

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM JASPER COUNTY
Court of Common Pleas**

Honorable Carmen T. Mullen, Circuit Court Judge

C.A. No.: 2013-002266

74154

JASPER COUNTY BOARD OF EDUCATIONAppellant

v.

JASPER COUNTY COUNCIL AND JASPER COUNTY AUDITOR.....Respondent.

APPELLANT'S MOTION TO SUPPLEMENT THE RECORD ON APPEAL

CHILDS & HALLIGAN, P.A.

Kenneth L. Childs, S.C. Bar No. 1217
William F. Halligan, S.C. Bar No. 2607
Keith R. Powell, S.C. Bar No. 69292

1301 Gervais Street, Suite 900
P.O. Box 11367
Columbia, SC 29211
(803) 254-4035
Attorneys for Appellant

Other Counsel of Record:

Marvin C. Jones
Jasper County Attorney
P.O. Box 420
Ridgeland, SC 29936
Attorney for Respondents

Robert E. Lyon, Jr., General Counsel
John K. DeLoache, Staff Attorney
Alexander W. Smith, Staff Attorney
P.O. Box 8207, Columbia, SC 29202
Attorneys for *Amicus Curiae*
South Carolina Association of Counties

RECEIVED

NOV 14 2014

SC Court of Appeals

MOTION

Pursuant to SCACR 212(b), the Jasper County Board of Education (Appellant) moves to supplement the Record on Appeal with:

- (1) Respondent Jasper County Council's letter dated August 28, 2014, stating,

The Jasper County Council wants to put the Jasper County School District Board on notice that if the School District intends to increase its debt requiring an increase in debt service millage for this project beyond the current school debt service millage, the Jasper County Council will be forced to consider reducing the District's operating millage equal to the increase in debt service millage.

- (2) Ordinance No. 2014-13 of the Respondent Jasper County Council, purporting to set the school operating tax millage for Tax Year 2014 for the Appellant; and
- (3) The "Jasper County Tax Levy FY 14-15" certification dated June 16, 2014.

This action is under the Uniform Declaratory Judgments Act, which "is declared to be remedial. Its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations. It is to be liberally construed and administered." S.C. Code Ann. § 15-53-130. Leave to supplement the Record on Appeal will not prejudice the Respondents because the supplementary records are public governmental acts of the Respondent Jasper County Council itself, and directly concern the rights, duties, and legal relations of the parties under the statutes *sub judice*. S.C. Code Ann. §§ 15-53-20, -30. The Supreme Court relies upon public acts of the State subsequent to appeal at several points in *Abbeville County School District et al. v. State*, Op. No. 27466 (S.C.Sup.Ct. filed November 12, 2014) (*e.g.*, n.12 and n.15 (State "Report Cards").

WHEREFORE, the appellant respectfully requests that the court permit it to supplement the Record on Appeal.

Respectfully submitted,

CHILDS & HALLIGAN, P.A.



Kenneth L. Childs, S.C. Bar No. 1217
William F. Halligan, S.C. Bar No. 2607
Keith R. Powell, S.C. Bar No. 69292
P.O. Box 11367
Columbia, South Carolina 29211
(803) 254-4035

Attorneys for Appellant

November 14, 2014



Jasper County Council

358 THIRD AVENUE • RIDGELAND, SC 29936

P.O. BOX 1149 • RIDGELAND, SC 29936

BARBARA B. CLARK
Chairwoman

L. MARTIN SAULS, IV
Vice Chairman

THEODUS L. DRAYTON
Councilman

D. THOMAS JOHNSON
Councilman

HENRY ETHERIDGE
Councilman

August 28, 2014

VIA HAND-DELIVERY

Berty Riley, Chairman
Jasper County School District Board
10942 North Jacob Smart Boulevard
Ridgeland, South Carolina 29936

**Re: Proposed Renovation of 3776 Bees Creek Road Property For Use as Centralized District
Administrative Offices**

Dear Chairman Riley:

The Jasper County Council wants to put the Jasper County School District Board on notice that if the School District intends to increase its debt requiring an increase in debt service millage for this project beyond the current school debt service millage, the Jasper County Council will be forced to consider reducing the District's operating millage equal to the increase in debt service millage.

The Council believes that the project as proposed is an unnecessary and untimely burden for Jasper County taxpayers.

Sincerely,

JASPER COUNTY COUNCIL

Barbara B. Clark, Chairwoman

BBC/hj

cc: Jasper County School District Board

PHONE: (843) 717-3696

FAX: (843) 726-3270

**STATE OF SOUTH CAROLINA
COUNTY OF JASPER
ORDINANCE 2014 - 13
AN ORDINANCE
OF JASPER COUNTY COUNCIL**

TO PROVIDE FOR THE LEVY OF TAX FOR PUBLIC PURPOSES IN JASPER COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1ST, 2014 AND ENDING JUNE 30TH 2015 AND TO MAKE APPROPRIATIONS FOR SAID PURPOSES; TO ADOPT AND APPROVE THE JASPER COUNTY CAPITAL AND OPERATIONS BUDGET FOR FY 2014-2015; TO ADOPT AND APPROVE THE JASPER COUNTY SCHOOL DISTRICT CAPITAL AND OPERATIONS BUDGET FOR FY 2014 - 2015; TO PROVIDE FOR THE LEVY OF TAXATION FOR FY 2014 - 2015; TO LIMIT THE DISBURSEMENTS BY THE COUNTY TREASURER TO THOSE APPROPRIATED BY LAW; TO PROVIDE THAT EXPENDITURES NOT EXCEED APPROPRIATIONS; TO AUTHORIZE TAX ANTICIPATION NOTES; TO MAKE AUTHORIZATION OF CERTAIN TRANSFERS; TO PROVIDE FOR CONTINUING APPROPRIATIONS FOR SUBSEQUENT YEARS; TO REQUIRE CERTAIN AGENCIES AND DEPARTMENTS TO FILE ACCOUNTINGS; TO REQUIRE THE TREASURER TO SIGN GENERAL FUND CHECKS; TO PROVIDE SPECIAL RULES FOR TRAVEL AND TRAINING DISBURSEMENTS; TO PROVIDE FOR TRAVEL REIMBURSEMENTS; TO PROVIDE COMPLIANCE WITH ACT NO. 317 OF 1990; TO PROVIDE CERTAIN BENEFITS TO COUNCIL MEMBERS; TO PROVIDE FOR COUNTY COMMISSION AND COMMITTEE STIPENDS; TO PROVIDE FOR JURY MILEAGE; TO ADOPT PROPERTY VALUES; AND TO PROVIDE FOR EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED by the Jasper County Council in council duly assembled and by the authority of the same:

SECTION 1. Appropriation for Jasper County Capital and General Operations Budget. There is hereby appropriated from revenues to be collected from the stated sources the following sums for the Jasper County Capital and Operational needs and for the purposes set forth for fiscal year 2014 - 2015:

**JASPER COUNTY
CAPITAL AND GENERAL OPERATIONS BUDGET
FISCAL YEAR 2014-2015**

REVENUES	APPROPRIATIONS
County Property Tax Levy \$ 15,123,941	Emergency Service \$ 5,995,650
L.O.S.T. (Sales Tax) \$ 2,500,000	Detention \$ 2,929,569
Fee in Lieu \$ 2,250,000	Sheriff \$ 2,806,000
State Aid \$ 950,000	Engineering Services \$ 2,351,300
Cash Carry Forward \$ 542,000	Agency Appropriations \$ 1,116,251
All Other Revenues \$ 1,586,925	All Others \$ 7,754,096
<hr/>	
S-B Total \$ 22,952,866	Total \$ 22,952,866
County Debt Tax Levy \$ <u>1,278,000</u>	County Debt \$ <u>1,278,000</u>
<hr/>	
County Grand Total \$ 24,230,866	County Grand Total \$ 24,230,866

The detailed Operations Budget containing line by line accounts by department and /or agency is hereby adopted as part of this Ordinance. Management of individual accounts for the functions of elected officials shall be the responsibility of that elected official.

SECTION 2. Appropriation for Jasper County School District Capital and General Operations Budget. There is hereby appropriated from revenues to be collected from the stated sources the following sums for the Jasper County School District Capital and Operational needs and for the purposes set forth for fiscal year 2014 - 2015:

**JASPER COUNTY SCHOOL DISTRICT
CAPITAL AND GENERAL OPERATIONS BUDGET
FISCAL YEAR 2014-2015**

REVENUES	APPROPRIATIONS
School Property Operations Tax Levy \$ 12,546,000	School District Operations Tax Levy \$ 12,546,000
School Debt \$ <u>2,662,500</u>	School Debt \$ <u>2,662,500</u>
School Grand Total \$ 15,208,500	School Grand Total \$ 15,208,500

SECTION 3. Levy. There is hereby levied upon the taxable property of Jasper County a sufficient number of mills by the County Council from assessment of the property therein which, together with fines, forfeitures and taxes collected by various tax offices and all income of the County shall raise the amount therein appropriated and for the purpose herein stated.

SECTION 4. Disbursement by Treasurer. The Treasurer is directed to disburse to or on behalf of the activities described in Sections 1 and 2 no more than the amount appropriated and to hold all additional revenues referred to herein pending future appropriation by the County Council. In the event that the actual collection of revenue

shall be less than the appropriations made in Section 1 or 2, then appropriations shall be reduced to a sum equal to the amount of revenue actually collected.

SECTION 5. Expenditures Not to Exceed Appropriations. Expenditures shall not exceed appropriations without the consent of the County Council. County Council authorization to amend the budget shall be ratified by ordinance through a budget amendment.

SECTION 6. Tax Anticipation Notes Authorized. For the purpose of paying in cash for the foregoing and all other general ordinary County expenses for Fiscal Year 2014-2015 as authorized by this ordinance or by any other appropriation ordinance hereafter passed in and for said fiscal year, the County Council of Jasper County is hereby authorized, empowered, and directed to borrow from time to time as may be necessary on the official note or notes of Jasper County, or other evidence or evidences of indebtedness, in anticipation of the collection of the taxes herein levied, provided that all loans made from private persons, firms, or corporations shall not exceed \$6,000,000 in the aggregate. Such borrowing shall be sold in such manner and upon such terms as the County Administrator shall deem in the best interest of Jasper County, upon the advice of the County's financial advisor and counsel. Such borrowing may take the form of a public or private sale, as deemed appropriate by the Administrator. Such sum or sums so borrowed shall constitute a valid and prior claim against the said taxes herein levied and against Jasper County, and shall also be secured by a pledge of the full faith, credit, and taxing power of Jasper County. The Administrator, and any other officers or staff of Jasper County as are deemed by the Administrator necessary or convenient to the accomplishment of the borrowing authorized herein, are hereby authorized to execute all agreements, contracts, certificates, undertakings, disclosures, and other documentation as is convenient or necessary to facilitate such borrowing.

SECTION 7. Authorization of Transfers.

(a) The Administrator is hereby authorized to transfer up to \$5,000.00 from within divisions to meet any line item overage of unforeseen expenditure.

(b) Except as provided in Subsection 6 (a), Budget transfers from one division to another division shall be approved by the County Council.

SECTION 8. Continuing Appropriations for Subsequent Year. Should the County Council in any subsequent year fail to enact an appropriation ordinance for Jasper County, the appropriation and tax levy herein set forth shall be the appropriation ordinance for such subsequent year for Jasper County.

SECTION 9. Agencies and Departments to File Accounting. Agencies or departments receiving appropriated funds under this ordinance, at the County Council's request, shall file an accounting for use of such funds. This accounting shall be available for examination or inspection by the citizens of Jasper County.

SECTION 10. Treasurer to Sign Checks. The Jasper County Treasurer shall sign all general fund checks.

SECTION 11. Special Rules for Travel and Training Disbursements. The elected officials or department heads who receive an annual appropriation for travel and training shall be required to present an itemized statement and all appropriate receipts for reimbursement of the same. No official or department head shall be reimbursed in excess of their annual appropriation unless such expenditures are approved in advance by the County Administrator.

SECTION 12. Travel Reimbursements. All Jasper County employees who have reason to travel outside of Jasper County on official County business shall be reimbursed for same with respect to the County mileage rate which is based on the current IRS rate for mileage and the latest approved meal schedule (breakfast \$10.00, lunch \$18.00 and dinner \$32.00). Per Diem can be paid in advance with proper documentation submitted to the finance office. All out of state travel must be approved in advance by the County Administrator.

SECTION 13. Compliance with Act No. 317 of 1990. Section I of the Fiscal Year 2014 - 2015 Budget Ordinance contains provisions for the rollback against County property tax of \$1,825,000.00 of local option sales tax revenue for the fiscal year 2014-2015. The \$1,825,000.00 meets or exceeds the amount required as rollback in Act No. 317, 1990 Acts and Joint Resolutions 1822. All other local option tax discount revenue shall become general fund expenditures, as budgeted in the Fiscal Year 2014-2015 Budget. The local option sales tax discount factor for Fiscal Year 2014-2015 shall be .001023 which determines the amount of discount on individual tax bills. The factor was determined by using the formula proscribed by Act No. 317, 1990 Acts and Joint Resolutions 1822.

SECTION 14. Council Member Benefits. The Council Members wishing to be on the County Health Insurance Plan may do so under the same guidelines as the other County employees. Council Members, who do not choose to be on the County's Health Insurance Plan, may be compensated with additional benefits not to exceed the value of a County employee's health insurance benefit paid by the County. Additional benefits that may be offered in lieu of health insurance include, but are not limited to, life insurance, dental insurance, existing 401K, new 401K accounts, existing IRA accounts or new IRA accounts, deferred compensation and credit union. These benefits will be limited to those plans already in place by the County and the County Administrator will have full discretion as to which benefits are offered. These benefits may not be exchanged for monetary compensation under any circumstances.

SECTION 15. Commission and Committee Stipends. This budget ordinance limits the payment of stipends to the Jasper County Planning Commission to one stipend per month in the amount of \$100.00, and the Jasper County Transportation Committee to one stipend per month in the amount of \$75.00. These stipends shall be paid providing the member attends the scheduled meeting. The chairman of the Jasper County Transportation Committee to receive one stipend per month in the amount of \$100.00 per month providing he attends the scheduled meeting. A quorum of the committees must be in attendance at the scheduled meeting for the stipend to be paid. The assessment appeals board members will be paid an annual stipend of \$500.00.

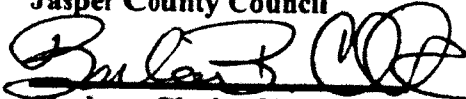
SECTION 16. Juror Mileage. The Clerk of Court is hereby authorized and required to reimburse jurors for mileage for each day's attendance upon court at the current IRS rate for mileage.

SECTION 17. Property Values adopted. The property values established by the County Auditor, County Assessor and the South Carolina Department of Revenue, based on Dec. 31, 2013, valuation date are adopted and ordered implemented for tax year 2014.

SECTION 18. Effective Date. This ordinance shall take effect on July 1, 2014.

Jasper County Council

BY:



Barbara Clark, Chairwoman



L. Martin Sauls, IV, Vice Chairman


Henry Etheridge, Councilman


Theodus L. Drayton, Councilman


D. Thomas Johnson, Councilman

ATTEST:



Judith M. Frank
Clerk to Council

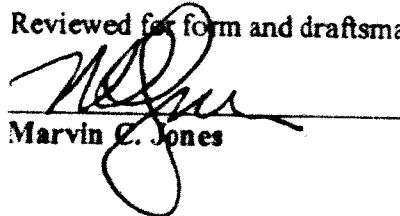
First Reading: 05/05/2014

Second Reading: 06/02/2014

Public Hearings: 06/02/2014

Adopted: 06/16/2014

Reviewed for form and draftsmanship by the Jasper County Attorney.


Marvin C. Jones

6/16/2014
Date

JASPER COUNTY
TAX LEVY
FY 14-15

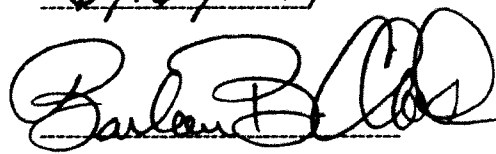
	MILLAGE
COUNTY (LESS EMERG SERV)	86.00
EMERGENCY SERVICES	56.00
SCHOOL	164.00
SCHOOL DEBT	25.00
COUNTY DEBT	12.00
TOTAL MILS	343.00

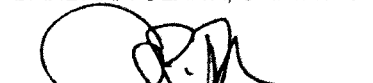
CHERRY POINT FIRE DIST. 32.00

DATE APPROVED:

6/16/2014


HAZEL HOLMES, AUDITOR


BARBARA CLARK, CHAIRWOMAN


ANDREW FULGHUM, ADMIN.

ATTEST:


JUDY FRANK, CLERK

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Hon. Carmen T. Mullen, Circuit Court Judge

RECEIVED

NOV 14 2014

C.A. No.: 2013-002266

SC Court of Appeals

JASPER COUNTY BOARD OF EDUCATIONAppellant

v.

JASPER COUNTY COUNCIL AND JASPER COUNTY AUDITOR..... Respondents.

PROOF OF SERVICE

I certify that I have served the APPELLANT’S MOTION TO SUPPLEMENT THE RECORD ON APPEAL by depositing a copy of it in the United States Mail, postage prepaid, on November 14 2014, addressed to Marvin C. Jones, Esq., P.O. Box 420, Ridgeland, SC 29936, and to Robert E. Lyon, Jr., Esq., John K. DeLoache, Esq., and Alexander W. Smith, Esq., South Carolina Association of Counties, P.O. Box 8207, Columbia, SC 29202.

CHILDS & HALLIGAN, P.A.



Keith R. Powell, S.C. Bar No. 69292
P.O. Box 11367
Columbia, South Carolina 29211
(803) 254-4035

Attorneys for Appellant

CHILDS & HALLIGAN

A PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

Kenneth L. Childs
William F. Halligan
Kathryn Long Mahoney
Allen D. Smith†
Shirley M. Fawley*
John M. Reagle**
Vernie L. Williams
Thomas K. Barlow**

The Tower at 1301 Gervais Street, Suite 900, Columbia, SC 29201
Post Office Box 11367, Columbia, SC 29211-1367

Telephone (803) 254-4035
Facsimile (803) 771-4422

November 14, 2014

Allison Aiken Hanna
Keith R. Powell***
Connie P. Jackson
Kimberly Kelley Blackburn
Jasmine Rogers Drain**
Dwayne T. Mazyck
Tyler R. Turner
Mary Allison Caudell

†Certified Specialist in Employment
and Labor Law
*Also admitted in District of Columbia
**Also admitted in North Carolina
***Also admitted in Missouri
**Also admitted in Georgia

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

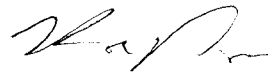
Re: Jasper County Board of Education v. Jasper County Council and Jasper
County Auditor
Appeal No. 2013-002266

Dear Ms. Kitchings:

Our firm represents Appellant Jasper County Board of Education in connection with the above-referenced appeal. Enclosed for filing please find an original and eight (8) copies of Appellant's Motion to Supplement the Record On Appeal. Also enclosed is a check in the amount of \$25.00 for the motion fee.

Please return the extra file-stamped copies of this filing to our office via our courier. By copy of this letter we are today serving copies of the above-referenced motion on all counsel of record. Thank you for your assistance with this matter.

Sincerely,



Keith R. Powell
kpowell@childs-halligan.net

/lmc
Enclosures

c: Marvin C. Jones, Esq.
Robert E. Lyon, Jr., Esq.
John K. DeLoache, Esq.
Alexander W. Smith, Esq.
William F. Halligan, Esq.

RECEIVED
NOV 14 2014
SC Court of Appeals