily, should there be any questions, please do not hesitate to call upon me.

With kind personal regards, I remain,

Sincerely,

BALLENGER, FEDDER, CAIN & NORTON, L.L.P.


Timothy M. Cain

TMC/apc

cc: Mr. Harrison E. Orr (w/enclosure)
County Council Members (w/enclosure)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Samuel Terran Neese, Appellant.

v.

Michelin Tire Corporation and South Carolina Vocational
Rehabilitation, Defendants,

Of Whom Michelin Tire Corporation is Respondent.

Appeal From Greenville County
Costa A. Pleicones, Circuit Court Judge

Opinion No. 2578
Heard September 10, 1996 - Filed October 14, 1996

AFFIRMED

H.W. Pat Paschal, Jr., of Miller & Paschal, of Greenville, for
appellant.

N. Heyward Clarkson, III, of Clarkson & Fortson, of Greenville,
for respondent.

HOWELL, C.J.: Samuel Terran Neese (Neese) appeals from the circuit court's order concluding that Neese's action against Michelin Tire Corporation (Michelin) was barred by the exclusivity provision of the South Carolina Workers' Compensation Act. We affirm.

I.

In 1991, Neese was employed as a truck driver by Vanguard Services, Inc. (Vanguard), an interstate trucking company. Prior to December 1991, Vanguard and Michelin entered into a contract whereby Vanguard agreed to transport certain semi-finished products and packaging materials to and from Michelin's various facilities. Paragraph ten of the contract states:

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Vanguard is an independent contractor of Lessee (Michelin) and nothing in this Agreement or in the relationship between Vanguard or its drivers, and Lessee shall be found to constitute otherwise. Vanguard shall have sole control over its employees including, but not limited to, the method and amount of wage and benefit payments, and control of all hiring, firing or discipline of employees as well as all policies and procedures related to all other terms and conditions of employment. In acknowledgment that Vanguard drivers are Vanguard's employees only, Vanguard will have each employee, performing duties pursuant to this Agreement, individually read and sign a separate document entitled "Waiver of Employment and Non-disclosure Agreement". . . , stating that he/she works for Vanguard and not for Michelin Tire Corporation, and that he/she makes no claim for coverage by, or participation in, any Michelin Tire Corporation benefit or right.

As to workers' compensation insurance, the contract provides that "Workers' Compensation and Unemployment insurance is the sole responsibility of Vanguard with no concurrent responsibility imposed upon Lessee for employees of Vanguard." The contract further requires each Vanguard employee to execute a "Waiver of Employment and Nondisclosure Agreement" stating that the employee works for Vanguard and not for Michelin and that the employee "makes no claim for coverage by, or participation in, any Michelin Tire Corporation benefit or right."

Michelin operates a plant in Sandy Springs, South Carolina, where it converts raw materials into semi-finished products utilized in the manufacture of tires. The semi-finished products are packaged and/or placed in containers, such as spools, pallets, and racks, which are then transported to Michelin tire manufacturing plants. Generally, after the semi-finished products have been used by the manufacturing plant, the empty containers and packaging are transported to the Sandy Springs plant for re-use. In this case, steel spools were first transported to the Anderson Vocational Rehabilitation Center (AVRC), where the spools were unloaded and stripped of any remaining steel cable, and then loaded into trailers for transport back to the Sandy Springs plant for re-use.

On December 20, 1991, Neese was attempting to unload the steel spools and was injured when he opened the truck doors and the spools fell on him.¹ Neese received workers' compensation benefits from Vanguard for his injuries. Thereafter, Neese filed this action,

¹ In his brief, Neese contends that at the time of his injury, he was transporting the spools from the Sandy Springs plant to AVRC for stripping. However, Michelin contends, and the trial court's order states, that Neese was transporting empty spools from AVRC to the Sandy Springs plant when he was injured. Whether Neese was injured at AVRC or the Sandy Springs plant is not relevant to the issues involved in this appeal.

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contending Michelin employees negligently stacked the steel spools, causing his injuries.² Michelin sought to dismiss Neese's claim, contending that Neese was its statutory employee, and, therefore, his claim was barred by the exclusivity provision of the Act. The circuit court agreed, and dismissed Neese's claims against Michelin. This appeal followed.

II.

On appeal, Neese first argues that "independent contractor" and "statutory employee" are mutually exclusive categories. Accordingly, because Neese was an independent contractor as to Michelin, Neese contends he could not have been Michelin's statutory employee. We disagree.

Coverage under the Workers' Compensation Act is generally dependent on the existence of an employer-employee relationship. McDowell v. Stilley Plywood Co., 210 S.C. 173, 182, 41 S.E.2d 872, 876 (1947) ("In the absence of a statutory provision to the contrary, an injured person who is not an employee, but an independent contractor for the work, is not within the scope of a compensation act."); McLeod v. Piggly Wiggly Carolina Co., 280 S.C. 466, 469, 313 S.E.2d 38, 39 (Ct. App. 1984) ("No award under the Workers' Compensation Law is authorized unless the employer-employee or master-servant relationship existed at the time of the alleged injury for which claim is made."). There are, however, certain statutory exceptions to this general rule.

One of these exceptions is found in section 42-1-400 of the Act, which, under some circumstances, imposes liability on employer or business owner for the payment of compensation benefits to a worker not directly employed by the employer:

When any person, in this section and §§ 42-1-420 and 42-1-430 referred to as "owner," undertakes to perform or execute any work which is a part of his trade, business or occupation and contracts with any other person (in this section and §§ 42-1-420 to 42-1-450 referred to as "subcontractor") for the execution or performance by or under such subcontractor of the whole or any part of the work undertaken by such owner, the owner shall be liable to pay to any workman employed in the work any compensation under this Title which he would have been liable to pay if the workman had been immediately employed by him.

S.C. Code. Ann. § 42-1-400 (1985). Thus, depending on the nature of the work performed by the subcontractor, an employee of a subcontractor may be considered to be a statutory employee of the owner or upstream employer. The statutory employee provisions of the Act are intended to

² Neese's claims against South Carolina Vocational Rehabilitation were dismissed by order dated November 29, 1995, before the hearing on Michelin's motion to dismiss.

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afford the benefits of compensation to the men who are exposed to the risks of its business, and to place the burden of paying compensation upon the organizer of the enterprise. In consequence, both the owner and the contractors whom he engages to do his work are subjected to the requirements of the Act, and the workers receive double protection.

Parker v. Williams & Madjanik, Inc., 275 S.C. 65, 73, 267 S.E.2d 524, 528 (1980).

If a worker is properly classified as a statutory employee, his sole remedy for work-related injuries is to seek relief under the Workers' Compensation Act; he may not maintain a negligence cause of action against his direct employer or his statutory employer. S.C. Code Ann. § 42-1-540 (1976 and Supp. 1995); Carter v. Florentine Corp., 310 S.C. 228, 230-31, 423 S.E.2d 112, 113 (1992) (exclusivity provision of Workers' Compensation Act extends to direct and statutory employees), overruled on other grounds, Ballenger v. Bowen, 313 S.C. 476, 443 S.E.2d 379 (1994); Parker, 275 S.C. at 74, 267 S.E.2d at 527 (statutory employers are immune from a tort action brought by a statutory employee); Bell v. South Carolina Elec. & Gas Co., 234 S.C. 577, 582, 109 S.E.2d 441, 443 (1959) (where the plaintiff was an employee of contractor performing work that was part of the owner's business, trade or occupation, and collected compensation benefits from the contractor, the plaintiff's common law action against the owner, his statutory employer, was barred by the exclusivity provision of the Act).

Whether a worker is a statutory employee is a jurisdictional inquiry to be resolved by the court. Adams v. Davison-Paxon Co., 230 S.C. 532, 543, 96 S.E.2d 566, 571 (1957); Hairston v. Re: Leasing, Inc., 286 S.C. 493, 496, 334 S.E.2d 825, 826 (Ct. App. 1985). To determine whether the work performed by a subcontractor is a part of the owner's business within the meaning of section 42-1-400, this Court must consider whether (1) the activity of the subcontractor is an important part of the owner's trade or business; (2) the activity performed by the subcontractor is a necessary, essential, and integral part of the owner's business; or (3) the identical activity performed by the subcontractor has been performed by employees of the owner. Smith v. T.H. Snipes & Sons, Inc., 306 S.C. 289, 292, 411 S.E.2d 439, 440 (1991). If any one of these tests is satisfied, the injured worker is considered the statutory employee of the owner. Riden v. Kemet Elecs. Corp., 313 S.C. 261, 263, 437 S.E.2d 156, 158 (Ct. App. 1993). Any doubts as to a worker's status are to be resolved in favor of coverage under the Act. *Id.*

In this case, the evidence presented by the parties supports the trial court's conclusion that the work being performed by Vanguard was part of Michelin's business within the meaning of section 42-1-400. Michelin is in the business of manufacturing tires, and the Sandy Springs plant converts raw materials into semi-finished products used by Michelin in the manufacturing process. Clearly, the packaging and transportation of these semi-finished products to Michelin's manufacturing plant is an integral part of Michelin's business, given that the tires could not be manufactured without the use of the semi-finished products. Likewise, the transporting of packaging materials necessary for the transportation of the semi-finished products is an integral

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part of Michelin's business. Accordingly, this Court concludes that the activities performed by Vanguard are a part of Michelin's trade, business, or occupation.

Neese, however, argues that, regardless of the nature of the activities performed by Vanguard, he cannot be a statutory employee of Michelin, because he is an independent contractor of Michelin. We disagree.

Section 42-1-400 extends workers' compensation coverage to injured "workmen" of a subcontractor performing work which is part of the owner's trade, business, or occupation. Our Supreme Court has made clear that "workman" as used in section 42-1-400 is synonymous with "employee." McDowell, 210 S.C. at 182, 41 S.E.2d at 876. Section 42-1-400, therefore, imposes liability on an upstream employer if the injured worker is an employee of the subcontractor, but not if the worker is an independent contractor of the subcontractor. See McDowell, 210 S.C. at 183, 41 S.E.2d at 876 (reversing award of workers' compensation benefits because the injured worker was an independent contractor of subcontractor rather than employee of subcontractor). The fact that the subcontractor, and, by extension, the subcontractor's employees, may be independent contractors as to the upstream employer does not preclude the application of section 42-1-400:

Once it is established that the work being done by the subcontractor was a part of the general business of the owner within the meaning of [the precursor to 42-1-400], even though the subcontractor might occupy the status of an independent contractor, the employees of the subcontractor so engaged are limited . . . to the exclusive remedy of the Workmen's Compensation Act.

Bridges v. Wvandotte Worsted Co., 243 S.C. 1, 10-11, 132 S.E.2d 18, 22 (1963) (emphasis added). Accord Bailey v. Owen Elec. Steel Co. of S.C., 298 S.C. 36, 38, 378 S.E.2d 63, 64 (Ct. App. 1989) (Where subcontractor's activities were part of the owner's general business or trade, an employee of the subcontractor was considered a statutory employee of the owner, even though the subcontractor was an independent contractor), reversed on other grounds, 301 S.C. 399, 392 S.E.2d 186 (1990); Murray v. Aaron Mizell Trucking Co., 286 S.C. 351, 355, 334 S.E.2d 128, 130 (Ct. App. 1985) (Under section 42-1-400, any contractor for whom a subcontractor undertakes to perform a part of the contractor's trade, business or occupation is liable to pay compensation benefits to an injured employee of the subcontractor in the same manner as if the employee had been employed by the principal contractor, even if the employee's immediate employer is also an independent contractor). Thus, the nature of Vanguard's and Neese's relationship with Michelin is not relevant to the determination of whether Neese is a statutory employee of Michelin. Instead, what is relevant to the determination is the nature of the activities performed by Vanguard, and the nature of Neese's relationship with Vanguard. Bridges, 243 S.C. at 10-11, 132 S.E.2d at 22.

In support of his argument that his status as an independent contractor prevents him from being a statutory employee, Neese largely relies on Smith v. Squires Timber Co., 311 S.C. 321,

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428 S.E.2d 878 (1993). In that case, Squires Timber Company, a timber supplier, engaged independent logging companies to cut and haul timber to its customers. Squires contracted with the Randy Brown Logging Company to cut and deliver timber, and Brown in turn contracted with Smith to deliver cut timber. Unlike Brown's regular employees, Smith used his own equipment, worked when he chose, and was paid based on his production. Brown withheld no employee deductions from Smith's pay. Smith was killed in a highway accident while returning to Squire's logging site with a load of rejected timber. Smith's wife and child filed for workers' compensation benefits, alleging that Smith was an employee of either Brown or Squires. The single commissioner concluded that Smith was an independent contractor and not an employee of Brown, and that Smith was neither an employee nor a statutory employee of Squires. Accordingly, the commissioner denied benefits to Smith's family. His decision was affirmed by the full commission and the circuit court.

Smith's family appealed the decision denying benefits to this Court. While their appeal was pending, our Supreme Court held in Smith v. T.H. Snipes & Sons, Inc., 306 S.C. 289, 411 S.E.2d 439 (1991), that section 42-1-400 did not preclude the classification of a subcontractor as a statutory employee. Relying on Snipes, this Court remanded Squires Timber to the commission for consideration of whether Smith, although an independent contractor of Brown, also could have been a statutory employee of Brown. The Supreme Court reversed this Court, holding that, as a general rule, independent contractors or subcontractors are not included under the Workers' Compensation Act. Squires Timber, 311 S.C. at 324, 428 S.E.2d at 880. Citing Snipes, the Supreme Court noted that S.C. Code Ann. § 42-1-130 creates a narrow exception to the general rule by allowing an independent contractor or subcontractor to become an "employee" by electing coverage under his business's workers' compensation benefits.³ Id. The Supreme Court found this exception did not apply to Smith because he did not own a business, did not carry workers' compensation for his employees, and thus could not elect coverage under section 42-1-130. The Supreme Court therefore concluded that Smith, as an independent contractor not falling within the Snipes exception, was excluded from coverage under the Workers' Compensation Act. 311 S.C. at 325, 428 S.E.2d at 880.

While the Supreme Court's opinion in Squires Timber does contain some rather broad language, this Court does not believe it stands for the proposition that an independent contractor can never be a statutory employee under section 42-1-400, as Neese contends. The worker in Squires Timber was an independent contractor, not an employee, of the subcontractor. Therefore, because he was not an employee of the subcontractor, he could not be characterized as a statutory

³ Section 42-1-130 of the Act provides that any "sole proprietor or partner of a business whose employees are eligible for benefits under this title may elect to be included as employees under the workers' compensation coverage of the business." S.C. Code Ann. § 42-1-130 (Supp. 1995). If the sole proprietor or partner of such a business properly elects coverage, he is entitled to receive benefits under the Act and is subject to the responsibilities imposed by the Act, just as any other covered employee. Id.

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employee of the upstream employer. Moreover, because the injured worker did not own a business, he could not have elected workers' compensation coverage under section 42-1-130. Accordingly, this Court understands Squires Timber to be an application of the above-discussed rule that where the injured worker is an independent contractor rather than an employee of the subcontractor, the injured worker cannot be considered a statutory employee of an upstream employer.

Neese's argument that section 42-1-400 applies only to injured workers who can be considered employees of the upstream employer is inconsistent with established case law and, more importantly, renders section 42-1-400 of the Act meaningless. Employees of a business are entitled to workers' compensation benefits under the general provisions of the Act. If Neese's construction of the Act were correct, section 42-1-400 would be unnecessary, because all employees of the upstream employer are already covered under the Act. See Marchbanks v. Duke Power Co., 190 S.C. 336, 343, 2 S.E.2d 825, 828 (1939) ("If it [the precursor to section 42-1-400] does not apply to an employee of an independent contractor, where such independent contractor is engaged in the trade, business or occupation of the owner, to what does it apply? Does it only apply where such employee is the servant of the owner? Surely not, because such a situation has already been covered by the general provisions of the Act. This paragraph must be construed to have been enacted for some purpose."). Thus, while Vanguard and Neese may well be independent contractors rather than employees as to Michelin, this fact is not relevant to the determination of Neese's status as a statutory employee of Michelin. As section 42-1-400 and the cases interpreting it make clear, an injured worker's status as a statutory employee is dependent on the nature of the work being performed by the subcontractor and the injured worker's employment status with regard to the subcontractor. Here, Neese concedes he was an employee of Vanguard. Therefore, because Vanguard was performing Michelin's business within the meaning of section 42-1-400, Neese, as an employee of Vanguard, is considered a statutory employee of Michelin.⁴

III.

Neese also contends that the trial court erred by looking solely to the nature of the activities performed by Vanguard and failing to consider the effect of the contract between Michelin and Vanguard. According to Neese, it is the contract between the parties, and not the nature of the activities performed under the contract, that controls the determination of whether Neese is a statutory employee of Michelin. In support of this argument, Neese relies on Boone v. Huntington & Guerry Electrical Co., 311 S.C. 550, 430 S.E.2d 507 (1993) and Deskins v.

⁴ Accordingly, Neese's argument that the case must be remanded because the trial court failed to make a finding of fact as to Neese's status as an independent contractor with regard to Michelin is without merit.

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Boltin, 317 S.C. 310, 454 S.E.2d 322 (Ct. App. 1994).⁵ These cases, however, involve the scope of the Act's immunity granted to co-employees, and thus are not applicable to cases involving a determination of the statutory employee issue.

Under section 42-5-10 of the Workers' Compensation Act, the immunity from common law actions granted to the employer by the Act also extends to a co-employee conducting the employer's business.⁶ Thus, an employee injured by the actions of a co-employee conducting the employer's business may not proceed in tort against the co-employee. Nolan v. Daley, 222 S.C. 407, 73 S.E.2d 449 (1952). In Boone, the case relied upon by Neese, a J.P. Stevens employee brought an action against a J.P. Stevens subcontractor, contending the subcontractor's negligence caused her injuries. The subcontractor argued it was a statutory employee of J.P. Stevens; therefore, as a co-employee of the plaintiff, it was entitled to immunity under section 42-5-10. Boone, 311 S.C. at 552, 430 S.E.2d at 508. The Supreme Court rejected this argument, holding that the immunity granted by section 42-5-10 extends only to other employees of the employer, not independent contractors. The Court concluded that, for purposes of determining immunity under section 42-5-10, "[i]t is the nature of the contractual relationship between J.P. Stevens and [the subcontractor] and not the nature of [the subcontractor's] activity which determines whether [the subcontractor] is entitled to share immunity under section 42-5-10." Id. at 554, 430 S.E.2d at 509. The Court specifically declined to address the statutory employee issue, stating that although a subcontractor's status as a statutory employee is relevant to determining an upstream employer's liability for compensation benefits, it is not relevant to a determination of the subcontractor's immunity under section 42-5-10. Id. at 553, 430 S.E.2d at 509.

The issue before this Court is Neese's status as Michelin's statutory employee; there is no question about Vanguard's immunity from an action brought by one of Michelin's employees. As the Boone court noted, the determination of a subcontractor's immunity as a co-employee is unrelated to the determination of a subcontractor's employee's status as a statutory employee. Accordingly, Boone and the other cases involving a subcontractor's immunity under section 42-5-10 are inapplicable to the case at bar, and do not affect the conclusion that Neese is Michelin's statutory employee.

⁵ The Supreme Court vacated this Court's opinion in Deskins, concluding that the trial court's order was not appealable. Deskins v. Boltin, ___ S.C. ___, 461 S.E.2d 395 (1995).

⁶ Every employer who accepts the compensation provisions of this Title shall secure the payment of compensation to his employees in the manner provided in this chapter. While such security remains in force he or those conducting his business shall only be liable to any employee who elects to come under this Title for personal injury or death by accident to the extent and in the manner specified in this Title.

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Moreover, even if this Court were to accept the contract's declaration that Vanguard is an independent contractor and not an employee of Michelin,⁷ it would not affect the conclusion that Neese is a statutory employee of Michelin. As discussed above, Vanguard's status as an independent contractor as to Michelin does not preclude the classification of Neese as Michelin's statutory employee. See Bridges, 243 S.C. at 10-11, 132 S.E.2d at 22; Bailey, 298 S.C. at 38, 378 S.E.2d at 64; Murray, 286 S.C. at 355, 334 S.E.2d at 130.

In his Reply brief, Neese further argues that if he had sought to recover compensation benefits from Michelin, Michelin would have relied on the contract to avoid responsibility. Thus, Neese contends that Michelin should not be able to seek the benefit of the immunity conferred by the Act when it has contracted away its obligation to provide benefits under the Act. While this argument may have certain emotional appeal, it fails nonetheless.

The immunity granted by the Act parallels the liability imposed by the Act. Freeman Mechanical, Inc. v. J.W. Bateson Co., 316 S.C. 95, 98, 447 S.E.2d 197, 199 (1994) ("The majority rule is that one who has obligations under the Act enjoys the immunities under the Act."). However, immunity under the Act is not limited only to those who have actually paid benefits; rather, the Act extends immunity to those who are potentially responsible for providing workers' compensation benefits. Id. (although compensation benefits were paid by injured worker's immediate employer, the prime contractor, as worker's statutory employer, was potentially liable to worker and, therefore, was entitled to the Act's immunity from common law claims); Birmingham v. Williams Sign Erectors, Inc., 299 S.C. 259, 263, 384 S.E.2d 319, 321 (Ct. App. 1989) (the Act "relieve[s] those who might be potentially liable to provide compensation from tort liability.").

Here, because Neese was Michelin's statutory employee, Michelin was potentially liable for the payment of benefits to Neese. Bateson, 316 S.C. at 97, 447 S.E.2d at 199 (upstream employer is secondarily liable for payment of compensation benefits to a statutory employee). It may be that the contract between Michelin and Vanguard created certain indemnification rights between the parties that otherwise would not have existed; however, the contract cannot operate to relieve Michelin of its statutory workers' compensation obligations. See S.C. Code Ann. § 42-1-610 (1985) ("No contract or agreement, written or implied, . . . shall in any manner operate to relieve any employer, in whole or in part, of any obligation created by this Title except as otherwise expressly provided in this Title."). Likewise, any waiver executed by Neese in accordance with the contract between Michelin and Vanguard could not deprive Neese of his statutory right to seek compensation benefits from Michelin as his statutory employer. See S.C. Code Ann. § 42-1-620 (1985) ("No agreement by an employee to waive his rights to

⁷ But see Kilgore Group, Inc. v. South Carolina Employment Sec. Comm'n, 313 S.C. 65, 68-69, 437 S.E.2d 48, 50 (1993) (While a contract entered into by the parties must be considered, language in the contract declaring the relationship to be that of an employer/independent contractor is not dispositive, because the parties do not control the legal effect of their contract.).

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compensation under this Title shall be valid."); Long v. Atlantic Homes, 311 S.C. 237, 241, 428 S.E.2d 711, 713 (1993) (injured worker may bring a claim against either his immediate employer or his statutory employer). Therefore, notwithstanding the contractual provisions to the contrary, Michelin had potential liability to Neese under the Workers' Compensation Act, and Michelin thus is entitled to the protection of the Act's immunity from suit.⁸

Accordingly, for the foregoing reasons, the trial court's dismissal of Neese's action against Michelin is hereby

AFFIRMED.

HEARN and STILWELL, JJ., concur.

⁸ The fact that Michelin has not paid any benefits to Neese does not prevent Michelin from asserting the immunity conferred by the Act. In Parker v. Williams & Madjanik, Inc., 275 S.C. 65, 267 S.E.2d 524 (1980), the injured worker received compensation benefits from his immediate employer, a subcontractor, and then filed a negligence action against two upstream employers. The Court held that the tort action was barred by the Act, because the injured worker was the statutory employee of the upstream employers. The Supreme Court noted that

[t]he fact that [neither of the upstream employers] had to pay the benefits provided is of no consequence. As a practical matter both absorbed the cost of coverage through their contracts with those who agreed to actually perform the work. This seems to have been the General Assembly's intent when it enacted [the statutory employee provisions of the Act]. The owner who obtains the benefit of the work inevitably absorbs the costs of providing protection for the workers. In return, the employer receives immunity from other remedies which ordinarily might be sought by the employee.

275 S.C. at 74, 267 S.E.2d at 528.

Oconee County Rock Quarry

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Thomas S. Crumpton, Jr.
Director

(864) 638-4214
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Karen B. Kelley
Administrative Asst.

MEMORANDUM

TO: Opal Green
FROM: Tommy Crumpton ^{TC}/_{KOK}
SUBJECT: Proposed Price Increase on Stone
DATE: April 1, 1997

I would like to request that you assign these proposed price increases to a committee for approval at the next County Council Meeting. These prices will be implemented on July 1, 1997 upon final approval.

Thank you for all the consideration of this matter. If you should have any questions please feel free to contact me.

PRODUCT	LIBERTY	ANDERSON	DAVISON MIN.	OCONEE
CRUSHER RUN	6.30	6.30	6.20	5.15
CRUSHER RUN (#2)				4.25
2" x 3" CLEAN			8.10	6.35
SCREENINGS	7.40	7.40	7.35	4.30
1" x 1/2" CLEAN	8.10		8.25	6.35
789 - 1/2" x 3/8"	13.10	13.10	13.00	6.70
4" x 8" SURGE	8.60	8.60	8.50	5.50
RIP RAP (1 FT. +)	15.00	15.00	15.00	5.50
ASPHALT SAND	8.00		8.00	5.15
6M - 3/8" x 1" CLEAN	10.30		10.20	6.20

PRICES FOR OCONEE COUNTY ARE PROPOSED PRICES FOR 1997-98 BUDGET YEAR.
 ALL OTHER PRICES ARE CURRENT PRICES AT VULCAN AND DAVISON MINERALS.
 SEE ATTACHED PRICE SHEET FOR CURRENT PRICES AT OCONEE COUNTY.