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Work Session: **Forfeiture under the U.S. Code**

Title: **Forfeiture Under the United States Code (Pursuant to 21 U.S.C.A. § 881)**

By

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The Creation of Willie B. Caractor Park

(How the Town of Lexington Turned a Nuisance into a Center of Community Pride)

Background and Investigation

The area surrounding Dreher's Party Shop at 804 Hendrix Street was annexed into the Town of Lexington, SC, in 1992. According to former Police Chief Michael Roth (now retired), and current Police Chief Terrence Green, who was a detective at the time, almost immediately the department began to receive complaints, calls and mail about the activity at the site.

It seems Dreher's Party Shop had developed a reputation as a "one stop shop" for liquor, beer, wine, and, unfortunately, illegal drugs. Most notably, crack cocaine had really burst upon the scene and its sale was reportedly prevalent at Dreher's Party Shop. Chief Green reports that customers were coming from all over two counties to purchase drugs, even to the extent of having drive-thru sales.

The Department began efforts in earnest to investigate and stop the sales in 1994, when an attempt was made to revoke the liquor license of Dreher's Party Shop. When this effort failed, the Department stepped up the drug investigation. Surveillance efforts began from across the street, in an old abandoned house which was chosen for a couple of reasons: 1) It was empty and had not been touched in years; 2) The local residents believed it was haunted and wouldn't come near it!

Detectives began the surveillance efforts at 5 a.m. each morning and worked late into the evening. Three meals a day were eaten in the "haunted house" by two detectives. The conditions in the haunted house were "scary" in that the detectives had to repel snakes and insects which came after their food. But, the nearby residents continued to stay away from the house because they didn't want to encounter any ghosts or evil spirits. Nobody in the area had a clue that the detectives had staked out in the haunted house for a couple of months.

The stakeout was necessary so as to facilitate enough incident reports to substantiate a claim that the property was a nuisance property. Over 100 incident reports were filed during the investigation, including assaults and disorderly conduct, but more importantly the sale of marijuana, cocaine, illegal liquor and crack cocaine. The investigation culminated in a Saturday night "roundup" as the Chief of Police called it, during which 16 "drug dealers" were arrested for a variety of illegal drug trafficking charges.

Federal Government Participation Under 21 U.S.C. § 881

Once the reports were compiled, they were turned over to the Drug Enforcement Agency and Federal help came to Lexington. The DEA had

requested all incident reports and drug arrests related to the property from 1992 until 2000. A pickup truck sized load of boxes of files and investigative reports were turned over to the DEA, and the effort began to seize the property because it had been declared a nuisance by the Town, and it was used to commit, or facilitate the commission of, controlled substance violations." 21 U.S.C.§ 881. (SEE EXHIBIT A)

Shortly thereafter, a DEA raid ensued, and multiple arrests were made, including the owner of the property who was arrested by Federal Agents while sitting on the toilet. The DEA followed up with the Forfeiture Action, filed pursuant to U.S.C. § 881(a)(7). The action was completed via Consent Order, recorded in the Federal District Court for South Carolina on February 28, 2001. (See EXHIBIT B)

STATE AND LOCAL GOVERNMENT PARTICIPATION

It was the Town of Lexington's intention to obtain title to the seized property, and turn it into green space or recreational space for the benefit of the community pursuant to 21 U.S.C. § 881(e)(4)(B). (SEE EXHIBIT C) Ultimately, the Town decided it wished to use it for a community park. However, there was a lot of legal work to be done, as the Federal Statute required the United States Government to turn the property over to the State. The entire transaction, therefore, required the participation of the United States Government, The U.S Federal Marshal's Office which had effected the seizure, the State of South Carolina and the Town of Lexington. The complexity of the arrangements gave rise to a Memorandum of Understanding which memorialized the requirements necessary to complete the transfer, and set forth the responsibility of each of the parties. (SEE EXHIBIT D)

The first step in the process was for the Town of Lexington to request the process begin, and the initial transfer was to be made to the State of South Carolina, pursuant to the aforementioned 21 U.S.C. § 881 (e)(4)(B). (SEE EXHIBIT E) This took place following formal approval by the Town Council, which had decided to name the park after the late Willie B. Caractor, a former teacher and community leader in the neighborhood. After the transfer to the State, the State in turn was required to transfer the property to the Town of Lexington. Of course, the Governor of South Carolina had to make the request that the Federal Government transfer the property to the State. (SEE EXHIBIT F)

The transfer from the Federal Government to the State of South Carolina was completed via Quit Claim Deed from the U.S. Marshal's Office on October 13, 2004. (SEE EXHIBIT G) The next link in the title chain was completed via Quit Claim Deed from the State of South Carolina to the Town of Lexington, said deed being recorded on December 13, 2004. (SEE EXHIBIT H)

A formal presentation of the property Deed was conducted as part of the Martin Luther King Day Festivities on January 17, 2005, as Lt. Governor Andre Bauer officially presented the Deed to Mayor Randy Halfacre. Lastly, on May 16, 2005, Dreher's Party Shop was torn down and the creation of Willie B. Caractor Park was underway. (SEE EXHIBT I)

Present Day Status of Willie B. Caractor Park

Today, the park is a source of pride in the community. Area residents are excited at what the Town has done for them, and they have taken great care of the park. Some of the very same folks who were involved in the aforementioned activities at Dreher's Party Shop are now unofficial caretakers of the park. They keep their eyes on it, won't let drug dealers in, won't let people sleep in the park, and have kept graffiti out of it. The park has developed into one of the more popular parks in the community and maintains its pristine condition. The community holds an extremely popular block party annually, out of which virtually no complaints or incidents have arisen. The "haunted house" was torn down by residents of the community and is today used for overflow parking by park visitors.