

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Case No. 2014-CP-40-004666  
Appellate Case No. 2016-001198

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**SC Court of Appeals**

Kim Murphy.....Appellant,

v.

Bobby Merle Bowers and Robert Gantt.....Respondents.

**RECORD ON APPEAL**

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VOLUME IV

## INDEX

|                                                                                                   |     |
|---------------------------------------------------------------------------------------------------|-----|
| Order Granting Defendants' Motions for Summary Judgment, April 8, 2016, filed April 13, 2016..... | 1   |
| Order Denying Plaintiff's Motion for Reconsideration, May 24, 2016, filed May 31, 2016.....       | 20  |
| Order Affirming the Appellant's Removal from the Board of Trustees, Case No. 2013-CP-40-1897..... | 23  |
| Order Dismissing Appellant's Motion for Reconsideration in Case No. 2013-CP-40-1897.....          | 34  |
| School Board Order of Removal Pursuant to <i>S.C. Code 59-19-60</i> , dated March 19, 2013.....   | 35  |
| Findings and Recommendations of G. Thomas Cooper, Jr., Hearing Officer Presiding.....             | 37  |
| Complaint .....                                                                                   | 45  |
| Answer of Bobby Bowers, September 24, 2014 .....                                                  | 56  |
| Answers of School Board and Robert Gantt, October 24, 2014.....                                   | 67  |
| Plaintiff's Answer to Interrogatory Attachment.....                                               | 76  |
| February 15, 2013 Hearing Transcript.....                                                         | 112 |
| Exhibit 10 from the February 15, 2013 Hearing .....                                               | 187 |
| March 19, 2013 Hearing Transcript, pp. 65-68 .....                                                | 188 |
| Motion to Reconsider Judgment.....                                                                | 192 |
| Bowers' Motion to Dismiss for Failure to State a Claim and For Summary Judgment.....              | 218 |

|                                                                                       |      |
|---------------------------------------------------------------------------------------|------|
| Gantt's Motion for Summary Judgment .....                                             | 224  |
| School District's Motion for Summary Judgment .....                                   | 236  |
| Plaintiff's Memorandum in Opposition to Defendants's Motion for Summary Judgment..... | 246  |
| Deposition of Kim Murphy, June 22, 2015, Full Transcript .....                        | 311  |
| Deposition of Kim Murphy, July 22, 2015, Full Transcript .....                        | 459  |
| Deposition of Kim Murphy, August 10, 2015, Full Transcript .....                      | 688  |
| Deposition of Kim Murphy, November 5, 2015, Full Transcript.....                      | 845  |
| Deposition of Robert Gantt, Full Transcript.....                                      | 1050 |
| Exhibit 2 from the Deposition of Robert Gantt .....                                   | 1066 |
| Deposition of Gloria Wilson, pp. 15-16, 28-30, 32-33, 36-37, 42 .....                 | 1067 |
| Deposition of Bobby Bowers, Full Transcript.....                                      | 1077 |
| Deposition of William Roberts, Full Transcript.....                                   | 1166 |
| Exhibit 1 from the Deposition of William Roberts .....                                | 1256 |
| Exhibit 2 from the Deposition of William Roberts .....                                | 1448 |
| Exhibit 3 from the Deposition of William Roberts .....                                | 1450 |
| Exhibit 4 from the Deposition of William Roberts .....                                | 1451 |
| Exhibit 5 from the Deposition of William Roberts .....                                | 1454 |
| Exhibit 6 from the Deposition of William Roberts .....                                | 1456 |
| Exhibit 10 from the Deposition of William Roberts .....                               | 1458 |
| Deposition of Alan Jon Zupan, Full Transcript.....                                    | 1459 |
| Deposition of Ronnie Tyler, Full Transcript .....                                     | 1529 |
| Exhibit 4 from the Deposition of Ronnie Tyler.....                                    | 1698 |

|                                                                                       |      |
|---------------------------------------------------------------------------------------|------|
| Exhibit 5 from the Deposition of Ronnie Tyler.....                                    | 1700 |
| Deposition of John Cloyd, pp. 18-19, 29-31, 40-42.....                                | 1704 |
| Board Meeting Minutes, February 2011 .....                                            | 1712 |
| Board Meeting Minutes and Attachments, September 2011 .....                           | 1717 |
| Board Meeting Minutes, March 19, 2013 .....                                           | 1726 |
| Board Meeting Resolutions, September 12, 2011 .....                                   | 1736 |
| Beth Watson's Attachment to March 2011 Board Meeting .....                            | 1738 |
| Ed White's Attachment to March 2011 Board Meeting .....                               | 1739 |
| Beth Watson and Ellen Baumgardner's Attachment to February 2012 Board<br>Meeting..... | 1740 |
| Students' Statements During Board Meeting .....                                       | 1741 |
| Community Complaints to the Board, June 2011 .....                                    | 1742 |
| Community Complaints to the Board, November 2011.....                                 | 1744 |
| Memo from Karl E. Fulmer Ed.D. to Herbert M. Berg, Ed.D., October 15, 2010...         | 1745 |
| Letter from Kim Murphy to Robert Gantt, December 2010.....                            | 1746 |
| Letter from Robert Gantt to Bobby Bowers, December 20, 2012.....                      | 1755 |
| Letter from Bobby Bowers to Robert Gantt, January 11, 2013.....                       | 1756 |
| Letter from Robert Gantt to Judge G. Thomas Cooper, Jr.....                           | 1758 |
| Email to Bobby Bowers Regarding Draft Request Letter .....                            | 1759 |
| John Cloyd's Email Discussing Boundary Dispute .....                                  | 1761 |
| Email Cancelling Photographer.....                                                    | 1765 |
| Kim Murphy's Email to Public About Residence.....                                     | 1768 |
| Alan Jon Zupan's Email to Jack Maguire.....                                           | 1773 |



|                                                        |      |
|--------------------------------------------------------|------|
| Procurement Violation Email .....                      | 1774 |
| William Roberts's Email to Jack Maguire.....           | 1777 |
| William Roberts's Email to Dean Crepes.....            | 1779 |
| Robert Gantt's Public Statement, January 14, 2013..... | 1780 |
| Robert Gantt's Public Statement, January 28, 2013..... | 1781 |
| Robert Gantt's Public Statement, March 19, 2013.....   | 1786 |
| District Website.....                                  | 1787 |
| District Website Posting .....                         | 1789 |
| First Supplemental Report of Ronnie Tyler.....         | 1790 |
| Affidavit of Ronnie Tyler .....                        | 1814 |
| Maps of Kim Murphy's Property .....                    | 1819 |
| 2014 Bill: Geodetic Survey .....                       | 1821 |

1 Q: Okay. If someone were to call your office and  
2 say they believe they located a stake ---  
3 A: Uh-huh.  
4 Q: --- would your office go out and investigate as  
5 to whether or not that might actually be a  
6 stake?  
7 A: Yes, ma'am.  
8 Q: Has anyone called you or contacted you about  
9 any stakes being ---  
10 A: No, ma'am.  
11 Q: Let me finish my question.  
12 A: Okay.  
13 Q: It's okay. Has anyone contacted you about  
14 locating any potential stakes as it relates to  
15 any of the lines that would affect Ms. Murphy's  
16 property?  
17 A: No, ma'am.  
18 Q: You said earlier that you had some  
19 communication with Mr. Jack Maguire from  
20 Lexington County ---  
21 A: Right, just ---  
22 Q: --- about the Murphy property issue.  
23 A: No.  
24 Q: No?  
25 A: No. I just sent him the materials.

1 Q: Okay.

2 A: I didn't -- that's all. I did not talk with  
3 Jack about the issue.

4 Q: Okay. Who all, other than Mr. Roberts, did you  
5 talk to about the Murphy residence issue?

6 A: I think Will would be the only one, unless  
7 Bobby -- probably Bobby also.

8 Q: Do you remember any specific discussions you  
9 and Mr. Bowers had about this?

10 A: No.

11 Q: Did you ever come to understand that there was  
12 a formal request made to -- an inquiry made to  
13 figure out where Mrs. Murphy's address was?

14 A: That there was a formal one?

15 Q: That someone sent a letter in saying they would  
16 like some information about where Mrs. Murphy's  
17 residence is located?

18 A: The only -- I don't -- I don't know how to  
19 answer that one exactly. But after we did the  
20 work, Bobby or Will, I don't know where it came  
21 -- or Bill or Rob, they sent a letter over that  
22 was being sent to the school board, and asked  
23 that we write that section on what we did to  
24 determine where her residence was located. And  
25 that we did and sent it back and that's all.

1 Q: Did you ever have any direct communication with  
2 anyone from the school board?

3 A: No, ma'am.

4 Q: Did you have any communication with any of the  
5 school board's attorneys?

6 A: No, ma'am. Wait. Before the hearing or what?

7 Q: Ever.

8 A: Ever, yes.

9 Q: Okay.

10 A: They asked -- well, for the hearing they asked  
11 for some enlargements of some of the figures  
12 that were going to be used at the hearing and  
13 we provided that, and somebody came over and  
14 picked them up, and I don't remember who it  
15 was, whether it was the attorney or one of the  
16 people in their office. I don't remember.

17 Q: Did you actually talk to any particular  
18 attorney?

19 A: No, ma'am.

20 Q: Did you testify at a hearing?

21 A: No, ma'am. Sid Miller did.

22 Q: Did you go to the hearing?

23 A: Yes, ma'am.

24 Q: And were you present for Mr. Miller's  
25 testimony?

1 A: Yes, ma'am.

2 Q: Did he provide any testimony that you disagreed  
3 with based on your own research?

4 A: No.

5 Q: Did Mr. Bowers testify?

6 A: Yes, ma'am.

7 Q: Did you -- did Mr. Bowers testify to anything  
8 that you disagreed with based on your own  
9 research as related to Mrs. Murphy's residence?

10 A: I don't remember. I don't remember Bower --  
11 Bobby's testimony.

12 Q: Okay. I'm going to show you a document and you  
13 just let me know when you're ready. And you  
14 just take whatever time you need to look at it,  
15 okay. And it's back and front.

16 (Plaintiff's Exhibit Number 1 was marked for  
17 identification purposes.)

18 A: (Witness reviews document.) Okay.

19 Q: All right. Have you had enough time to look at  
20 Exhibit 1 to your deposition?

21 A: Yes.

22 Q: Do you recognize these documents?

23 A: No.

24 Q: Okay. The second, where it begins on the  
25 second page where that's marked at the very

1 bottom ORS 63, this page.

2 A: Okay. This is the first page, okay.

3 Q: Yeah, that's ORS 63.

4 A: Okay.

5 Q: Can you tell me just -- and I don't know, you  
6 may not remember. Can you tell me what  
7 portions of this letter you actually drafted?

8 A: The last paragraph.

9 Q: That begins with "The third source is research  
10 and field work"?

11 A: Yes, ma'am.

12 Q: And that's the only thing you drafted?

13 A: Yes, ma'am.

14 Q: Okay. What is Risters Creek? You mention an  
15 intersection with Risters Creek in your  
16 paragraph.

17 A: Risters Creek is north of Rocky Ford.

18 Q: What significance does it have?

19 A: It doesn't really have any for what we were  
20 doing.

21 Q: Okay.

22 A: It's -- it's -- it doesn't have any bearing on  
23 what we're -- as far as -- as far as the --  
24 it's just saying that that azimuth is supposed  
25 to go for that distance at that bearing to

1 Risters Creek northwestward.

2 Q: Now, did you know who Mr. Gantt was when you  
3 were writing your portion of this letter? Have  
4 you ever met -- is that a no?

5 A: No. I'm sorry.

6 Q: That's okay.

7 A: No.

8 Q: Have you ever met Mr. Gantt?

9 A: No. Well, excuse me, I just met him.

10 Q: Okay. Today, right.

11 A: Right.

12 Q: But before today had you ever met ---

13 A: No.

14 Q: --- Mr. Robert Gantt?

15 A: No.

16 Q: So then it's fair to say you never talked to  
17 him before writing this part of your letter?

18 A: Correct.

19 Q: Did you have any discussions with Mr. Bowers  
20 about your part of this research, the part that  
21 you specifically wrote about in the letter?

22 A: No. No, he -- the letter came over and we  
23 wrote that section and then that was it.

24 Q: When you were working full time for the  
25 Geodetic Survey section, did you receive annual

1 performance evaluations?

2 A: Yes.

3 Q: Who would do those annual performance  
4 evaluations with you?

5 A: Sid Miller, Lewis Lapine.

6 Q: Can you spell Lewis's last name?

7 A: L-A-P-I-N-E. First name, L-E-W-I-S.

8 Q: Okay. Anyone else?

9 A: No. Sid was head of the -- chief of the  
10 Geodetic Survey and he retired and then Dr.  
11 Lapine took his place and Matt is now --  
12 Wellslager -- is the chief of the Geodetic  
13 Survey.

14 Q: Have you ever received a negative performance  
15 evaluation?

16 A: No, ma'am.

17 Q: Have you ever received any sort of discipline  
18 as part of your job?

19 A: No, ma'am.

20 Q: Have you ever been contacted by Kim Murphy?

21 A: Yes, ma'am.

22 Q: When were you contacted by her?

23 A: I don't know when. There were just two phone  
24 calls. I believe one was when I was in the  
25 office and another was a Saturday morning when



1 I was buying food supplies for a soup seller at  
2 church and I was at Sam's.

3 Q: You have a really good memory. The first phone  
4 call ---

5 A: Well, it was unusual.

6 Q: Well, the first phone call that you received  
7 from Ms. Murphy while you were in the office,  
8 what did the two of you discuss during that  
9 phone call if you can remember?

10 A: I can't remember. But I think it was just  
11 generally a general county boundary.

12 Q: Do you remember anything about what you  
13 discussed with her about the general county  
14 boundary?

15 A: No, ma'am.

16 Q: All right. And then the second phone call that  
17 you received on a Saturday morning while you  
18 were in Sam's ---

19 A: It was ---

20 Q: --- what did y'all discuss during that phone  
21 call?

22 A: It was about county boundary stuff again. And  
23 then also I talked a lot about the work we were  
24 going on the North Carolina/South Carolina  
25 boundary.

1 Q: What relevance did the North Carolina/South  
2 Carolina boundary have?

3 A: None. None. It didn't have any. I was just  
4 talking about boundary work. I didn't -- I  
5 didn't know what she was after except was  
6 interested in county boundary stuff. So I was  
7 talking about -- because working on the state  
8 line is similar to working on the county  
9 boundary.

10 Q: How so?

11 A: Becusae you're doing the same type of research.  
12 You base it on statutes and also on the best  
13 evidence you have available at that time to  
14 reestablish the boundary.

15 Q: What would be some examples of the best  
16 evidence you could have when you're  
17 reestablishing a boundary?

18 A: The original plat and also monuments that still  
19 exist that are shown on that particular plat.

20 Q: Anything else?

21 A: Those would be the best.

22 Q: Okay. All right. And the issue of trying to  
23 figure out where Rocky Ford was as related to  
24 Ms. Murphy's property, what was the best  
25 evidence that you used?

1 A: For Rocky Ford? In the -- in the field,  
2 actually finding the ford.

3 Q: When you are resolving these boundary issues,  
4 if new evidence comes to light later after  
5 you've resolved or you believe you've resolved  
6 it, how do you -- do you use that new best  
7 evidence or to -- to resolve the new issue or  
8 do you just revert back to where your original  
9 decision had been?

10 MR. MONTGOMERY: Object to the form.

11 MR. FRAWLEY: Same objection. Answer the question  
12 if you can.

13 A: Well -- okay. Say that again, please.

14 Q: Sure. Maybe I should state it in the form of  
15 a hypothetical. Let's say you're working on a  
16 boundary dispute, a county boundary dispute  
17 like the one we've been discussing, and you go  
18 out in the field and you find some evidence and  
19 it's all you can find, so that's your best  
20 evidence and that's what you use to make your  
21 determination. And let's say you fast forward  
22 ten years, and I don't know how this would even  
23 work, but you find better best evidence. Do  
24 you -- does that somehow change the original  
25 determination that you made?

1     A:     I don't know if I can answer that because we've  
2            never run into that. That's one of the fears  
3            we have when we do boundary work is that we'll  
4            come up with say a resolution to a county  
5            boundary problem and it will be accepted by the  
6            counties involved and then somebody will say,  
7            "Did you ever see this map?" So, yeah, it's a  
8            fear you have, but it's the best you do at the  
9            time on what's available.

10    Q:     As it relates to finding this Rocky Ford point  
11            and dealing with the dispute of where Ms.  
12            Murphy's property is located, do you feel like  
13            you did the very best you could with what you  
14            had at the time?

15    A:     Yes, ma'am.

16    Q:     You also stated earlier that you had some  
17            communication with some of the folks over at  
18            Richland County or you sent ---

19    A:     Right.

20    Q:     --- Richland County folks some information?

21    A:     The same -- the same thing I sent Jack Maguire.

22    Q:     Okay.

23            (Plaintiff's Exhibit Number 2 was marked for  
24            identification purposes.)

25    A:     (Witness reviews document.)

1 Q: Have you had enough time to review Exhibit ---  
2 A: Yes, ma'am.  
3 Q: --- is this 2 -- 2 to your deposition? Is this  
4 the information that you sent both to Mr.  
5 Maguire and Mr. Harrell?  
6 A: I'm not -- I'm not sure if I did the parcel  
7 lines. Hold on.  
8 Q: It's okay. Take your time.  
9 A: Might have been. I don't remember these.  
10 Q: When you say "these," you're referring to ---  
11 A: The three -- the figures.  
12 Q: The three maps?  
13 A: Right.  
14 Q: All right. So they are Bates labeled ORS 110,  
15 ORS 109 and ORS 108.  
16 A: I'm not -- yeah. I'm not ---  
17 Q: Not sure about those?  
18 A: I'm not sure what ---  
19 Q: Well, can you just tell us, and I don't know,  
20 you may not be able to, if we're looking at the  
21 one that's labeled ORS 108, can you tell me  
22 what this shows?  
23 A: It shows the location of Ms. Murphy's  
24 residence.  
25 Q: Okay. And what ---

1 A: There's no boundary on there.

2 Q: Okay. And where is -- where is her residence

3 located in this figure ORS 108? Is it in

4 Lexington or Richland County?

5 A: I have no idea based upon this.

6 Q: I don't know. It may be hard to see. There is

7 an arrow right here.

8 A: Oh.

9 Q: And there's some lines here. You see those?

10 A: Oh, okay.

11 Q: They're really hard to make out.

12 A: Okay. Okay, I'm sorry.

13 Q: No, that's okay. That's all right.

14 A: Okay. If -- okay. This -- okay. Her -- her

15 residence is in Lexington County. I couldn't

16 see the lines. I'm sorry.

17 Q: That's okay.

18 A: And the arrow points to Rocky Ford.

19 Q: Okay. So that's what the arrow is for?

20 A: Yes, ma'am.

21 Q: Okay. Do you know whether or not you authored

22 this actual map 108 that we've just been

23 looking at, if you generated it?

24 A: Cindy Massey, who does our GIS, and I did it,

25 yes.

1 Q: Was she involved at all in any of your research  
2 that you did ---

3 A: No.

4 Q: Let me finish my ---

5 A: Excuse me.

6 Q: It's okay. It's all right. Was Ms. Massey  
7 involved in any of the research you did to  
8 locate the Rocky Ford point?

9 A: No, ma'am.

10 Q: Was Ms. Massey involved in any of your  
11 subsequent research that you did to figure out  
12 where Mrs. Murphy's residence was in relation  
13 to the Rocky Ford point?

14 A: No, ma'am.

15 Q: All right. If we look at the next map over,  
16 it's labeled ORS 109.

17 A: Uh-huh.

18 Q: This map has some different lines on it than  
19 the other map we just looked at.

20 A: Okay.

21 Q: Can you tell me the difference between the two?

22 A: Okay. Wait, 109?

23 Q: Yes.

24 A: Okay. The light colored lines are the parcel  
25 lines for Richland County.

1 Q: Okay.

2 A: The other lines and -- are the parcel lines for  
3 Lexington County. In some places there are  
4 gaps. In some places they overlap.

5 Q: Okay. So when there are gaps or when there are  
6 overlaps, how do you resolve where a property  
7 is located based on the parcel lines?

8 A: I cannot answer that question because I don't  
9 -- I'm not in the assessor's offices. That's  
10 determined by the counties involved.

11 Q: Okay. So is it fair to say then when you were  
12 making your determination about where her  
13 residence was, you did not rely on parcel  
14 lines?

15 A: Correct.

16 Q: Okay. And then if we look at the last one, the  
17 last figure, ORS 110, and there is a line here  
18 too, it's just a little -- it's difficult to  
19 see. The arrow is right here. Do you see  
20 that?

21 A: Okay. Yes.

22 Q: Okay. Can you tell me how this map is  
23 different than the other two that we've looked  
24 at, if you can at all? I don't know if you  
25 can.



1 A: I can't.

2 Q: Okay. Now, in your email that you sent to Will  
3 where you -- you stated to him that you had  
4 sent emails with attached materials to Jack  
5 Maguire and Lee Harrell ---

6 A: Uh-huh.

7 Q: --- you have an explanation of the sources that  
8 you used. Can you explain to me what this  
9 information is beginning on ORS 106 that runs  
10 into ORS 107, this text, what its significance  
11 is?

12 A: They're based on the statutes.

13 Q: Okay.

14 A: And the history of those statutes as far as  
15 where they're found.

16 Q: So this is information you relied upon when you  
17 were making your determination?

18 A: Yes, ma'am.

19 Q: Other than the two phone calls you had with Ms.  
20 Kim Murphy, did you speak with her any other  
21 time?

22 A: No, ma'am.

23 Q: Did you provide her with any materials?

24 A: No, ma'am.

25 Q: Do you know if Mr. Miller has ever been to the

1 Rocky Ford location?

2 A: Yes.

3 Q: And how do you know that?

4 A: Because he was there with me.

5 Q: In 1995?

6 A: 1995.

7 Q: Do you know if he's been back to that location  
8 since 1995?

9 A: He has not.

10 Q: Would there be any reason that you would need  
11 to go back and revisit that location?

12 A: At this time?

13 Q: Sure. At any time since you actually visited  
14 it in 1995.

15 A: I went back right before the hearing to  
16 reconfirm my GPS position that we, Sid and I,  
17 established in 1995. And but that was ...

18 Q: Did the GPS position change at all?

19 A: No.

20 Q: I know you've talked about going back to the  
21 statute and that's what you rely on. Do you  
22 ever look at things like tax lines or precinct  
23 lines?

24 A: No, ma'am.

25 Q: Okay.

1 A: No, ma'am. That's not the legal -- precinct  
2 lines or tax lines are not legal definitions of  
3 the boundary -- a boundary.

4 Q: So I think you talked about this earlier. If  
5 you have a tax line or a precinct line that  
6 does not match up with the statutory definition  
7 of the line, then those lines are incorrect?

8 A: Correct.

9 Q: Other than your sending information to Richland  
10 County and to Lexington County, did you have  
11 any other contact with anyone else in either of  
12 those offices relating to Ms. Murphy's  
13 residence issue?

14 A: Can we back up just a second?

15 Q: Sure.

16 A: Okay. With -- as far as tax lines, the  
17 counties put together tax parcels the best they  
18 can.

19 Q: Okay.

20 A: And they don't necessarily match what's  
21 actually out there in the field because they're  
22 just doing the best fit they can from the  
23 descriptions they have.

24 Q: Okay.

25 A: So therefore, they -- we wouldn't consider that

1 at all as evidence of ---

2 Q: Okay.

3 A: --- where a county boundary was.

4 Q: Okay. All right, thank you. My next question  
5 was relating to the information -- sure, go  
6 ahead.

7 A: Can I say one other?

8 Q: Of course you can, please do.

9 A: This -- those precinct boundaries or what -- I  
10 think -- and Will would be able to better  
11 address this. But the U.S. Census Bureau  
12 apparently changes or sends out something every  
13 ten years for political boundaries, and these  
14 political boundaries, county boundaries, that  
15 worked on, some of them the Census Bureau  
16 changes and we just can't find out why they  
17 change their boundary. So we don't rely on the  
18 Census Bureau either for that information.  
19 Again, the bottom line is the statute  
20 description.

21 Q: When you drafted your portion of the letter  
22 that was ultimately sent to Mr. Gantt and that  
23 is Exhibit -- did we mark that as a separate  
24 exhibit? Yeah, this is just your draft  
25 portion.

1 MR. FRAWLEY: Exhibit 1?

2 MS. STORY: Yeah, Exhibit 1.

3 Q: Do you have Exhibit 1? Right -- yeah.

4 A: Okay. I put them in order.

5 Q: That's okay. Thank you. You did a great job.

6 When you were drafting this part, I noticed you  
7 drafted the part about the actual field work  
8 that you did. But there are two other pieces  
9 of information that were relied upon in writing  
10 this letter, the U.S. Census information and  
11 then some precinct maps. Do you see those two  
12 paragraphs here?

13 A: Yes, ma'am.

14 Q: Okay. Sitting alone, would any of these three  
15 pieces of information, the Census Bureau  
16 information, the precinct map information or  
17 the field work information stand alone to  
18 solidify where Ms. Murphy's residence is?

19 A: The third one would for sure.

20 Q: Okay. And you feel confident about that?

21 A: Yes, ma'am.

22 Q: Okay.

23 A: Well, I wouldn't need that.

24 Q: You wouldn't need the other two?

25 A: No, ma'am.

1 Q: All right. What about if we took just the  
2 Census Bureau information alone, would that be  
3 a definitive way to determine where Mrs.  
4 Murphy's residence was?

5 A: No. Well, it's my opinion. I'm not an expert  
6 in that area.

7 Q: Right. Okay.

8 A: My opinion, no.

9 Q: What about the precinct maps?

10 A: No.

11 Q: Okay. All right.

12 A: And that's my opinion.

13 Q: In your opinion, you said that you don't feel  
14 like you could rely on the U.S. Census Bureau  
15 information alone or the precinct map  
16 information alone. So why was it used to be  
17 relied upon for this determination in the  
18 letter along with your information that you  
19 provided?

20 MR. FRAWLEY: Object to the form. Answer the  
21 question if you can.

22 A: Pardon? I can't because I did not compose the  
23 letter.

24 Q: Okay. Fair enough.

25 A: I just -- I just wrote ---

1 Q: Your section?

2 A: My section that was based upon our work. I  
3 can't comment on other people's work.

4 Q: Have you heard anyone in your office say  
5 anything negative about Kim Murphy?

6 A: No, ma'am.

7 Q: Have you ever said anything negative about Kim  
8 Murphy?

9 A: No.

10 Q: Did you ever receive any sort of inquiries from  
11 any citizens or any individuals about the  
12 residence issue involving Mrs. Murphy?

13 A: No, ma'am.

14 Q: All right. If you give me just a few minutes,  
15 we'll be right back, okay?

16 A: No problem.

17 Q: I do have to tell you, I don't know if I told  
18 you this in the beginning, you're not permitted  
19 to speak with anyone about your testimony  
20 during the break, okay?

21 MR. FRAWLEY: Yeah. We can't discuss anything about  
22 your testimony.

23 (Off the Record from 12:30 p.m. until 12:53 p.m.)

24 Q: All right. I just have a few more questions  
25 for you and I have a couple other things to

1 show you, but this shouldn't take very long.

2 You said earlier that back in 1995 Sid Miller  
3 was with you when you located the actual Rocky  
4 Ford point.

5 A: Yes.

6 Q: Did anybody else go with you?

7 A: Yes.

8 Q: Who?

9 A: Lee Harrell, Richland County.

10 Q: Anyone else?

11 A: There was one other person but I don't remember  
12 who that was and whether they were from  
13 Lexington or Richland County.

14 Q: Could it have been John Cloyd, does that name  
15 ring a bell?

16 A: Could be. Who?

17 Q: John Cloyd.

18 A: Assessor for Richland County, could have been.

19 Q: Okay. The lines that you were showing me  
20 earlier that we were looking at in these maps  
21 from the Rocky Ford point that we were looking  
22 at, is that supposed to be the actual county  
23 line?

24 A: Wait. Wait, wait. Show.

25 Q: Sure. We were looking at some maps that have



1 an arrow that -- let me see.

2 A: If that's Rocky Ford.

3 Q: Yes. So this we're looking at ORS 108, and  
4 you're looking at the arrow that points to  
5 Rocky Ford and there's a line that goes through  
6 both sides.

7 A: Right, right. Correct.

8 Q: Is that the ---

9 A: That's according to the statute.

10 Q: Okay. So according to the statute, is that  
11 supposed to be the county line?

12 A: Yes, ma'am.

13 Q: Is there any surveying going on now in this  
14 area as it relates to the county line issue, if  
15 you know?

16 A: There's research going on.

17 Q: Okay. Do you know if anyone is conducting  
18 research near or around Ms. Murphy's property?

19 A: No, ma'am.

20 Q: Are you involved in any of that research?

21 A: No, ma'am.

22 Q: Let's mark this as the next exhibit. These are  
23 two maps, okay.

24 MR. MONTGOMERY: Number 3.

25 COURT REPORTER: Yeah, Number 3.

1 (Plaintiff's Exhibit Number 3 was marked for  
2 identification purposes.)

3 Q: And if you want to, you can detach these to  
4 look at both of them.

5 A: Okay. No problem. No problem. No problem.

6 Q: Yeah, we can staple them back together. I just  
7 want to ask you a couple of questions about  
8 these. The one that's on top ---

9 A: Yes, ma'am.

10 Q: --- it's not marked with an exhibit number,  
11 okay.

12 A: That's fine.

13 Q: It's actually marked Murphy 8441.

14 A: Yes, ma'am.

15 Q: There's a point that's identified as Rocky  
16 Ford.

17 A: Yes, ma'am.

18 Q: Do you see that?

19 A: Yes, ma'am.

20 Q: Do you know who generated this map?

21 A: Cindy and I did, yes.

22 Q: Okay. If you'll look at the other map that's  
23 there.

24 A: Cindy and I did.

25 Q: Both of these?

1 A: Yes, ma'am.

2 Q: Can you see any differences between these two  
3 maps, other than that the second map that's  
4 been marked as Exhibit 10 for the district has  
5 multiple lines on it?

6 A: No, it's got the -- it's got the other -- it's  
7 got Lexington County's -- it's got the boundary  
8 according to Lexington County, it's got the  
9 boundary according to Richland County, the  
10 Census, and the USGS boundary.

11 Q: Okay. When I look at this -- this first map  
12 that just has the one red line on it ---

13 A: Yes, ma'am.

14 Q: --- that's labeled 8441 ---

15 A: Yes, ma'am.

16 Q: --- the red line at the very bottom seems to  
17 extend into this little gray area; do you see  
18 what I'm talking about?

19 A: Yes, ma'am.

20 Q: Right here (indicating)?

21 A: Yes, ma'am.

22 Q: Now, on the second map that's been labeled as  
23 Exhibit 10 for the school district, that red  
24 line does not go to that same gray area, it  
25 goes below the gray area. Can you explain why

1           there's a difference?

2    A:     No, that I can not. Unless the -- wait, hold  
3           on -- the photography is different.

4    Q:     Would that account for the difference?

5    A:     It might account for the difference.

6    Q:     Does that difference in the way those lines are  
7           portrayed on the map have a difference as to  
8           the effect of where the county line is?

9    A:     It shouldn't, no. As far as based upon the  
10           bearings and the distance, no.

11   Q:     Is there any reason why those two maps don't  
12           have the same red line on them?

13   A:     If the photography is different, then it's --  
14           you mean, this one?

15   Q:     Yes, sir, the red line that we were just  
16           looking at --

17   A:     Yeah.

18   Q:     --- on each one. Is there any reason why the  
19           red line is not the same on both of these maps?

20   A:     It might be the photography. I couldn't tell  
21           you. I don't know.

22   Q:     Did you intentionally draw that red line to be  
23           different in each of these maps?

24   A:     No, ma'am, not intentionally.

25   Q:     Which one is correct?

1 A: That I can't tell you right off the top of my  
2 head.

3 Q: What would you need to be able to tell me that  
4 information?

5 A: I'd have to go back to the office and put it  
6 back on again..

7 Q: Okay.

8 A: And back -- okay.

9 Q: That's fine. I'm just asking you ---

10 A: Yeah, right, right.

11 Q: --- would need to do ---

12 A: Yeah.

13 Q: --- to be able to determine ---

14 A: Right, yeah.

15 Q: --- which one of those is correct.

16 A: Correct. But in either case, it didn't make --  
17 it didn't affect where the residence was  
18 located.

19 Q: Why not? Can you explain that to me?

20 A: Because it's -- because it's inside the -- it's  
21 northwest of the line in both cases.

22 Q: Okay.

23 COURT REPORTER: That's Number 4.

24 (Plaintiff's Exhibit Number 4 was marked for  
25 identification purposes.)

1 Q: Have you had enough time to review this  
2 exhibit?

3 A: Uh-huh.

4 Q: Is that a yes?

5 A: Yes, ma'am. I'm sorry.

6 Q: Have you seen these before?

7 A: Yes, ma'am.

8 Q: Did you review any -- either one of these maps  
9 when you were trying to determine where the  
10 Rocky Ford point was?

11 A: No, ma'am. It wasn't necessary.

12 Q: Why wasn't it necessary?

13 A: Because these are all bearings and distances  
14 and they would not tell us exactly where Rocky  
15 Ford was. And when I plotted these out on a  
16 topographic -- the only thing we had back then  
17 when we first did this, you didn't have all  
18 this sophisticated computer mapping, and I did  
19 this on topographic maps using bearings and  
20 distances. And it came close to where Rocky  
21 Ford is indicated on here, but it didn't hit  
22 exactly, so that's -- we knew the area where we  
23 thought Rocky Ford was, and that's why we went  
24 in the field to look for it. Also -- also,  
25 there are -- let's see which one is it. Okay.

1 This one is correct, all right.

2 Q: When you say this one is correct, what do you  
3 mean?

4 A: Because on the USGS topographic map they don't  
5 have the offset on the arc of the circle coming  
6 out of Irmo, Town of Irmo. They continue that  
7 into what is now the middle of Lake Murray, but  
8 they don't have that offset, so we had to deal  
9 with that too.

10 Q: What's the offset?

11 A: This, see where the circle comes and then it  
12 comes up a little bit to the northwest and then  
13 continues a circle.

14 Q: All right. So for the record, you're referring  
15 to 10007 and there's this arc of circle that  
16 goes to a point near A circle?

17 A: Yes.

18 Q: This A right here?

19 A: Yes.

20 Q: And then this goes over to the left ---

21 A: Right, correct.

22 Q: --- from the little A circle? Okay. So is  
23 this what we're looking at right here, this map  
24 of Richland County that's been marked as 10007,  
25 is this an incorrect?

1 A: No, this one is correct.

2 Q: This is correct.

3 A: But on the US Geological Survey map,  
4 topographic map, that I had worked on it was  
5 incorrect and had to deal with that. That was  
6 just when I was laying it out. I was just  
7 making sure that this did show the offset.

8 Q: Okay. But when you -- when you've located your  
9 Rocky Ford point, does it match up with what's  
10 indicated on this map, 10007?

11 A: That I have no idea how it matches up because,  
12 as I -- as I told you, I did the best I could  
13 on laying out the bearings and distances based  
14 upon the statute, these figures, and doing it  
15 on a USGS topographic map. And it came out in  
16 the vicinity of where Rocky Ford is but not  
17 exactly when I plotted it out. Now, whether  
18 this represents the true position of Rocky Ford  
19 I have no idea because this map could be off  
20 too.

21 Q: So how do we account for those differences? I  
22 mean, how do we know where it really is, Rocky  
23 Ford?

24 A: By going out in the field and finding the  
25 evidence in the field.



1 Q: When you were in the field, did you attempt to  
2 locate this stake which is right here below the  
3 letter C on the page 10007, right here?

4 A: No, ma'am.

5 Q: Why not?

6 A: Because we didn't do field work in that area.

7 Q: Where -- can you point to me on this map where  
8 you did the field work?

9 A: Just in -- just in Rocky Creek -- Rocky Ford  
10 area and then where this line intersects  
11 Risters Creek and then we went up Risters  
12 Creek.

13 Q: How far away is this stake on this map, 10007,  
14 from the area that you were doing the field  
15 work in, do you know?

16 A: According to this, it's 3,940 feet.

17 Q: So how far away is that? Could you have walked  
18 that distance?

19 A: Three-tenths of a mile.

20 Q: Could you have walked that distance to see if  
21 that stake was there?

22 A: Could have if we wanted to go through  
23 everybody's property, yeah. We could -- we  
24 could have just plot -- back -- back then we  
25 didn't have -- like I say, we didn't have the

1           sophisticated computer stuff we have now where  
2           we can plot things easily and so ...

3   MR. FRAWLEY:  When you say back then, are you saying  
4           1995 ---

5   A:     Yes, sir.

6   MR. FRAWLEY:  --- or 1912?

7   A:     1995.

8   Q:     Did you purposefully not go to look and locate  
9           where this stake was intentionally to harm  
10          anyone?

11  A:     No.  No, no.  We -- we looked for Rocky Ford  
12          and then we decided to work northward from  
13          there instead of southward.  That's just a  
14          decision we made back in '95.  And then, as I  
15          said, after that we got back and we had a lot  
16          to do on the state boundary, North and South  
17          Carolina boundary.

18  COURT REPORTER:  Number 5.

19  (Plaintiff's Exhibit Number 5 was marked for  
20  identification purposes.)

21  A:     Okay.

22  Q:     Have you had enough time to look at this  
23          exhibit?

24  A:     Yes.

25  Q:     Can you explain what it is?

1 A: Yes, it's me trying to plot out the lines off  
2 of the plats and according to the statute.

3 Q: Okay. And from this view that we're looking  
4 at, this diagram, can you show me where you  
5 found Rocky Ford to be, if it's indicated on  
6 this map at all?

7 A: The north ford.

8 Q: Okay. And so there's what look like two  
9 circles made in pencil.

10 A: Right.

11 Q: Is it the one on the top?

12 A: Yes.

13 Q: Which one of these two circles is it?

14 A: The north ford, Rocky Ford.

15 Q: That's Rocky Ford.

16 A: As I said earlier, we found two fords.

17 Q: Right.

18 A: And when I talked with Ms. Koon, she said that  
19 her father just used that other ford for  
20 logging. So we left that one alone.

21 Q: Okay.

22 COURT REPORTER: Number 6.

23 (Plaintiff's Exhibit Number 6 was marked for  
24 identification purposes.)

25 A: Okay.

1 Q: Have you had enough time to look at Exhibit 6?  
2 A: Yes.  
3 Q: Do you recognize this document?  
4 A: I don't recognize it, but I did it.  
5 Q: That's fine. It's been a long time. I  
6 understand. And this -- the top email is one  
7 from Mr. Maguire to you in response to your  
8 email and he asked that -- he says that he  
9 needs some more points and lines. What we have  
10 struggle -- "What we have leaves us struggling  
11 to make it fit." Do you know what he was  
12 referring to?  
13 A: No.  
14 Q: Did you provide him with anymore points or  
15 lines?  
16 A: No.  
17 Q: Okay. Have you received any sort of request  
18 from him since this time to provide him with  
19 any other points or lines?  
20 A: No.  
21 Q: Is there any reason why you didn't give him  
22 anymore information?  
23 A: I didn't have anymore information.  
24 Q: Did you have any trouble struggling or did you  
25 struggle to make anything fit that you had

1 gathered?

2 A: The only -- no. The only -- well, no, because  
3 the only thing we have is Rocky Ford.

4 Q: You can keep that. Just leave these right  
5 here.

6 A: Okay.

7 Q: Do you know if the counties have started to  
8 implement the line that we've looked at that  
9 you drew as Rocky Ford?

10 A: To implement it?

11 Q: Yes. If they're recognizing that as the county  
12 line.

13 A: No, they're not. Until -- they're not doing  
14 that until the rest of the -- rest of that line  
15 from Irmo up to Broad River is finished.

16 Q: I don't have any other questions for you, Mr.  
17 Zupan. I appreciate your patience with me.  
18 These really nice guys over here may have  
19 questions for you, so if they do, please answer  
20 them. Okay?

21 A: Yes, ma'am.

22 MR. FRAWLEY: I have no further questions.

23 MR. JOHNSON: No questions.

24 MR. MONTGOMERY: I've just got a couple, Mr. Zupan.

25 MR. ZUPAN: Yes.

1 MR. ZUPAN - EXAMINATION BY MR. MONTGOMERY:

2 Q: With regard to the identification of Rocky  
3 Ford, that was conducted in 1995, correct?

4 A: Correct.

5 Q: And in 1995, was there ever any question in  
6 your mind with regard to a boundary that  
7 related to property that ultimately became Ms.  
8 Murphy's?

9 A: No. We never dealt with any property  
10 boundaries at that time.

11 Q: And during the process that you describe of  
12 identifying and locating the line between  
13 Richland and Lexington Counties, was there ever  
14 any pressure put on you by anyone to make the  
15 line anywhere other than where you found it?

16 A: No.

17 Q: And did you use all the tools that you had to  
18 make the best determination of the location of  
19 that county line?

20 A: In the area that we're talking about?

21 Q: Yes, sir.

22 A: Yes.

23 Q: And do you have any question about where you  
24 ultimately located that county line as being  
25 correct with all the information you had at the

1 time?

2 A: No, ma'am. I mean, no, sir.

3 Q: I've been called much worse, I'm sure. Thank  
4 you, Mr. Zupan. I have no further question.

5 (Off the Record)

6 MS. STORY: All right. We're done. Thank you.

7 (There being nothing further, the deposition  
8 concluded at 12:55 p.m.)

Transcript of the Testimony of  
**RONNIE L. TYLER**

**Date:** January 21, 2016



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Page 1

STATE OF SOUTH CAROLINA ) COURT OF COMMON PLEAS  
 )  
COUNTY OF RICHLAND ) C/A #: 2014-CP-40-4666

Kim Murphy,  
Plaintiff,

Richland-Lexington School District )  
5 Board of Trustees, Robert Gantt, )  
and Bobby Merle Bowers, in their )  
individual capacities, )

Defendants. )

## DEPOSITION OF

RONNIE L. TYLER

\* \* \* \* \*

Thursday, January 21, 2016  
10:58 a.m. - 2:25 p.m.

The deposition of Ronnie L. Tyler, taken on behalf of the Defendant Bobby Merle Bowers at the law offices of J. Lewis Cromer & Associates, 1418 Laurel Street, Columbia, South Carolina, on the 21st day of January, 2016, before Christine A. Cortright, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.

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Kim Murphy  
Bobby Bowers  
Robert Gantt

## INDEX

|   | MR. TYLER:                                       | PAGE |
|---|--------------------------------------------------|------|
| 1 | MR. FRAWLEY. . . . . EXAMINATION. . . . .        | 4    |
| 2 | MR. MONTGOMERY . . . . . EXAMINATION. . . . .    | 108  |
| 3 | MR. MORRISON . . . . . EXAMINATION. . . . .      | 126  |
|   | MS. STORY. . . . . EXAMINATION. . . . .          | 143  |
| 4 | MR. FRAWLEY. . . . . RE-EXAMINATION. . . . .     | 156  |
|   | MR. MONTGOMERY . . . . . RE-EXAMINATION. . . . . | 162  |
| 5 | MR. MORRISON . . . . . RE-EXAMINATION. . . . .   | 167  |
|   | MS. STORY. . . . . RE-EXAMINATION. . . . .       | 168  |
| 6 | Signature Sheet. . . . .                         | 169  |
|   | Certificate . . . . .                            | 170  |

## EXHIBITS

|    |                                                                                             |     |
|----|---------------------------------------------------------------------------------------------|-----|
| 8  | Defendant's Exhibit Number 1 . . . . .                                                      | 6   |
| 9  | (First Supplemental Report of Ronnie Tyler)                                                 |     |
| 10 | Defendant's Exhibit Number 2 . . . . .                                                      | 21  |
|    | (Contract; checks; Ltr. to Tyler from Cromer 1/5/16)                                        |     |
| 11 | Defendant's Exhibit Number 3 . . . . .                                                      | 32  |
| 12 | (Rules of Professional Conduct)                                                             |     |
|    | Defendant's Exhibit Number 4 . . . . .                                                      | 83  |
| 13 | (Email chain Murphy/Tyler December 2015 RE: Deposition)                                     |     |
| 14 | Defendant's Exhibit Number 5 . . . . .                                                      | 89  |
|    | (Email chain Murphy/Tyler 10/22/15 RE: Peripheral Documents to Consider in Ronnie's Report) |     |
| 15 | Plaintiff's Exhibit Number 1 . . . . .                                                      | 151 |
| 16 | (Maps)                                                                                      |     |
| 17 | Plaintiff's Exhibit Number 2 . . . . .                                                      | 151 |
|    | (Email chain Harrell/Zupan January 2013; maps; On The Orthophotography)                     |     |

## STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the South Carolina Rules of Civil Procedure.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby not waived.

The signature sheet is attached at page 169.

1 RONNIE L. TYLER, having been duly sworn, deposes and  
2 testifies as follows:

3 MR. TYLER - EXAMINATION BY MR. FRAWLEY:

4 Q: Mr. Tyler, you've just given me your first  
5 supplemental report of Ronnie L. Tyler bearing  
6 today's date to which you've attached your CV,  
7 and this appears to be a 20-page document,  
8 excluding the CV, and your preliminary report  
9 was 17 pages; is that correct?

10 A: That's correct.

11 Q: All right. Can you tell me, and again, we can  
12 read this and we'll get a copy of this made for  
13 everybody.

14 A: She's made copies right there.

15 Q: Okay. All right. Good. Essentially, what are  
16 the differences between this one -- what are  
17 the additions in this one or changes from your  
18 original 17-page report?

19 A: There's corrections of text areas as far as  
20 nomenclature and abbreviations, that type  
21 thing.

22 Q: Okay. Substantively ---

23 A: The opinions do not change on the first part of  
24 it.

25 Q: Okay.

1 A: The only -- the only thing that would change is  
2 there's some additions that I made in the  
3 explanation of how I arrived at these opinions.

4 Q: Okay.

5 A: There's just some clarifications that have been  
6 added in those.

7 Q: Okay.

8 A: And then the only addition that would be an  
9 addition that wasn't in the other one is page  
10 19.

11 Q: And that's the County's authority section?

12 A: It was not in the original one.

13 Q: Okay. So the County's authority section  
14 itself, those three paragraphs, that's entirely  
15 new, correct?

16 A: Right. That's correct.

17 Q: All right. Your opinions, substantively have  
18 your opinions changed?

19 A: No.

20 Q: The bullet point opinions that appear on  
21 beginning on page two running through the top  
22 of page six, are those the same?

23 A: Those are the same. There may be a comma or a  
24 word change but nothing else. The opinions  
25 themselves are still the same.

1 Q: Like a typo correction or something like that?

2 A: Right. That's ---

3 Q: Substantively, they're the same?

4 A: Yes, sir.

5 Q: Okay. Do we have a copy that we can mark as  
6 Exhibit -- let's make it Exhibit 1.

7 (Defendant's Exhibit Number 1 was marked for  
8 identification purposes.)

9 Q: And your CV is in the back of that so we'll ---

10 A: Correct.

11 Q: --- do that all one. All right. I want to  
12 just say on the record that by virtue of the  
13 fact that we are -- that I have noticed Mr.  
14 Tyler's deposition as an expert witness, I am  
15 not conceding that he ought to be an expert  
16 witness in this case.

17 MR. CROMER: So understood.

18 MR. FRAWLEY: So I'm reserving any rights we have to  
19 object to his expert qualifications when we  
20 come to trial.

21 MR. CROMER: So stipulated.

22 MR. FRAWLEY: Okay.

23 Q: Mr. Tyler, let me get some housekeeping  
24 information done on the front end. What is  
25 your name and work address, please?

1 A: My name is Ronnie L. Tyler. My address is 1043  
2 Steelechase Lane, Hanahan, South Carolina.

3 Q: And did you come down here this morning?

4 A: Yes, I did.

5 Q: And what's your mileage from where you left  
6 this morning, either your home or your place of  
7 business, your office, to here, as far as your  
8 mileage?

9 A: I don't know the exact mileage but ...

10 Q: Okay. Well, you understand as an expert you're  
11 entitled to be compensated for your travel time  
12 here and your time spent in your deposition ---

13 A: Right.

14 Q: --- and that's going to be my expense, so.

15 A: It's about 106 miles based on the Google map  
16 directions.

17 Q: So 106 one way, so it'd be 212 round trip,  
18 correct?

19 A: (Nods head.)

20 Q: All right. And I know you've got my address  
21 from the subpoena we sent you and then you were  
22 -- you came to my office to provide your file  
23 last week, but I'm giving you my card with my  
24 mailing address on there. When we finish the  
25 deposition and you get back to Hanahan, if you

1 can assemble what your time was and send me an  
2 invoice for your time spent coming here at the  
3 deposition and returning, including a  
4 reasonable preparation time for it, then we'll  
5 send you a -- send you your check.

6 A: Okay.

7 Q: Let's look at Exhibit 1 and your -- on the back  
8 of it is your CV; let's look at that.

9 MR. MORRISON: The supplemental report?

10 MR. FRAWLEY: Yes, the supplemental report which is  
11 Exhibit 1, and he's attached his CV to the back  
12 of it.

13 Q: All right. Your profession is professional  
14 land surveyor?

15 A: That's correct.

16 Q: And you've also been a real estate broker for  
17 21 years?

18 A: That's correct.

19 Q: All right. Have you ever worked for the State  
20 of South Carolina?

21 A: No, I have not.

22 Q: All right. As a professional land surveyor,  
23 you worked in that area for 30 years, describe  
24 what it is you did for those 30 years.

25 A: Well, it's varied because I -- when I first



1 started out in it I was, you know, doing all  
2 types of surveys, boundary surveys. I think I  
3 list a whole list of them there as to types of  
4 surveys I've done.

5 Q: Have you ever done a geodetic survey?

6 A: No, I have not.

7 Q: Okay. On the last page of your CV, you have  
8 your employment history and the most recent one  
9 is 2015 to present, you're working as a  
10 professional surveyor, correct?

11 A: That's correct.

12 Q: Just above that, 2012 to present, it's ARKN2,  
13 LLR, what is that?

14 A: That should be LLC.

15 Q: Okay. LLC.

16 A: It's a real estate company.

17 Q: All right. And you were broker-in-charge at  
18 that time?

19 A: I am the broker-in-charge, yes.

20 Q: Okay. So you're still doing that?

21 A: Yes.

22 Q: All right. 2004 to 2012, real estate broker  
23 and property manager at Limerick, Inc. Real  
24 Estate?

25 A: That's correct.

- 1 Q: All right. Why did you leave there?
- 2 A: They closed.
- 3 Q: Okay. 1999 to 2015, president, surveyor-in-
- 4 charge at Terra Firma, Inc. So you're still
- 5 doing that or did you stop doing that last
- 6 year?
- 7 A: I closed the company and just I don't operate
- 8 under that company name any longer. That's the
- 9 only difference.
- 10 Q: Why is that?
- 11 A: Well, I don't have the employees like I had
- 12 before, so I didn't need to continue that way.
- 13 So I just operate as an individual now.
- 14 Q: And what type of company was Terra Firma, Inc.?
- 15 A: It was a land surveying company.
- 16 Q: Okay. How many employees did you have?
- 17 A: It varied over time. In the end, I was the
- 18 only employee and, like I say, that's why I
- 19 stopped using the company and just did it under
- 20 my own name.
- 21 Q: What's the most employees you had over that 16
- 22 year period?
- 23 A: Probably ten or 15.
- 24 Q: Did that ebb and flow over the years?
- 25 A: Yes, it did.

1 Q: All right. 1997 to April 1999, surveyor  
2 section manager at Cornerstone Surveying and  
3 Engineering. Describe what your job duties  
4 were there.

5 A: I was in charge of a division of their  
6 surveying department and supervised the  
7 surveying crews and went out with the crews and  
8 actually did surveys, so different sites that  
9 we were working on.

10 Q: Okay. 1985 to 1997, president, surveyor-in-  
11 charge and broker-in-charge of Terra Firma,  
12 Inc. That was your company then as well?

13 A: I was a part owner in it but I was not licensed  
14 until 1985, and I was operating with another  
15 surveyor, partner who was actually the head of  
16 the company.

17 Q: And you took over the company in 1999, two  
18 years later?

19 A: That's correct.

20 Q: How did the company operate in those  
21 intervening two years? Were you affiliated  
22 with Terra Firma, Inc., at all between 1997 and  
23 1999?

24 A: I had the company -- I owned the company but  
25 the company was not operating.

1 Q: Okay. 1981 to 1985, vice president and manager  
2 of Terra Firma, Inc., under James R. Bagley,  
3 RLS.

4 A: That's the time that I was talking about that  
5 I was not the actual surveyor; I was working  
6 under the surveyor.

7 Q: All right. You served in the Marines. Well,  
8 let me ask you this. I notice you went into  
9 the Marines in '66. Did you -- and then you  
10 were in the Marine Reserve after that, correct?

11 A: That's correct.

12 Q: Did you enlist before you were going to get  
13 drafted, which I know happened a lot back then,  
14 or how did that work?

15 A: Yeah, I enlisted in the Reserves.

16 Q: Okay.

17 A: And then I served my active duty time, and then  
18 I finished out the rest of my time as a  
19 reserve.

20 Q: Okay. Were you deployed overseas at all?

21 A: No.

22 Q: What was your MOS when you were in?

23 A: I don't remember what the MOS was, but it  
24 changed several times. I started out in a  
25 rifle company.

- 1 Q: Okay.
- 2 A: And then it became a supply company.
- 3 Q: Okay. And what was your rank when you
- 4 enlisted, E1?
- 5 A: When I enlisted?
- 6 Q: Yes, sir.
- 7 A: I was a private when I enlisted, yeah.
- 8 Q: PV1, and then when you got out, what was your
- 9 rank?
- 10 A: E5.
- 11 Q: E5. As far as your education, that's on your
- 12 CV, but you went to The Citadel to take a
- 13 surveying course there?
- 14 A: That's correct.
- 15 Q: Then Charleston Trident Association of
- 16 Realtors, Trident Technical College, 2000 to
- 17 2001. Did you get a -- have you gotten a
- 18 degree of any kind?
- 19 A: No, I did not.
- 20 Q: Okay. And, again, this is on page two of your
- 21 CV, for experience in land surveying and real
- 22 estate planning and development, you indicate
- 23 that you're a consultant and surveyor for
- 24 resolving survey and property disputes. What
- 25 does that mean?

1 A: I've been involved in a number of surveys where  
2 there was disputes between parties and was  
3 employed to survey the property and determine  
4 where the boundaries were and help to resolve  
5 the issues between the parties.

6 Q: Okay. Did any of those survey disputes involve  
7 geodetic surveys?

8 A: No.

9 Q: Consultant and surveyor for the development,  
10 planning, and construction of residential  
11 developments, including single family,  
12 subdivisions, apartments, condominiums and  
13 mobile home parks. Do you still do that?

14 A: I don't really do that on a regular basis  
15 because I don't do any of the development type  
16 work anymore other than subdivisions.

17 Q: Okay. And experience in surveying includes  
18 FEMA surveys. What are FEMA surveys?

19 A: That would be like flood zone surveys and  
20 surveys dealing with flood plain management  
21 under the federal program.

22 Q: All right. ALTA/ACSM surveys, what does that  
23 involve?

24 A: Atlantic -- that's ALTA/ACM surveys which would  
25 be title surveys under their regulations.

1 Q: Does most of your work take place on the coast?

2 A: I've done work on other sections of the county  
3 but the majority of it has been in the Tri-  
4 County area along the coastline.

5 Q: And you list at the bottom of page two  
6 experience in court litigation matters as an  
7 expert witness includes land development cases  
8 and other litigation cases where measurements  
9 were of importance. And then you list three or  
10 four of them. One of them is consultant and  
11 surveyor involved in court litigation on real  
12 estate boundaries and other matters, court  
13 qualified and passed litigation as an expert in  
14 the field of land surveying and title  
15 abstraction. Title abstraction, that's where  
16 you're doing a title search?

17 A: Yes, when you go and actually search the titles  
18 of the property and then -- I've presented that  
19 in court before and been recognized by the  
20 judge as being qualified to give my opinion on  
21 those titles.

22 Q: Based on a title search?

23 A: Yeah.

24 Q: Okay. Court appearances and/or depositions  
25 involving real property survey matters. And

1 again, those real property survey matters would  
2 be survey matters that do not include geodetic  
3 surveys, correct?

4 A: That's correct.

5 Q: And then court appearances and/or depositions  
6 involving accident sites, automobile train  
7 collisions and wrongful death claims, correct?

8 A: Correct.

9 Q: How many times have you testified in court and  
10 been qualified as an expert witness?

11 A: I don't know the exact number. It's probably  
12 been somewhere in the average of about one  
13 every two or three years.

14 Q: Over how many years?

15 A: Over the time that I've been a licensed  
16 surveyor in 1985.

17 Q: Okay. So you're talking 30 years, one or two  
18 a year, maybe a total of around 60 just  
19 ballpark?

20 A: Probably less than that. Probably more like 40  
21 or so.

22 Q: Okay. Forty or so. Had you ever been offered  
23 as a witness, an expert witness to the court  
24 and the court has refused to qualify you as an  
25 expert?



1 A: No.

2 Q: Okay. Now, those would be 40 times roughly  
3 that you've testified in court as an expert  
4 witness and been so qualified, correct?

5 A: But I don't know if they would actually be in  
6 court or just on cases that went to court.

7 Q: Well, that's what I want ---

8 A: I'll probably back up and say that actual in  
9 court would have been probably 20 times.

10 Q: Okay. So we'll break that down, 20 times in  
11 court roughly?

12 A: Right.

13 Q: And then back that up a little bit, sometimes  
14 you've testified on deposition?

15 A: Right, that's correct.

16 Q: And how many depositions would you have done?

17 A: Well, probably more than I have -- probably  
18 closer to the 40 because, you know, some of  
19 those I did that I did not go. Or I should  
20 probably say about 35 because there's probably  
21 been a couple times in there that I didn't  
22 actually -- my deposition wasn't actually taken  
23 ---

24 Q: Right.

25 A: --- but I was called as a ---

1 Q: Consultant?

2 A: --- consultant.

3 Q: Okay. So, again, these are ballpark numbers  
4 but 20 in court, 35 deposition, maybe 40 as a  
5 consultant that led to depositions or possibly  
6 trial?

7 A: Yeah, that's correct.

8 Q: Okay. You've held public office, Charleston  
9 County Planning and Zoning Commission. Was  
10 that an elected position or was that appointed?

11 A: It was an appointed position.

12 Q: You served seven years on the commission with  
13 two years as chairman?

14 A: That's correct.

15 Q: 1990 to 1997, correct?

16 A: That's correct.

17 Q: You're a licensed surveyor?

18 A: That is correct.

19 Q: How long have you held your license?

20 A: Since 1985.

21 Q: Has it lapsed for any period of time?

22 A: No.

23 Q: Do you have to, you know, attorneys and  
24 dentists -- because my son is a dentist --  
25 there's certain continuing legal education or

1 continuing education requirements each year or  
2 every other year that have to be maintained.

3 A: Yes.

4 Q: Do surveyors have those as well to maintain  
5 your license?

6 A: Yes, we do.

7 Q: And how many -- how many ---

8 A: Thirty hours every two years.

9 Q: Every two years. Okay. And you've always  
10 maintained that?

11 A: Yes, I have.

12 Q: Do you still maintain that?

13 A: Yes, I do.

14 Q: Do they have any kind of age exemption, like  
15 the South Carolina bar does, which I've just  
16 applied for, that if you're 30 years practicing  
17 and over 60 years you get to opt out?

18 A: No, I get to do that as a realtor, but I don't  
19 get to do that as a surveyor. Surveyor until  
20 you retire from your license, you have to  
21 continue to maintain your continued education.

22 MR. CROMER: Probably ought to be the same way in  
23 law too.

24 MR. FRAWLEY: Well, that's the point, whether I'm  
25 required to file the compliance or not you

1 still have to go to the CLE. Everything  
2 changes.

3 MR. CROMER: I know. I still do, don't get as much  
4 out of them.

5 Q: All right. Do you remember when you were first  
6 contacted about this case, and if so, by whom?

7 A: I was first contacted by Kim Murphy.

8 Q: Okay.

9 A: And I do not know the exact date. I was  
10 looking to see if I could tell you that. Hold  
11 on one second if you would.

12 Q: Sometime in late September maybe?

13 A: It was mid-September.

14 Q: Okay. And was this by telephone, email, in  
15 writing, how did that work?

16 A: Telephone.

17 Q: Telephone. And what did Ms. Murphy say to you  
18 when she called?

19 A: She told me a little bit about the fact that  
20 she had a dispute about her location of her  
21 property in relationship to the county  
22 boundary, and said that I had been recommended  
23 by another surveyor to her.

24 Q: Did she say who the other surveyor was?

25 A: I think it was Mr. John Glee.

- 1 Q: Okay. Was it John Gee, G-E-E?
- 2 A: Gee, I mean John Gee, yeah.
- 3 Q: Okay. At what point -- well, in that initial  
4 conversation it was Ms. Murphy talking to you  
5 and not her attorney, correct?
- 6 A: That's correct.
- 7 Q: At what point did you have a contact with her  
8 attorney? And again, I'm not looking for a  
9 date. Let's say ---
- 10 A: Probably ---
- 11 Q: --- in relation to that?
- 12 A: Probably the end of September when I came to --  
13 to this office and met with her and her  
14 attorney.
- 15 Q: And that would be Ms. Ashley Story?
- 16 A: That's correct.
- 17 Q: Okay. You entered into a contract with Ms.  
18 Murphy, didn't you?
- 19 A: That's correct.
- 20 Q: All right. Let's see, the report, the  
21 supplemental report is Number 1. This will be  
22 Defendant's Exhibit Number 2.
- 23 (Defendant's Exhibit Number 2 was marked for  
24 identification purposes.)
- 25 Q: Look that over and tell me if you recognize

1           that as your contract and then there's some  
2           checks attached to it.  
3    A:     Yes, I do recognize this is my contract.  
4    Q:     And this is dated at the bottom, Ms. Murphy  
5           signed it September 30, 2015, and then you  
6           signed it I think the day before that, correct?  
7    A:     That's correct.  
8    Q:     All right. There's a handwritten portion in  
9           the fee arrangement toward the bottom of it, it  
10          says -- well, would you read that for me,  
11          please.  
12   A:     Fee not to exceed \$3,000 without approval from  
13          client.  
14   Q:     And then that's initialed right after that?  
15   A:     That's correct.  
16   Q:     Are those your initials or Ms. Murphy's?  
17   A:     Those are my initials.  
18   Q:     Okay. And then Ms. Murphy is the client,  
19          correct?  
20   A:     That's correct.  
21   Q:     All right. And then the project name and  
22          location it's Richland/Lexington boundary  
23          issue; litigation, correct?  
24   A:     That's correct.  
25   Q:     And can you read the scope of services for me,

1 please.

2 A: Forensic survey litigation support services for  
3 the client on project, boundary survey services  
4 relating to county boundary.

5 Q: How do you describe, or please describe for me  
6 the term "forensic survey litigation support  
7 services," what does that entail?

8 A: Well, forensic surveying would mean that it was  
9 prepared to present it in court. And  
10 litigation support services would mean that it  
11 was services provided anticipating that it was  
12 going to be litigated in court.

13 Q: Okay. And was it your understanding when Ms.  
14 Murphy contacted you that litigation was  
15 already in place?

16 A: Yes, it was.

17 Q: And that you were -- I guess maybe when you  
18 talked to Ms. Story that there was a deadline  
19 for purposes of identifying expert witnesses  
20 and getting you and identifying you would be in  
21 compliance with that deadline?

22 A: Yes, it was.

23 Q: All right. Boundary survey services relating  
24 to county boundary. Tell me what that entails.

25 A: Well, the county is established by a boundary

1 of the county and that would entail looking at  
2 the county boundary working doing whatever was  
3 necessary to provide the services that are  
4 needed in relation to the case on evaluating  
5 the county boundary.

6 Q: Whatever services were necessary other than  
7 going out there and surveying it yourself,  
8 correct?

9 A: Well, at the point of this contract, I had not  
10 been asked to actually go out and survey it.

11 Q: Right. So at this point, the scope of the  
12 contract was for you to provide forensic survey  
13 litigation support services; in other words,  
14 you know there's a lawsuit going on and  
15 whatever you're going to do is going to be  
16 involved in supporting the claim for that  
17 lawsuit, correct?

18 A: That's correct.

19 Q: And it was also going to be providing what  
20 services you needed in reviewing materials on  
21 that boundary survey issue but not actually  
22 going out and conducting a survey?

23 A: We discussed whether I'd actually go out and  
24 conduct a survey, but it was at the point that  
25 we made this contract and discussed it, that



1 was not being requested at that time.

2 Q: Right, and I just want to talk about what's on  
3 the page here.

4 A: Yes.

5 Q: On the page here, you're not asked to go out  
6 there and conduct a survey?

7 A: No.

8 Q: Okay. Did you, in fact, at any point go out  
9 there and actually conduct a survey?

10 A: No, I have not.

11 Q: Have you been to the site before?

12 A: I've been to the site, but I have not reviewed  
13 the entire site.

14 Q: When did you go to the site? And by the site,  
15 we're talking about Ms. Murphy's property where  
16 the disputed county line is.

17 A: I haven't actually been on that part of the  
18 property, no.

19 Q: Okay. Have you been to the part of the  
20 property or part of the area that has been  
21 identified as Rocky Ford?

22 A: No, I have not.

23 Q: You weren't asked to do that, were you?

24 A: I wasn't -- it was discussed that I would do  
25 that but the time limits that we've had have

1 not allowed for me to actually go and do that.

2 So it may be that I will go back and do that.

3 Q: But as of today you haven't done it?

4 A: No, I have not.

5 Q: As of the rendering of these opinions, you  
6 haven't done it?

7 A: No, I haven't.

8 Q: And the time limitations you're talking about,  
9 the contract initially was for 25 hours of your  
10 time, correct?

11 A: That's correct.

12 Q: Have you exceeded that yet?

13 A: Yes.

14 Q: The answer to that is yes?

15 A: Yes.

16 Q: Okay. By how much?

17 A: I don't have an exact figure.

18 Q: And let's talk about that. Administratively,  
19 as far as getting bills out and so forth, do  
20 you have a support staff to do that or do you  
21 do that yourself?

22 A: I do it myself.

23 Q: And when you keep track of your time, do you do  
24 it tenths of an hour? How do you do it? You  
25 ballpark estimate it? How do you do it?

- 1 A: Normally I keep it in quarters of an hour.  
2 That's what we specified in the contract.  
3 Q: Okay.  
4 A: But there's times that I have not actually kept  
5 the time. Because I have ---  
6 Q: Where you've done stuff and not ---  
7 A: --- because I have agreed to complete a certain  
8 amount of work for a certain price and so that  
9 time, once I reached a point that I knew I was  
10 reaching that figure, I haven't been diligent  
11 about keeping exact time.  
12 Q: Okay. Your current rate schedule as of this  
13 contract is \$120 an hour for Ronnie Tyler, PLS?  
14 A: That's correct.  
15 Q: And that's PLS is professional land surveyor?  
16 A: That is correct.  
17 Q: Paralegal is \$60 per hour, correct?  
18 A: That's correct.  
19 Q: Who's the paralegal?  
20 A: I sometimes use a paralegal to do research and  
21 that's what I would have to pay the paralegal  
22 I would use.  
23 Q: So you'd have to pay the paralegal \$60 per  
24 hour?  
25 A: Probably I think it's 45 an hour.

- 1 Q: And there's some overhead there, correct?
- 2 A: Correct.
- 3 Q: Would you have to take out -- well, let me ask
- 4 you this. Did you have to hire a paralegal
- 5 under this contract?
- 6 A: Not under this contract.
- 7 Q: All right. So that \$60 per hour is not really
- 8 relevant to what went on?
- 9 A: No.
- 10 Q: Okay. Survey technician \$60 per hour.
- 11 A: I haven't used one under this contract.
- 12 Q: Clerical \$50 per hour.
- 13 A: I haven't used any under this contract.
- 14 Q: So any time spent on this contract has been for
- 15 you at \$120 per hour, correct?
- 16 A: That's correct.
- 17 Q: Have you had to hire anybody or associate any
- 18 person other than yourself to assist you in
- 19 doing what you had to do under this contract?
- 20 A: I have not.
- 21 Q: Okay. Page two of the contract, the terms and
- 22 conditions. Where did you get this contract?
- 23 Did you draft this yourself or did you get it
- 24 from a form company?
- 25 A: This is a contract that I, back when I was

1 running Terra Firma, Incorporated, with  
2 employees in the beginning of it, it just came  
3 to -- it came together from different sources.  
4 This is not -- it was something I wrote but it  
5 was based on other contracts that I had  
6 reviewed and been -- used that information to  
7 create this contract.

8 Q: On the bottom the next to last bold face  
9 heading down there, it says "Survey Standards."  
10 The surveyor agrees to perform the services  
11 stated in this agreement to the normal  
12 standards of practice of the Standards of  
13 Practice Manual for Surveying in South  
14 Carolina, Code of Regulations Chapter 49,  
15 Article 4, effective June 26, 2009, and  
16 applicable local governmental regulations.  
17 What does that mean?

18 A: All surveyors in South Carolina are required to  
19 do -- any surveying they do has to meet code of  
20 standards, and any surveying that would be done  
21 that would be governed by a municipality or  
22 another government agency, you have to meet  
23 their standards.

24 Q: And y'all have Rules of Professional Conduct  
25 for your license as well, don't you?

1 A: Yes, we do.

2 Q: And that's Article 3. What you've cited here  
3 is Article 4 for your Standards of Practice,  
4 but your Rules of Professional Conduct are  
5 dealt with in Chapter 49, Article 3, correct?

6 A: I believe you're right. I don't have a copy of  
7 it and it's been a while since I looked to see  
8 what article it was. But I do know I have  
9 reviewed the standards.

10 Q: But you're familiar with the Rules of  
11 Professional Conduct that apply to your  
12 profession, correct?

13 A: Yes, I am.

14 Q: We'll talk about those in a moment. If we  
15 could look on the next page, there's a check  
16 from Ms. Murphy to you dated the date that she  
17 signed the contract in the amount of \$2,400  
18 which was the specified amount for the initial  
19 payment, correct?

20 A: That's correct.

21 Q: And the next page after that is a check again  
22 drawn on Ms. Murphy's account, December 31,  
23 2015, for an additional \$1,000, correct?

24 A: That's correct.

25 Q: And then the next page is a check drawn on J.

1           Lewis Cromer and Associates, LLC, IOLTA account  
2           in the amount of \$2,000 made out to you,  
3           correct?

4    A:     That's correct.

5    Q:     Have you been paid anything other than the  
6           amounts shown here?

7    A:     No, I have not.

8    Q:     So that's what 34 and then -- \$5,400 you've  
9           been paid?

10   A:     That's correct.

11   Q:     And what is -- is there a balance remaining?

12   A:     No.

13   Q:     So whatever you're going to do up to this point  
14           has been paid for and encompassed in that  
15           amount, correct?

16   A:     That's correct.

17   Q:     Other than what you're going to bill me for  
18           this deposition, correct?

19   A:     That's correct.

20   Q:     Now, you may do additional work, and if you do  
21           that additional work, are you going to bill  
22           them for that?

23   A:     Yes, I will.

24   Q:     Have you been asked to do additional work as of  
25           today?

1 A: No, I have not.

2 Q: Let's talk about Article 3. This will be  
3 Exhibit 3.

4 (Defendant's Exhibit Number 3 was marked for  
5 identification purposes.)

6 Q: I'll hand you that. Go ahead and look at it  
7 for a minute.

8 MR. FRAWLEY: Let's go off the record while they're  
9 looking at it.

10 (Break from 11:29 a.m. until 11:33 a.m.)

11 Q: Have you had a chance to look at it?

12 A: Yes, I have.

13 Q: Let's look at -- it's on I think the second  
14 page, Section 49-303 regarding public  
15 statements. B says, "The engineer or surveyor,  
16 when serving as an expert or technical witness  
17 before any court, commission, or other tribunal  
18 shall express an opinion only when it is  
19 founded upon adequate knowledge of the facts in  
20 issue, upon a background of technical  
21 competence in the subject matter, and upon  
22 honest conviction of the accuracy and propriety  
23 of his testimony." That's what it says,  
24 correct?

25 A: Correct.



1 Q: Is it your understanding -- I mean you've seen  
2 that language before, correct?

3 A: Yes, I have.

4 Q: What does that mean to you?

5 A: Well, it means to me that any statements that  
6 I make would be based on an honest opinion  
7 about the subject of the statement being made,  
8 and that you would not lie about anything;  
9 you're going to tell the truth.

10 Q: There's basically three requirements in there.  
11 The first is that your opinion has to be  
12 founded upon adequate knowledge of the facts at  
13 issue. So you've got to know the facts, right?

14 A: That's correct.

15 Q: And then the part that you just referred to is  
16 that it's got to be an honest opinion, honest  
17 conviction of the accuracy and propriety of  
18 your testimony, correct? That's the third one?

19 A: That's correct.

20 Q: The second one is it has to be based upon a  
21 background of technical competence in the  
22 subject matter, correct?

23 A: That's correct.

24 Q: And what is your understanding of that?

25 A: That my knowledge as to what I am presenting

1 would be that I would competent to present  
2 those facts.

3 Q: And you feel comfortable that in this case  
4 you're competent to present the facts of your  
5 opinion?

6 A: I do.

7 Q: Okay. You were kind enough, I think we sent  
8 you a subpoena, and then you were kind enough  
9 to come to Lexington last week, last Friday and  
10 bring your notebook which you've got in front  
11 of you, correct?

12 A: That's correct.

13 Q: I want to go over that briefly just to make  
14 sure we have the right portions in here. So  
15 could you look at your notebook from the front.  
16 We copied it basically from the front to the  
17 back last Friday.

18 A: There's nothing been added to it since you  
19 copied it, but I'll be glad to go through it.

20 Q: Okay. Just for the record I just want to say  
21 what you've got in your notebook. Do you have  
22 -- your expert report, the former expert  
23 report, was that in there?

24 A: It is.

25 Q: And there was some loose stuff in the front of

1 your notebook as well, wasn't there?

2 A: Yes.

3 Q: So you do have a copy of your report. Do you  
4 have a copy in there of your CV?

5 A: Yes, I do.

6 Q: Okay. Did you have a copy of 113 pages of  
7 emails?

8 A: Yes, I do.

9 Q: Do you have those located in there?

10 A: Yes, I do.

11 Q: Those are in the back?

12 A: Yes, they were clipped together. They weren't  
13 actually ---

14 Q: And that's fine. Well, set those aside because  
15 we'll be asking questions about those. But  
16 those are paginated in the upper right-hand --  
17 upper right-hand corner of each page, page 1 of  
18 113, page 2 of 113, all the way through,  
19 correct?

20 A: That's correct.

21 Q: All right. And then do you also have maps,  
22 deeds, and plats?

23 A: Yes, I do.

24 Q: And among those maps, deeds, and plats, do you  
25 have a plat in there prepared by Lucius Cobb

1 for Ms. Murphy, Mr. and Ms. Murphy?

2 A: I do.

3 Q: Let's see if I can find it.

4 A: Actually I have several of them.

5 Q: Okay.

6 MR. MONTGOMERY: Page 15 is one I know, Pat.

7 Q: Okay. How about page 008177, do you have that?

8 A: I do.

9 Q: Okay. Now, is that a plat of Ms. Murphy's  
10 property, or Jay and Kim Murphy's property?

11 A: Yes, it is.

12 Q: And is Rocky Ford shown on that plat?

13 A: It's not specified on this plat, no.

14 Q: How about the next page, page 8178, what is  
15 that ---

16 A: Yes ---

17 Q: --- what is that a plat of?

18 A: That's a subdivision plat of the property that  
19 was shown on the previous one we talked about.

20 Q: Okay. Is Ms. ---

21 A: Sixty acres in and now he's subdivided into  
22 individual lots.

23 Q: And is Ms. Murphy's property shown on there?

24 A: The part that she -- of her actual part of her  
25 property is. It's been subdivided and one of

1 the lots is now the property that she uses as  
2 her own personal property.

3 Q: And that's lot number four?

4 A: That's correct.

5 Q: Okay. Is Rocky Ford shown on this plat?

6 A: There is a point labeled as Rocky Ford with an  
7 old road going across the creek, yes.

8 Q: And show me again where that is.

9 A: It's on the lower right-hand side of the  
10 property and shows an old road crossing the  
11 creek.

12 Q: Let me ask you this. You've reviewed what  
13 plats, what surveys with regard to this case?  
14 You've reviewed obviously Mr. Cobb's, correct?

15 A: Yes, I have.

16 Q: We're going to talk about his in a minute. But  
17 have you reviewed the surveys or maps that the  
18 Budget and Control Board issued its opinion on  
19 as far as where the property line is; where the  
20 county line is?

21 A: I've reviewed the documents that were presented  
22 in the hearing before the judge.

23 Q: Okay. And that would be the hearing before  
24 Judge Cooper, correct?

25 A: That's correct.

1 Q: That Ms. Murphy and her attorney did not  
2 attend?

3 A: I don't know that. I mean that's what it says.

4 Q: Did you see anything in the transcript  
5 indicating Ms. Murphy or her attorney were  
6 there?

7 A: Yes, it said they did not attend.

8 Q: Right. Okay. As far as where Mr. Bowers'  
9 testimony indicated his department determined  
10 where Rocky Ford was or located, isn't that the  
11 same place that Mr. Cobb says Rocky Ford is?

12 A: I don't know.

13 Q: You don't know that?

14 A: I don't know.

15 Q: You haven't checked that?

16 A: No.

17 Q: You weren't asked to check that?

18 A: No.

19 Q: So as far as the accuracy of what Mr. Bowers'  
20 department determined was where Rocky Ford  
21 should be or was under his testimony, you've  
22 not determined that, have you?

23 A: No, I have not.

24 Q: As far as whether Mr. Cobb's survey is accurate  
25 with regard to where he says Rocky Ford is, you

1 haven't checked the accuracy of that, have you?

2 A: No, I have not.

3 Q: But you agree that Mr. Cobb is the surveyor  
4 that Ms. Murphy and her husband used for their  
5 property?

6 A: He's the surveyor of record on the subdivision  
7 of the property, yes.

8 Q: Okay. And in your experience, typically who is  
9 the surveyor of record hired by?

10 A: The client that owns the property.

11 Q: Whose name appears on page 8177 in the lower  
12 right-hand corner, which is Kim and Jay Murphy,  
13 correct?

14 A: That's correct.

15 Q: All right. Going back to your notebook again.  
16 The next heading I have here is it says "Code."  
17 Now that may be my paralegal having put that in  
18 or it may be your nomenclature. But you have  
19 pages from the South Carolina Code of Laws,  
20 don't you?

21 A: I do.

22 Q: The one I start with is Volume IA, it's JLC&A  
23 K. Murphy 012092, that's the number I have in  
24 the lower right-hand corner.

25 A: That's correct.

1 Q: And the pages thereafter, we have some I think  
2 three pages of that, then we have Acts and  
3 Joint Resolutions of the General Assembly of  
4 the State of South Carolina, Regular Session of  
5 1969; do you have that?

6 A: I do.

7 Q: Now, the first three pages we went through with  
8 Volume 1A, tell me what those -- I'm not going  
9 to ask you to read it, but what are they in  
10 your notebook for?

11 A: They are the code that relates to the boundary  
12 that is issue in this for Richland County and  
13 Lexington County.

14 Q: Which is set forth by statute, correct?

15 A: That's correct.

16 Q: All right. And then this next portion, the  
17 1969 Acts and Joint Resolutions Excerpt, what  
18 does that represent

19 A: That represents what was in 1969 was the code  
20 of law relating to the county lines.

21 Q: This is the Act that resulted in the statute  
22 that you have as from Volume 1A of the South  
23 Carolina Code?

24 A: Correct.

25 Q: All right. Then the next thing we have is Acts



1 of the General Assembly of South Carolina. And  
2 what is this?

3 A: This is a copy of the Act that was done and  
4 approved March of 1922.

5 Q: Okay.

6 A: March 11th, 1922.

7 Q: And approved 11 day of March A.D. 1922, that  
8 appears on page 981 of those collection of  
9 pages, correct?

10 A: That's correct.

11 Q: Then the next entry you have there is Acts and  
12 Joint Resolutions of the General Assembly  
13 passed in the Regular Session of 1913. Tell me  
14 what that is.

15 A: It's an act that provided for the transfer and  
16 annexation of a certain portion of Lexington  
17 County to Richland County to alter the county  
18 line of said counties to conform thereto.

19 Q: So we've got 1913, 1922, 1969. Did that county  
20 line change between those three?

21 A: No.

22 Q: It was the same throughout that period of time,  
23 correct?

24 A: Yes.

25 Q: All right. Do you agree with me that the State

1 of South Carolina is the entity that sets forth  
2 what the county lines are?

3 A: Yes.

4 Q: All right. Let's look at the next one in  
5 there. We've got a Google page and then the  
6 next page starts, the page number in the upper  
7 right-hand corner is 821 through 826. Tell me  
8 what this represents.

9 A: This is an act to provide for the transfer and  
10 annexation of a certain portion of Lexington  
11 County to Richland County and to alter the  
12 county line of said county to conform thereto  
13 and was approved February 9th, A.D. 1912.

14 Q: And did anything change the year before the  
15 latest one that we looked at?

16 A: I would have to go back and actually look to  
17 see if it did because I don't remember exactly  
18 when they were. But the boundaries changed as  
19 sections were added from Lexington County to  
20 Richland County. So in there about 1912, 1913,  
21 there was an addition that is now listed in the  
22 current code but was not listed in the previous  
23 code because it wasn't annexed at that time,  
24 because the county actually had transferred  
25 portions of Lexington County into Richland

1 County at several times by several different  
2 documents.

3 Q: So that county line has changed over the years  
4 when there's been annexations?

5 A: Right, it's changed as the annexations.

6 Q: Okay. Let me ask you this. These Acts and  
7 Joint Resolutions from 1912, 1913, 1922, 1969  
8 and then the current one out of Volume 1A, did  
9 you do that research or did someone else do it  
10 for you?

11 A: Someone else did it. I was provided this  
12 information.

13 Q: By whom?

14 A: By the -- in the emails that are listed.

15 Q: By Ms. Murphy?

16 A: Ms. Murphy or by attorney's office.

17 Q: Okay. So either her attorneys or Ms. Murphy  
18 gave it to you ---

19 A: Yes.

20 Q: --- you're not sure?

21 A: Well, some of it came from Ms. Murphy; some of  
22 it came from Ashley's paralegal.

23 Q: That's Ms. Ida ---

24 MS. STORY: Iris Ray.

25 Q: Iris Ray. I should know her because I talked

1 to her last night. You've gotten a good bit of  
2 material from Ms. Murphy directly, haven't you?

3 A: Yes, I have.

4 Q: Even material that wasn't necessarily directed  
5 by her attorney, Ms. Murphy was sending you,  
6 correct?

7 A: I assume so, yes.

8 Q: Well ---

9 A: I don't know which -- what items her attorney  
10 may have known she was sending me because most  
11 of the things that I received from Ms. Murphy  
12 were also jointly emails to her attorney.

13 Q: Right. But would you agree with me, and we'll  
14 go over the emails in a moment, that there were  
15 items that were sent to you by Ms. Murphy that  
16 Ms. Story found out about after the fact?

17 A: In the beginning, yes.

18 Q: Such as the documents from the other lawsuit?  
19 You understand there's two lawsuits involving  
20 this: this one and then another one where Judge  
21 Cooper's order was appealed to Judge Benjamin,  
22 Judge Benjamin affirmed it and then there was  
23 a Rule 59 motion to reconsider that was filed  
24 that has only recently been dismissed, and now  
25 I understand there's an appeal to the Court of

1 Appeals. Do you understand that there are two  
2 lawsuits?

3 A: I have vague knowledge of it, but I don't have  
4 detailed knowledge about it.

5 Q: Okay.

6 A: I've not reviewed anything about any lawsuit  
7 except this lawsuit.

8 Q: And this lawsuit we're here on today is the  
9 main one that you've been retained for,  
10 correct?

11 A: That's the one I was retained for, and it's the  
12 one that I have made a review to give an  
13 opinion based on.

14 Q: Is it your understanding, I know you've  
15 reviewed the hearing before Judge Cooper,  
16 haven't you?

17 A: Yes.

18 Q: The transcript?

19 A: That's correct.

20 Q: Have you assumed up to that point that the  
21 hearing before Judge Cooper was this lawsuit  
22 that we're here today on?

23 A: To my knowledge, yes.

24 Q: Okay. Let me ask you this. We just finished  
25 going through the Acts and Joint Resolutions.

1           The next heading I have here, again, this may  
2           be my paralegal's heading, particularly since  
3           she's misspelled Ms. Murphy's name, but Murphy  
4           and Zupan phone call, and I've noticed in some  
5           of the emails there were -- there was reference  
6           to the Zupan transcript; do you know what I'm  
7           talking about?

8    A:     Yes.

9    Q:     And that's this next group here, the Bates  
10           number in the lower right-hand corner is JLC&A  
11           K. Murphy 014429 through 014456, that's the  
12           transcript here, correct?

13   A:     That's correct.

14   Q:     What is your understanding of what this is a  
15           transcript of?

16   A:     A telephone conversation that was recorded  
17           between Ms. Murphy and ---

18   Q:     Alan-Jon Zupan?

19   A:     --- Alan-Jon Zupan, yeah.

20   Q:     And is it your understanding that Ms. Murphy  
21           recorded this conversation surreptitiously  
22           without telling Mr. Zupan he was being  
23           recorded?

24   A:     I do not know that.

25   Q:     She didn't tell you that?

1 A: No.

2 Q: Do you know if she recorded any conversations  
3 with you?

4 A: Not to my knowledge.

5 Q: What do you think about someone who records a  
6 conversation without telling the other person  
7 that they're being recorded; do you have a  
8 professional opinion on that?

9 A: I don't have a professional opinion on it.

10 Q: It's beyond your expertise ---

11 A: That's correct.

12 Q: --- as a registered land surveyor? Okay.

13 Looking at this Zupan transcript, if you look  
14 at the first page -- or actually it's the  
15 second page, the first page of text, at the  
16 very beginning -- you've read this transcript,  
17 right?

18 A: I breezed over it. I can't say that I really  
19 could answer anything about what's in it and in  
20 detail because I didn't really consider this as  
21 part of what I was doing.

22 Q: Well, and I don't plan on getting into the  
23 substantive realities of this thing, but at the  
24 very beginning on the top of the second page,  
25 there's no text in there that says hi, Mr.

1           Zupan, this is Kim Murphy, I'd like to talk to  
2           you about a few things. There's no opening  
3           salutation in this phone conversation, is  
4           there?

5    A:     I don't see one.

6    Q:     I mean it basically starts with an ellipsis,  
7           doesn't it? The three dots? Right there.

8    A:     Yeah. Yes, that's three dots.

9    Q:     And what does an ellipsis indicate to you?  
10           When you see that when you read something, what  
11           does that mean to you?

12   A:     Means that something was left out.

13   Q:     Something's missing, correct?

14   A:     Yes.

15   Q:     All right. And so the transcript we have here,  
16           I mean obviously this is where the transcript  
17           is intended to start because it says page two  
18           on the top, doesn't it?

19   A:     Yes.

20   Q:     And page one is the transcript of the recorded  
21           phone conversation with just the cover page,  
22           correct?

23   A:     That's correct.

24   Q:     So would you agree with me that this transcript  
25           seems to start in the middle of the



1 conversation or at least sometime after the  
2 beginning of the conversation?

3 A: I would say it does indicate that something was  
4 said before what's in this transcript.

5 Q: So something's omitted in the transcript?

6 A: Yes.

7 Q: Then if you go the last page, which is Bates  
8 numbered 014456, and actually let's go to the  
9 page just before that, and at the bottom of  
10 that or maybe starting with line 16, Ms. Murphy  
11 makes a remark in there, well, my grandmother  
12 was a -- and then Mr. Zupan talks about there  
13 are sometimes there are heirs, you know. Then  
14 Ms. Murphy at the bottom says my grandmother  
15 was an antique dealer in Connecticut and lived  
16 in a toll house built in the 1970s. Zupan  
17 says, wow. And then Ms. Murphy says, it's  
18 really -- I appreciate the old stuff. Then it  
19 says "end of recording," correct?

20 A: Yes.

21 Q: There's no well, Mr. Zupan, thanks for talking  
22 to me and you have a good day, or nothing by  
23 Zupan saying well, Ms. Murphy, you have a good  
24 day; there's no resolution of this phone  
25 conversation, is there?

1 A: I don't see one in the transcript.

2 Q: I mean when you end your phone conversations,  
3 do you usually say have a nice day, goodbye, go  
4 to hell, I mean something, something indicating  
5 the conversation is over? Do you usually do  
6 that?

7 A: Usually unless somebody hangs up on me.

8 Q: Any indication here that there was a hang up,  
9 other than the fact that there's an abrupt end  
10 of recording ending to this?

11 A: No.

12 Q: Okay. Let's go to the next thing. The next  
13 thing I have is Judge Cooper hearing  
14 transcript; is that what you have?

15 A: That's what I have.

16 Q: Okay. And this is the transcript of the  
17 hearing before the Honorable G. Thomas Cooper,  
18 I think they're supposed to have a Junior in  
19 there, but doesn't matter, Friday, February 15,  
20 2013, right?

21 A: That's correct.

22 Q: That's when the hearing would have taken place?

23 A: That's correct.

24 Q: That's your understanding? Now, you've  
25 reviewed this whole thing?

1 A: Yes, I have.

2 Q: And the exhibits? There were a bunch of  
3 exhibits put in too, weren't they?

4 A: Yes.

5 Q: And we covered this a little bit earlier, but  
6 it's your understanding -- well, for instance,  
7 look at the next page, the lower right-hand  
8 corner, the Bates number is 011989, and it  
9 indicates appearances and it has attorneys for  
10 the Lexington-Richland School District 5,  
11 Childs and Halligan, Kenneth L. Childs, John M.  
12 Reagle, Keith R. Powell, they've got three  
13 lawyers there, don't they?

14 A: Yes.

15 Q: But there's no appearances listed for Ms.  
16 Murphy?

17 A: Not on this, no.

18 Q: Okay. And is it your understanding in  
19 reviewing this that Ms. Murphy had notice but  
20 was not present?

21 A: It says that in some of the discussion in the  
22 document, yes, at the beginning of the hearing.

23 Q: Right. In the early portion Mr. Childs talks  
24 and gives his opening statement, the judge says  
25 here's why we're here.

1 A: Yes.

2 Q: But there's some mention in there that, for  
3 instance, if we look at the bottom of page  
4 011992, the judge says beginning on line 20, "I  
5 have no authority to do anything other than  
6 conduct this hearing as authorized by the  
7 board. I have no authority to do anything with  
8 regard to Ms. Murphy other than to take this  
9 testimony for the record, and that will be the  
10 purpose of the hearing. The press has been  
11 notified, the public has been notified, Ms.  
12 Murphy has been notified of this hearing, and  
13 that's all I need to say about that. And then  
14 he recognizes Mr. Childs and Ken Childs gets up  
15 and makes his statement, correct?

16 A: That's what it says, yes.

17 Q: All right. In reading anything of this  
18 transcript, when you got to the end of it, did  
19 it appear to be a complete transcript?

20 A: Yes, it does.

21 Q: Did it appear to you that anything was left  
22 out?

23 A: No.

24 Q: Did it appear to you that there was anything in  
25 here indicating an attorney appearing on behalf

1 of Ms. Murphy or Ms. Murphy being present at  
2 the hearing?

3 A: No.

4 Q: When Mr. Bowers testified, you read his  
5 testimony, right?

6 A: Yes.

7 Q: And I understand from your report, we'll get to  
8 your report in a second, but -- later than a  
9 second but in a bit -- I understand that you  
10 disagree with the methodology that they used in  
11 determining where Rocky Ford is or where the  
12 line is; is that a fair assessment?

13 A: Yes.

14 Q: Okay. But in reviewing Mr. Bowers' testimony,  
15 there was no cross-examination of Mr. Bowers,  
16 was there?

17 A: No.

18 Q: There was nobody on Ms. Murphy's behalf to say,  
19 you know what, Mr. Bowers, we appreciate that,  
20 we think your exhibits and your diagrams are  
21 pretty, you know, you've done a lot of work on  
22 this and we commend you for that but you're  
23 wrong and here's why; nobody to say that,  
24 right?

25 A: No.

1 Q: But Judge Cooper says early on that Ms. Murphy  
2 had notice of the hearing, didn't he?

3 A: Yes.

4 Q: And if he's not lying, if he's not in the  
5 conspiracy too, then Ms. Murphy did have notice  
6 of the hearing, correct?

7 A: It purports that, yes.

8 Q: The next heading I've got is "Word Index," and  
9 that's this great device that court reporters  
10 have developed over the last 20 years where  
11 they give us an alphabetical index of what's in  
12 their transcript; do you have that? That would  
13 be towards the very end of the transcript, I  
14 think.

15 A: What number is on it?

16 Q: That's 12064. Looks like this, will be at the  
17 very end of it. There you go.

18 A: I've got it.

19 Q: Okay. So you've got that and that runs through  
20 the last page there would be 012073, correct?

21 A: That's correct.

22 Q: All right. Then the next thing after that is  
23 Exhibit 1 for the hearing, which is Bates  
24 numbered 012074 through 012075, correct?

25 A: That's correct.

1 Q: Then the next item is Exhibit 2, which is  
2 012076 through 012078, correct?  
3 A: That's correct.  
4 Q: All right. Next item is Exhibit 3, which is  
5 012079 through 012080, correct?  
6 A: That's correct.  
7 Q: Next item is Exhibit 4, which is 012081 through  
8 012082, correct?  
9 A: That's correct.  
10 Q: Next item after that is Exhibit 5, which is  
11 012083 through 012084, correct?  
12 A: That's correct.  
13 Q: Next item after that is Exhibit 6, which is  
14 012085 through 012086, correct?  
15 A: That's correct.  
16 Q: Next item is Exhibit 7, which is 012087 through  
17 012088?  
18 A: Correct.  
19 Q: Next item is Exhibit 8, which is 012089 through  
20 012097, correct?  
21 A: That's correct.  
22 Q: Next item is Exhibit 9, which is 012098 through  
23 012101; is that correct?  
24 A: That's correct.  
25 Q: Next item is Exhibit 10, which is 012102

1 through 012103, correct?

2 A: That's correct.

3 Q: Next item is Exhibit 11, which is 012104

4 through 012112, correct?

5 A: That's correct.

6 Q: Next one is Exhibit 12 ---

7 A: No, wait a minute. Through 11 -- okay, I see

8 it.

9 Q: Yeah, 112, okay. Next one is Exhibit 12, and

10 that is 012113 through 012117?

11 A: Correct.

12 Q: Next one is Exhibit 13, which is 012118 through

13 012120?

14 A: That's correct.

15 Q: And the next one is Exhibit 14, which is 012121

16 through 012124?

17 A: That's correct.

18 Q: And the last exhibit is Exhibit 15, which is

19 012125 -- is that a lengthy exhibit for you?

20 A: Yes, it is.

21 Q: Okay. Then I've got it going through 012167,

22 and then there are some unnumbered pages at the

23 end with the heading "South Carolina General

24 Assembly."

25 A: That's the next document.



- 1 Q: Okay. That's the next document, all right.
- 2 A: That was not an exhibit in that case. This is
- 3 an additional document.
- 4 Q: So the last page of Exhibit 15 is 012167,
- 5 correct?
- 6 A: That's correct. That's correct.
- 7 Q: Total of 15 exhibits?
- 8 A: Correct.
- 9 Q: None of those exhibits were put in by Ms.
- 10 Murphy?
- 11 A: No.
- 12 Q: Okay. All right. Right after that we've got
- 13 the General Assembly heading and these are
- 14 unnumbered pages, basically five pages,
- 15 correct?
- 16 A: That's correct.
- 17 Q: Tell me what this is.
- 18 A: This is a amendment to the law that governs
- 19 what the Geodetic Survey's responsibilities and
- 20 procedures that are required under the law to
- 21 -- in relationship to surveying county
- 22 boundaries and recording a survey of those
- 23 boundaries.
- 24 Q: This is the 2014 Act?
- 25 A: That's right.

1 Q: Then the next heading I have is "Standards for  
2 Surveying," and this is the Standards of  
3 Practice Manual for Surveying in South Carolina  
4 for Chapter 49, Article 4, Regulations 400 to  
5 490 effective June 26, 2009; that's what that  
6 is, correct?

7 A: That's correct.

8 Q: Basically 16 -- well, 17 pages?

9 A: Seventeen pages.

10 Q: All right. And that's the last of the bound  
11 material I've got in your notebook, correct?

12 A: It's the last of what I have, yes.

13 Q: All right. Do you have any other material that  
14 you've reviewed for this case in preparation of  
15 rendering your opinions other than the material  
16 in this notebook?

17 A: Not that I reference, but there are some other  
18 documents that were on a flash drive that were  
19 included in the emails, and I glanced through  
20 those, but I did not reference those in my  
21 report.

22 Q: Did you bring that flash drive with you today?

23 A: I did.

24 Q: And you offered it to me on Friday too I think

25 ---

1 A: Yes.

2 Q: --- and we said no, we think we've got enough

3 ---

4 A: And I also tried -- I talked with Ms. Brown in  
5 your office ---

6 Q: Right.

7 A: --- and I tried to put it in Dropbox so she  
8 could pick it up, but just at the point I went  
9 to give her -- give the site, a link for her to  
10 see it, I knocked my laptop off the desk and  
11 busted the hard drive.

12 Q: That's what I've heard. Technology is a bummer  
13 with old guys like us. Did you bring that  
14 thumb drive with you?

15 A: I did.

16 Q: Okay. And is that something you can leave with  
17 me so we can make copies of it and provide it  
18 to everybody?

19 A: No, but it's something that you can make copies  
20 of. I mean I can't leave it with you because  
21 it's the only copy I have of it.

22 Q: Okay. Well, between now and when you and I  
23 finish our business today, I'm not sure how I'm  
24 going to make a copy of it.

25 MR. MONTGOMERY: Hand it to me.

1 Q: Okay. Let me have him do that.

2 A: He can just download it on his computer.

3 Q: That will be good. All right.

4 (Off the Record)

5 Q: If we could turn to the email section of your  
6 -- well, let me ask you this. With the hearing  
7 that was done in front of Judge Cooper, in  
8 reading that, you read Mr. Bowers' testimony,  
9 correct?

10 A: I did.

11 Q: Was it your understanding in reading that and  
12 given your expertise and your understanding as  
13 a surveyor how these things are done, when you  
14 ran -- was it Terratech?

15 A: Terra Firma.

16 Q: Terra Firma, when you had your ten employees or  
17 your multiple employees who did stuff, did you  
18 go out in the field for each and every survey  
19 job that your company performed when you were  
20 an administrator and had boots on the ground  
21 employees?

22 A: I wouldn't say every single one but on most.

23 Q: On most, okay.

24 A: Because I didn't trust that they would evaluate  
25 the site properly to be sure that they obtained

1 everything, so I would go out in the field,  
2 review the site, search for markers, direct  
3 them as to what I wanted them to do and then.  
4 leave them to actually take the measurements.

5 Q: Okay. Was that because you had inexperienced  
6 employees or they hadn't reached the level of  
7 expertise where you felt comfortable with their  
8 being able to make an in the field assessment  
9 properly?

10 A: No, it's because the code requires a surveyor  
11 to have personal firsthand knowledge of a  
12 survey and to supervise the survey being done  
13 and make any calls that would be required of a  
14 surveyor.

15 Q: Are you aware of whether that code imposes that  
16 same requirement on the director of the South  
17 Carolina Budget and Control Board agency that  
18 Mr. Bowers headed?

19 A: To my knowledge, he's not a licensed surveyor  
20 ---

21 Q: Right.

22 A: --- so therefore, he wouldn't be required to  
23 follow that code.

24 Q: But he was the director of the department,  
25 though, correct?

1 A: Correct.

2 Q: Was it your understanding in reviewing Judge  
3 Cooper's transcript that when Mr. Bowers  
4 testified under oath he was testifying as the  
5 director but that he freely testified that the  
6 work was actually done by his staff?

7 A: Correct.

8 Q: And what happened was the staff did the work,  
9 the staff made the findings, the staff did the  
10 research and the staff briefed him before he  
11 went to testify; was that your understanding?

12 A: Well, I don't know if they briefed him but he  
13 did -- in the hearing document he states that  
14 the work was done by his employee -- employees  
15 under his supervision.

16 Q: Right, his ---

17 A: I think he reported he has like 80, about 80  
18 employees under his supervision.

19 Q: Right. Let's go to Judge Cooper's transcript.  
20 Since we're talking about that now we'll cover  
21 that now and then go back to it. If you turn  
22 to page 12005.

23 A: Okay.

24 Q: And I will represent to you we're in the middle  
25 of Mr. Bowers. Mr. Bowers is being questioned

1 and this is his testimony; he's under oath.

2 And on that page, page 12005, the Bates number  
3 is again JLC&A-KMurphy 012005, he indicates  
4 beginnings on I guess line 19, the end of that  
5 paragraph, we use three different methodologies  
6 to do that, then the question he's asked is,  
7 "And if you please describe the process your  
8 office went through to determine the county  
9 location of residence of Ms. Murphy." Mr.  
10 Bowers' answer begins on line 24, "I asked  
11 staff. First of all, we looked at the Census  
12 Bureau and the official file for all  
13 redistricting nationwide." And then he  
14 identified some other stuff. But he begins his  
15 answer by saying, "I asked staff. I asked the  
16 people who worked for me." That's what he  
17 testified to, correct?

18 A: Correct.

19 Q: So this isn't Bobby Bowers late at night  
20 searching through the dusty volumes; this is  
21 staff doing it for him, correct?

22 A: I would take that from what he says, yes.

23 Q: Right. And that's not unreasonable, is it, a  
24 director of a state agency having the employees  
25 of his agency do the grunt work and then report

1 to him; that's not unusual, is it?

2 A: No, I wouldn't find that unusual.

3 Q: If you could turn to page 12007. In the middle  
4 of the page, line 12, the third method we used,  
5 since we have the geodetic file, I got my  
6 Geodetic people out at my office, Geodetic  
7 office to look at all boundaries, establish the  
8 boundaries as was established in 1995 by Code,  
9 in 1976 Code and reaffirm that boundary was the  
10 boundary that should have been separating  
11 Richland and Lexington County. Again, he  
12 refers to I got my Geodetic people to do it,  
13 correct?

14 A: Correct.

15 Q: Got his staff to do it, right?

16 A: Correct.

17 Q: So it's not Bobby Bowers wandering around there  
18 with a Howard Johnson road map and a compass  
19 and a GPS device doing it himself; he's got  
20 people to do that, correct?

21 A: That's what it says.

22 Q: And he testifies as the director of that  
23 agency, doesn't he?

24 A: Yes.

25 Q: Let's turn to page 12013. In fact, let's go to



1 the previous page, 12012, line 12; you there?

2 A: I'm there.

3 Q: And you describe -- the question is, "And you  
4 describe this source as research and field work  
5 conducted by the South Carolina Geodetic  
6 Survey; is that correct?" Answer: "That's  
7 correct." Question: "What is the South  
8 Carolina Geodetic Survey?" When I first got  
9 this case, that was the first question in my  
10 mind too, what in the world is the South  
11 Carolina Geodetic Survey. His answer was:  
12 "That is my group that sets the geodetic marks  
13 all over the state for surveyors and realtors  
14 to use. We put little discs on the ground. We  
15 do all the survey work." Now, obviously he  
16 doesn't do it because he's not a surveyor,  
17 right?

18 A: That's correct.

19 Q: So he's got to have somebody else do the  
20 surveying, right?

21 A: That's correct.

22 Q: Part of his group that he refers it to them.  
23 Go to the next page, beginning with line 15,  
24 the question: "Can you just generally please  
25 describe the research and field work that was

1           done here in determining Ms. Murphy's  
2           residence?" His answer: "Well, I called my  
3           staff and they went out, Sid Miller and Alan-  
4           Jon Zupan," the guy who got surreptitiously  
5           taped in the conversation, "They both worked  
6           with Matt Wellslager," that's W-E-L-L-S-L-A-G-  
7           E-R, "who is my chief of geodetic mapping and  
8           they went out and did the field work to verify  
9           that boundary was the boundary that was  
10          established and verified in 1995 the same  
11          boundary. They did all the latitude and  
12          longitude that they needed to do with survey  
13          instruments to be sure it was correct." So  
14          again, that's Bobby Bowers saying my people did  
15          this and here's what my agency did, here's what  
16          my agency has to present at this hearing;  
17          that's what he did there, correct?

18   A:     Correct.

19   Q:     That was your understanding and reading of it?

20   A:     Yes.

21   Q:     And there was no cross-examination by Ms.  
22           Murphy or an attorney because they weren't  
23           there, right?

24   A:     There's no cross-examination, no.

25   Q:     All right. Any qualm or qualifications with

1           regard to the methodology that they used that  
2           you are now pointing out that she's hired you  
3           to do, that could have been done back then had  
4           they attended the hearing, correct?

5    A:     I would assume so.

6    Q:     Are you still good to go?  You need something  
7           to drink?

8    A:     No, I'm good.

9    Q:     Let's turn to your emails.  Have you reviewed  
10           all these emails?

11   A:     I haven't reviewed them since they were printed  
12           out, no.  I read them when I got them, but I  
13           haven't reviewed them since then.

14   Q:     And I'm not going to ask -- you know, this  
15           isn't going to be a pop quiz.  I mean when I  
16           ask you a question about it we'll go to a  
17           specific page and then we'll review them again.  
18           But do you have a general recollection of  
19           what's in them?

20   A:     General recollection is that these were emails  
21           either dealing with scheduling of meetings or  
22           with documents that I was being provided.

23   Q:     Right, documents that were given to you and  
24           there was some discussion in there about -- and  
25           we'll talk about it specifically in a minute --

1 about the scope of work, whether to do  
2 something more, and then I think something in  
3 there where you said well, I think my time's  
4 best spent trying to stay within this 25 hour  
5 window and getting you the best bang for your  
6 buck, that's my term.

7 A: Yeah.

8 Q: But would you agree with me that there's a lot  
9 of redundancy in this 113 pages?

10 A: Yes.

11 Q: Emails over and over and over? I mean they're  
12 basically the same emails because maybe there's  
13 additional strings or an addition to it, but  
14 the whole thing prints out when you do that,  
15 correct?

16 A: Yes, because they were emails that were added  
17 to emails. They were not new emails every  
18 time.

19 Q: Right.

20 A: Some of the documents she sent were actually  
21 documents that I asked her to go and find for  
22 me. So she sent some documents for me to  
23 review but then, as I reviewed them, I asked  
24 for other documents and they were provided.

25 Q: Let me ask you this. We've got two causes of

1 action in this case, defamation and civil  
2 conspiracy. You're not rendering any opinion  
3 on the elements of defamation, are you?

4 A: No, I'm not.

5 Q: And you're not rendering any opinion on the  
6 elements of civil conspiracy, are you?

7 A: No, I'm not.

8 Q: And your focus is limited to the propriety or  
9 the adequacy of the methodology of determining  
10 where this county line was; would you agree  
11 with that statement?

12 A: My review and what I will be providing  
13 information about and what's in my report is  
14 dealing strictly with surveying and surveying  
15 matters.

16 Q: Okay. But you're not -- you're not rendering  
17 an opinion on a geodetic survey, are you?

18 A: Well, a geodetic survey is just surveying  
19 something where you're making allowances for  
20 the curvature of the earth ---

21 Q: Right.

22 A: --- where you're getting into distances that  
23 are about 11 miles before you start applying  
24 any geodetic adjustments on the measurements.

25 Q: Right.

1 A: So I'm looking at a boundary survey and none of  
2 the lines of this boundary survey have gotten  
3 to the point of reaching that distance.

4 Q: Okay.

5 A: So a geodetic survey, all you're doing in a  
6 geodetic survey, and I have training in that  
7 and have knowledge about that, is that you  
8 apply measurements for the curvature of the  
9 earth to adjust for the fact that you're going  
10 distances where you not then match up with the  
11 measurements if you did not take into  
12 consideration the curvature of the earth.

13 Q: But you're not going to link your opinions with  
14 regard to the surveying, the propriety of their  
15 methodology with whether that's the product of  
16 a civil conspiracy, are you?

17 A: No.

18 Q: Or that the fact that Ms. Murphy was deemed to  
19 be a Lexington County resident somehow damaged  
20 her reputation; that's not part of what you do,  
21 is it?

22 A: That's not my knowledge to be able to do that.

23 Q: And, in fact, you're not even rendering an  
24 opinion as to whether their conclusion was  
25 wrong; you're saying that their methodology was

1 wrong, correct?

2 A: I'm saying that their conclusion has not been  
3 proven by the methodology they used and,  
4 therefore, it's wrong and that some of the  
5 points that they show are not in the correct  
6 location based on other documents that show  
7 where those points were.

8 Q: But isn't that something that would have been  
9 better raised in the hearing before Judge  
10 Cooper than in this case that is a defamation  
11 and civil conspiracy case?

12 MS. STORY: Object to the form.

13 Q: You can still answer the question. Or is that  
14 beyond the scope of what you've been hired to  
15 do?

16 A: You know, if that had been questioned during  
17 the hearing it would have meant that someone  
18 had to understand, so it probably required a  
19 surveyor to review what was being presented and  
20 then provide someone with the question to ask.

21 Q: Well, the school district got Bobby Bowers'  
22 department to do it and Ms. Murphy now has you  
23 in this case. Ms. Murphy could have hired you  
24 back in whenever this hearing was, February of  
25 2013, and you've had understood it, wouldn't

1           you?

2    A:     I believe so.

3    Q:     I mean the science hasn't changed from now back  
4           to February 2013, has it?

5    A:     No.

6    Q:     And you'd have been able to look at this  
7           whatever you've looked at and reviewed and  
8           whatever opinions you've rendered today in your  
9           supplemental report, you could have done that  
10          same thing back in February of 2013, correct?

11   A:     If I'd been involved in it, yes.

12   Q:     Right. If they had had the wisdom or the  
13          foreknowledge to participate in this hearing  
14          and hire an expert who could have countered  
15          them and afforded them the opportunity to  
16          cross-examine Bobby Bowers; that could have  
17          happened, correct?

18   MS. STORY: Object to the form.

19   Q:     The answer to that is yes?

20   A:     Yes.

21   Q:     Looking at the numbers in the upper right-hand  
22          corner of your emails, let's turn to pages 44  
23          and 45. Are you there?

24   A:     Mine's a little harder to find. You've got  
25          them single copied.



1 Q: Oh, yeah, you have them front and back. We can  
2 thank Ms. Story for that; she does that all the  
3 time.

4 MS. STORY: Like to save trees, you know,  
5 environmentally friendly.

6 A: Save paper, save trees.

7 Q: Okay. Let's look on page 44.

8 A: Okay.

9 Q: At the very bottom where it -- the entry there  
10 is Kim Murphy. It's an email from Kim Murphy  
11 to Ronnie Tyler, copy Ashley Story, and it's  
12 dated Monday, December 7, 2015, correct?

13 A: Correct.

14 Q: All right. Now, you were -- your contract I  
15 think is September 29 to 30 of 2015, so this --  
16 you would have been on the job maybe, what,  
17 October and November, a little over two months  
18 at this point, right?

19 A: Correct.

20 Q: And Ms. Murphy sends you an email, it says,  
21 "Hi, Ronnie, things are getting to crunch time  
22 and I'm not happy they postponed." I guess  
23 that would be us rescheduling your deposition.  
24 "I had hoped your testimony would be on the  
25 record sooner than later. I might be wrong but

1 I feel like it's a stalling tactic," it wasn't,  
2 but she feels like it's a stalling tactic. "To  
3 avoid that from happening, I wouldn't put it  
4 past them to use these tactics to prohibit me  
5 from deposing the other witnesses before our  
6 deadline. We're still waiting on their  
7 discovery documents." Anyway, that's their  
8 first paragraph. She asks, "Do you have  
9 anything preliminary yet that you'd be able to  
10 provide?" That's a question. And then she  
11 also goes on to say, "Also, I'm considering  
12 whether it might be helpful for you to come to  
13 Chapin and 'position' the iron stake that  
14 appears to the actual corner of the county line  
15 mentioned in the statute, the beginning of the  
16 line that trends northeast towards the alleged  
17 (or one of them) Rocky Ford Point." What stake  
18 is she talking about there? Well, let me ask  
19 it a different way. Do you know what stake  
20 she's talking about there?

21 A: I'm not sure reading it now. I might have  
22 known at that time.

23 Q: Okay. Well, let's assume at that time you did  
24 know. Then she says, "And once it's positioned,  
25 then place its location in the aerial Exhibit

1           10," that she refers to some other places,  
2           "that also shows the other five lines from  
3           Bobby Bowers (the stake is shown on our  
4           neighbor's plat which I believe you have.)"  
5           When she talks about positioning the iron  
6           stake, is she talking about your actually going  
7           out there, surveying and actually putting  
8           something physically in the ground as opposed  
9           to reviewing documents?

10    A:    I think she's talking about me going out and  
11           observing where this stake is in the ground.

12    Q:    Okay.

13    A:    And providing information concerning that  
14           stake.

15    Q:    Okay. Did you do that? Did you go out there  
16           and find that stake?

17    A:    I've looked at it but I didn't measure to it.

18    Q:    Okay. She then says next paragraph, "It is  
19           likely the the same 'stake' that Alan-Jon Zupan  
20           overlooked. Alan-Jon is to be deposed on  
21           January 5, but I'm not holding my breath. It  
22           is also the stake that Lee Harrell, Richland  
23           County head of mapping, found with our  
24           neighbors and informed them that it is a county  
25           line corner." She then says, "By locating it

1 and placing it on Exhibit 10 with the other  
2 lines, which also shows the color-coded tax map  
3 lines where the counties come together, the  
4 corner is a consistent point on that line. I  
5 think it's important to note that Bowers left  
6 off highlighting the tax map line, the only  
7 line that according to my meeting two weeks ago  
8 with the attorney general and three of his head  
9 attorneys determines my residency." Those last  
10 three words are emphasized. The next  
11 paragraph, "The only thing that bothers me  
12 about documenting its location is that if the  
13 Rocky Ford point they used is for whatever  
14 reason deemed to be the same as the point  
15 referenced in the statute, it's very possible  
16 that using the iron stake as the other end of  
17 the line, I believe I would be in Lexington  
18 County." That's what she says, right?

19 A: That's what it says, yes.

20 Q: Okay. "But then again, they failed to follow  
21 the process to make an accurate determination  
22 such as doing a boundary survey." In this  
23 email she acknowledges that there's a  
24 possibility that she does live in Lexington  
25 County; isn't that what she says?

1 A: Yes.

2 Q: I mean it says what it says; everybody can read  
3 it.

4 A: Yeah.

5 Q: But when you read that, did you take that to  
6 mean that, and lawyers do this all the time,  
7 maybe that's a question I don't want to ask.  
8 Maybe I don't really want to know that. Did  
9 you take that position with her?

10 A: I took the position that I answered her with in  
11 the email, which is back on the other page,  
12 where it goes on up.

13 Q: Let's go to that. You say on Tuesday, December  
14 8 at 4:36 p.m., "Hi, Kim. After studying your  
15 email, this is to provide you my feedback.  
16 While we could obtain measurements for the  
17 location of the iron stake you reference in  
18 your email and report its approximate location  
19 on the aerial exhibit, I do not see that as  
20 being cost beneficial for you." So you're  
21 concerned about optimal use of the 25 hour  
22 window you're provided her, correct?

23 A: Well, I'm concerned about whether or not that's  
24 going to actually produce any results that's  
25 going to have a bearing one way or the other.

1 Q: Right.

2 A: And, therefore, why would we be using her money  
3 to go locate something that I don't know that  
4 it's going to give any benefit to locating the  
5 county boundary as far as what was done by  
6 South Carolina Geodetic Survey.

7 Q: Particularly when she believes it may prove  
8 that she actually lives in Lexington County,  
9 correct?

10 A: Well, that was not of importance to me.

11 Q: Not to you but it was to her because she  
12 mentions it in her email, wasn't that correct?

13 A: Well, she mentions it in the email that it  
14 could but I don't know that she was saying  
15 don't do it because it might.

16 Q: It's very possible that using the iron stake as  
17 the other end of the line, I believe I would be  
18 in Lexington County. Doesn't she indicate  
19 there's a possibility, there's a downside to  
20 finding out where that stake actually is; isn't  
21 that what she says there?

22 A: That's what she says, but my opinion is that  
23 that wouldn't be the other end of the line.

24 Q: Okay.

25 A: That stake is not at a distance from where they

1 located Rocky Ford to be the other end of the  
2 line that they delineated on that map.

3 Q: All right. Let's talk about where they located  
4 Rocky Ford. There were two possibilities of  
5 where Rocky Ford could have been, correct?

6 A: Well, there's multiple possibilities of where  
7 Rocky Ford could have been. They located a  
8 Rocky Ford ---

9 Q: Well, let's talk about ---

10 A: --- crossing the creek.

11 Q: Let's talk about Alan Zupan's position. Didn't  
12 Zupan say that when he went out there and  
13 looked there were two possibilities of where  
14 Rocky Ford could have been? And I know you  
15 could look at it and maybe send out ten  
16 surveyors and maybe they'd come up with ten  
17 different positions for it, but didn't Zupan  
18 say that there two possibilities of where he  
19 thought Rocky Ford was?

20 A: That's what I was -- my understanding of what  
21 he said from reading his ---

22 Q: Transcript.

23 A: --- transcript, yeah.

24 Q: Now, let me ask you this. Did you read Zupan's  
25 deposition?

1 A: No.

2 Q: I mean that's happened more recently, I don't  
3 know how many weeks ago we did it but ---

4 A: No, I haven't read anyone's depositions.

5 Q: Okay. So you hadn't read Zupan's deposition;  
6 you hadn't read Will Roberts' deposition,  
7 correct?

8 A: No.

9 Q: And so if I were to represent to you that in  
10 their depositions they described what they did  
11 in whatever their investigation and research  
12 was, you're not up on that; you don't know what  
13 they did?

14 A: No.

15 Q: And you didn't read Bobby Bowers' deposition?

16 A: No.

17 Q: But you have read his testimony from the Cooper  
18 hearing?

19 A: I read the testimony from the Cooper hearing.  
20 I've not read anyone's depositions, reports.

21 Q: You weren't asked to, were you?

22 A: I wasn't asked to.

23 Q: Okay. But it is your understanding from the  
24 transcript of the recording of Mr. Zupan's  
25 conversation with Ms. Murphy that Zupan found



1 two potential sites for Rocky Ford; is that  
2 your understanding?

3 A: My understanding is that he found two crossings  
4 through the creek that he considered could be  
5 the location of Rocky Ford.

6 Q: And the term "Rocky Ford," the term ford is  
7 kind of an antique term now because we all have  
8 bridges now, but back years and years ago, a  
9 ford was an area in a stream or a watercourse  
10 that was shallow enough where the watercourse  
11 could be transversed or forded. I mean it's  
12 now a word, that's what the ford in Rocky Ford  
13 is, correct?

14 A: Correct.

15 Q: So Zupan found two areas that he thought it was  
16 and between the two he talked to some people  
17 and determined it was the one that they've used  
18 essentially as the cornerstone for their  
19 determination of where the line is; would you  
20 agree with that statement?

21 A: I don't remember seeing that statement.

22 Q: Okay.

23 A: I remember something about that one of the  
24 points was used as a logging crossing and the  
25 other -- therefore the other point must be the

1 one that was Rocky Ford.

2 Q: Of the two that Zupan looked at, the one that  
3 he did not determine was more than likely the  
4 Rocky Ford point, do you know that that other  
5 point is 700 feet further into Lexington County  
6 than the one that they determined?

7 A: No, because no coordinates were furnished in  
8 anything that I reviewed to show where that  
9 point would be located.

10 Q: Okay.

11 A: I understand that they may have taken some  
12 measurements on it, but they didn't report any  
13 of that.

14 Q: When you say report, they didn't -- it didn't  
15 come out in the testimony in Cooper's hearing?

16 A: It didn't come out in any of the documents  
17 reviewed here or in the testimony, which would  
18 have included the testimony at Cooper's hearing  
19 showing that there was any other points that  
20 they located and giving an explanation on it.  
21 The only place that I became aware of that was  
22 in looking at his transcript.

23 Q: Okay. I'm going to go ahead and make the email  
24 that we just talked about, I'm going to make it  
25 an exhibit. I'm going to clip these. It's two

1 pages and I think this will be Exhibit 4.

2 COURT REPORTER: Yes, sir.

3 (Defendant's Exhibit Number 4 was marked for  
4 identification purposes.)

5 Q: And again this is page 44 -- I'm sorry, pages  
6 44 and 45 of the 113 pages of emails. All  
7 right. Let's turn to page 76. On page 76,  
8 there's an email from Ms. Murphy sent October  
9 22nd, 1915 -- 1915, 2015, to you and to Ashley  
10 Story, and this would have been three weeks, a  
11 little over three weeks after you'd been  
12 retained?

13 A: October 22nd, yes.

14 Q: Okay. And this is a fairly lengthy email. It  
15 starts on page 76 and then goes back to page  
16 79; is that right? I think her name, Kim,  
17 followed by a post script ---

18 A: Yeah, that's correct.

19 Q: --- appears on the bottom of 78 then kind of  
20 goes over to 79?

21 A: That's correct.

22 Q: In the beginning of this, she says, "Hi, Ronnie  
23 and Ashley, because we are alleging  
24 conspiracy," and that's emphasized in  
25 conspiracy, "in this particular case which is

1 more than that Bowers did not adequately assess  
2 the county line, I've been giving some extra  
3 thought about whether to consider in the report  
4 information from five of the peripheral  
5 documents which are attached." And she's  
6 apparently attached five peripheral documents.  
7 Starting with the third paragraph, if you could  
8 skip the second paragraph there, "During your  
9 review, Ronnie, of the 2/15/13 hearing  
10 transcript and exhibits and other documents you  
11 planned to assess," now the 2/15/13 hearing and  
12 other documents and exhibits, that would be the  
13 transcript of Judge Cooper's hearing, correct?

14 A: Correct.

15 Q: And at this point, that was kind of your game  
16 plan, you're going to review that and see what  
17 went on there, correct?

18 A: Correct.

19 Q: So here she says, "Of that material, can you  
20 please review the peripheral documents and the  
21 items I have listed below so that they too can  
22 be incorporated into your report. If you feel  
23 any of it is out of your expertise or you have  
24 any other hesitation, please contact me to  
25 discuss." Next paragraph, "My concern is that

1 without including information from these  
2 documents, the initial report may have a  
3 slightly different outcome, one that is more  
4 favorable to the defendants and one that may  
5 not go far enough to engender conspiracy," and  
6 she underlines conspiracy, "and possibly it may  
7 not help as much as it could along with the  
8 rest of the documents we have when it comes to  
9 setting up the conspiracy allegation." That's  
10 what she says there, right?

11 A: That's what it says, yeah.

12 Q: Okay. So what she's asking you here is to  
13 review in addition to the hearing transcript  
14 and exhibits were the material that were put  
15 forth in the Cooper hearing, she's asking you  
16 to review additional information so that it  
17 says the initial report. What initial report  
18 is she talking about, your initial report?

19 A: Yes.

20 Q: She's asking you here to tailor your initial  
21 report to better engender the conspiracy  
22 theory; is that what she's asking?

23 MS. STORY: Object to the form.

24 Q: You can still answer.

25 A: I didn't -- I wouldn't have read it to that

1           because we had already had discussions that my  
2           opinion and my report is going to be based  
3           strictly on my findings as a professional land  
4           surveyor.

5    Q:     Right.

6    A:     And that, you know, anything else is not some  
7           -- you know, I'll review documents and if I see  
8           they relate to something in the -- as far as a  
9           professional land surveyor, then I will report  
10          information that I get from those.

11   Q:     Right.

12   A:     But that's what my report is going to consist  
13          of.

14   Q:     Right. You're going to do what you do, you're  
15          going to issue your report and however she  
16          wants to use that report as a tool in her  
17          conspiracy litigation, more power to her, but  
18          you're not going to tailor your report to fit  
19          that conspiracy theory, are you?

20   A:     No.

21   Q:     And you didn't, did you?

22   A:     No.

23   Q:     But that appears to be what she's asking here,  
24          doesn't it?

25   MS. STORY: Object to the form.

1     A:     I don't know that she was. I think she was --  
2             my interpretation of reading it, and there  
3             again, I didn't dwell on it to any great extent  
4             was that she was wanting me to look at the  
5             other documents to see if that was something I  
6             needed to put in my report.

7     Q:     And you do respond to her later that same day  
8             at the top of page 76, you say, "Hi, Kim. Just  
9             read your email. It will probably be better  
10            that I first finish reviewing the hearing  
11            transcript and have time to put together some  
12            preliminary thoughts. After that, we can talk  
13            more about my preliminary opinion and the  
14            merits of my reviewing additional items for my  
15            report. Cost is a consideration as our  
16            agreement provides a maximum fee to me allowing  
17            for only 25 hours of my time with expenses  
18            before your additional approval. It does not  
19            take much to burn through 25 hours and it is  
20            important for me that you and Ashley find that  
21            your fee to me is well managed. Thanks, Kim.  
22            Then Ronnie." So you're trying -- you know,  
23            let's keep our eye on the ball here, that's  
24            what you're trying to tell her there, right?  
25            Let me do my job, isn't that what you said?

1 A: I'm saying just what I said there, is that I  
2 need to review that first and then from that we  
3 can see if there's something else I need to  
4 review.

5 Q: But would you agree with me that one view of  
6 that would be that you've deftly sidestepped  
7 getting yourself entrenched in a engendering of  
8 conspiracy theory?

9 MS. STORY: Object to the form.

10 Q: I'll withdraw that question. Not a fair  
11 question. If you could look on page 78. This  
12 is later in the same email. The typeface --  
13 typeface is the same but I guess the size  
14 changed a little bit. But if you look about of  
15 a third of the way down where she numbers one  
16 through six; you see that?

17 A: Yeah.

18 Q: That first items she says in 1995 they found  
19 two "fords" on the creek and positioned them  
20 with GPS. In hearing transcript Miller  
21 acknowledges locating only one point but  
22 neither point was verified. Miller is Sid  
23 Miller; is that right?

24 A: I would take that, yes.

25 Q: Do you know who Sid Miller was?



1 A: Yes, I do.

2 Q: Do you know him?

3 A: I do. We've taught seminars together before.

4 Q: Okay. I mean he's a reputable land surveyor  
5 and he may be retired for all I know now, but  
6 he's been doing it for a while like you,  
7 correct?

8 A: Correct.

9 Q: I'm going to go ahead and make this email an  
10 exhibit. This will be Exhibit 5. And this  
11 will be again pages 76 through 79 of 115.

12 (Defendant's Exhibit Number 5 was marked for  
13 identification purposes.)

14 Q: I mentioned earlier that there may have been  
15 some material that was sent to you without Ms.  
16 Story's knowledge that maybe she found out  
17 later on. Could you turn to page 104, please.  
18 And I know these are in reverse order so let's  
19 go beyond there to 107, those are the oldest  
20 ones in there, the first ones. And these show  
21 some emails from Ms. Murphy to you dated  
22 September 29 then October 1. And this is where  
23 at or around the time that y'all have entered  
24 into your contract where documents are being  
25 sent to you, correct?

1 A: Actually September 28 would have been like a  
2 couple days before.

3 Q: Okay.

4 A: We had verbally agreed to it and I think ---

5 Q: Well, let's look at October 1.

6 A: --- I think the ---

7 Q: And for October 1, Thursday October 1, 2015, at  
8 4:57 there's looks like an attachment, the  
9 2/15/13 hearing transcript, pages 1 to 91, and  
10 then right ---

11 A: Where are you looking at now, which page?

12 Q: On page 107.

13 A: Okay.

14 Q: Looks like she sends the 180 pages of  
15 transcript to you and two attachments. That's  
16 toward the top of the page, you see that?

17 A: Yes.

18 Q: Page 1 to 91, then page 92 to 180 above that?

19 A: Yes.

20 Q: And then turn to the previous page, 106, and  
21 there's, on October 1, additional documents  
22 that are sent from Ms. Murphy, including the  
23 Zupan transcript, mats, plat, with stake  
24 believed to be the county corner; that material  
25 was sent then, correct?

1 A: Okay. I was looking for the date and wasn't  
2 seeing it, yes. Okay.

3 Q: That's basically where after y'all have entered  
4 into the contract, she's sending you the  
5 material that she wants you to review?

6 A: Yes.

7 Q: Let's turn to the previous page, page 105, and  
8 the bottom half of that page 105, October 1,  
9 2015, 5:30, Ronnie, I've sent -- this is an  
10 email from Ms. Murphy to you, "I've sent  
11 several batches of documents to you so that you  
12 can begin working. They may not be in the  
13 format that Ashley requested, but I felt it  
14 would be easier for you to see the files  
15 separately instead of one giant file. I'll  
16 forward them all to her. There were some other  
17 legal filings that for the moment aren't  
18 pertinent. Kim." And then that's when she  
19 sends you that material, correct?

20 A: Yes.

21 Q: In the material below that, on the bottom of  
22 page 105 and going over to 106, 3/19/13 motion  
23 to dismiss, that's one of the items, correct?

24 A: Yes.

25 Q: Then 3/28/13 appeal Richland County, that's one

1 of them, correct?

2 A: Correct.

3 Q: 4/24/13 response answer to verified petition,

4 that's one of them, correct?

5 A: Correct.

6 Q: Then 7/28/14, complaint, defamation and civil

7 conspiracy, that's the last item there,

8 correct?

9 A: That's correct.

10 Q: Those earlier three items, the response, the

11 motion to dismiss and the plaintiff appeal, do

12 you know that those were a separate lawsuit?

13 A: No, because I didn't actually review these.

14 Q: So you got them but you didn't really review

15 them?

16 A: I didn't actually review them.

17 Q: And the reason you didn't review them was

18 because you didn't think they were pertinent to

19 what the scope of your employment was in this

20 case?

21 A: That's right.

22 Q: Okay. Then let's go to page 104, about mid-

23 page there's an email from Iris Ray of Ms.

24 Story's office to you dated October 9, so this

25 is about a week later. She says, "Good

1 afternoon, Mr. Tyler. We received copies of  
2 the emails that Ms. Murphy sent you last week.  
3 She sent these documents to you even after Ms.  
4 Story specifically asked her not to do it,"  
5 underlining not. "I have reviewed all the  
6 documents that she has sent to you and she has  
7 included all the Bates numbered documents that  
8 Ms. Story asked me to send to you; therefore,  
9 I have nothing to add. However, if you need  
10 clarification and/or more information, please  
11 feel free to contact me." And, so she doesn't  
12 send you any additional information, correct?

13 A: That's correct.

14 Q: If you turn to page 105 at the top, there is an  
15 email from Kim Murphy, subject legal documents  
16 part two of two, and the five documents she  
17 attaches to that email. Are you there?

18 A: Yes.

19 Q: Okay. Are a 4/24/13 transcript of judgment  
20 from 3/19/13 vote to remove, that's the first  
21 item, correct?

22 A: Yes.

23 Q: The 9/9/14 Brief District Five respondents,  
24 that's the second item, correct?

25 A: Correct.

1 Q: The 9/10/14 brief, Murphy appellant, that's the  
2 third item, correct?

3 A: Yes.

4 Q: Then the 10/30/14 order from Judge Benjamin,  
5 that's the fourth item, correct?

6 A: Yes.

7 Q: Then the 11/4/14 motion for reconsideration,  
8 correct?

9 A: That's correct.

10 Q: None of those five items involve this lawsuit  
11 we're here today on, do they?

12 A: I didn't review them. I don't know.

13 Q: So it's like I don't know, I don't care, it's  
14 not part of what you did?

15 A: It was not information that I felt was  
16 pertinent to what I was asked to provide  
17 services on, and so therefore, I did not spend  
18 time reviewing these documents.

19 Q: But this is information that Ms. Murphy sent to  
20 you and wanted you to factor in as part of what  
21 you were to review, correct; would you agree  
22 with that statement?

23 A: I don't know if she wanted to me to -- if she  
24 intended for me to factor them in or whether  
25 she was just providing me all the information

1           that she had. So I don't know if -- because she  
2           doesn't say that in this email.

3    Q:     Okay.

4    A:     And so she has been furnishing me with  
5           information. I looked at the information  
6           being furnished and decided what information  
7           was pertinent to what I was attempting to do  
8           because I had talked with Ms. Story about what  
9           she really wanted me to address and the hearing  
10          was the thing that was most important for me to  
11          review, and so that's where I started.

12   Q:     Okay.

13   A:     And I didn't really deal with some of these  
14          other documents because they didn't come into  
15          play as far as my having a need to look at them  
16          from a surveying standpoint.

17   Q:     But you agree with me based on what you said  
18          earlier when you said you weren't aware  
19          apparently that we had two separate lawsuits,  
20          when this material came in, you didn't know it  
21          was from a second lawsuit, did you?

22   A:     No.

23   Q:     All right. Let's put your notebook aside for  
24          the moment. And if you could get your  
25          supplemental report, let's go over that.

1 A: Okay.

2 Q: On page two of your supplemental report, you  
3 say in the third complete paragraph on page  
4 two, "I intend to supplement this report with  
5 a reference index of the items reviewed and/or  
6 referenced herein." Is that in this document?

7 A: No, it's not.

8 Q: Okay. Is there a separate reference index?

9 A: I haven't made one.

10 Q: Okay. So when do you plan on supplementing  
11 that, or do you still plan on supplementing it  
12 and you just forgot to take that out?

13 A: I still plan on going through and listing it,  
14 but it was -- I referenced the items that I was  
15 looking at and considering in here. So those  
16 items would end up being on that list plus any  
17 other items that I might have reviewed that  
18 would relate to anything that I would have an  
19 opinion about.

20 Q: The material that's included in your notebook,  
21 which we've gone over in some detail, you've  
22 reviewed all of that material, correct?

23 A: I have reviewed all of that material, yes.

24 Q: Okay. But I do recall when we talked about the  
25 acts and joint resolutions that maybe you



1 didn't review that in as much detail as you  
2 have reviewed, for instance, the Cooper  
3 hearing; would that be an accurate statement?

4 A: I read through them, but I don't have -- I  
5 can't recall exactly what was in each one of  
6 them without going back and reading through it  
7 again. But I've read through all of them and  
8 they related to my opinion on what I was  
9 reading. I just don't know which ones at this  
10 point relate to what point in time the boundary  
11 was being changed from Lexington County to  
12 Richland County without going back through and  
13 actually reading them.

14 Q: All right. Well, let's do this. You were  
15 going to supplement your report with a  
16 reference index of the items reviewed and/or  
17 referenced herein upon which you've based your  
18 opinions. Let's do that now. What have you  
19 reviewed upon which you base your opinions?

20 A: What's in this notebook.

21 Q: Okay. Everything in the notebook?

22 A: Everything in the notebook.

23 Q: Anything that's outside of that notebook have  
24 you reviewed upon which you've based your  
25 opinions?

1 A: Not that I've put in my report, no.

2 Q: So whatever is included in your report is  
3 within the two folders, the two outside covers  
4 of your notebook?

5 A: Yes.

6 Q: That we've gone over earlier today?

7 A: That's correct.

8 Q: And when you say these bullet points that  
9 you've listed as your opinion, and the bullet  
10 points appear between -- there's one on page  
11 two and then you have them three, four, and  
12 five and then going into it carries over to  
13 page six, correct?

14 A: Correct.

15 Q: Do you have any opinions other than what's  
16 listed in those bullet points?

17 A: There may be opinions that are expressed in my  
18 analyzation that are not expressed here because  
19 they were my analyzation of the information to  
20 actually prepare what my opinion would be.

21 Q: Okay.

22 A: But the review of what I -- how I arrived at my  
23 opinion, there will be opinions expressed in  
24 those reviews.

25 Q: Okay. And would it be accurate to say that

1 your, kind of as an overview of these opinions,  
2 that you differ in the methodology used by Mr.  
3 Bowers' department in the testimony that was  
4 rendered in Judge Cooper's hearing?

5 A: I do.

6 Q: Okay. But as far as the conclusions that were  
7 drawn or the results, you don't really have an  
8 opinion as to whether Ms. Murphy does or does  
9 not live in Lexington County, do you?

10 A: I don't think anyone has documented that to be  
11 able to make that statement.

12 Q: I appreciate that, but I'm asking you because  
13 you're being asked questions today under oath.  
14 You don't have any conclusion or any opinion as  
15 to whether Ms. Murphy does or does not live in  
16 Lexington County, do you?

17 A: No.

18 Q: You haven't been asked to render an opinion on  
19 that, have you?

20 A: No.

21 Q: If you could turn to page six, you mention I  
22 think the first full paragraph up there where  
23 it says, "I reached my opinion by detail  
24 review"; you see that?

25 A: Yes.

1 Q: All right. "I reached my opinion by detail  
2 review and analysis of the hearing transcript,"  
3 and let me -- I'm reading off the wrong thing.  
4 Let me go back and look. All right. "I  
5 reached my opinion by detail review and  
6 analysis of the hearing transcript, survey  
7 plats, boundary descriptions, aerial  
8 photographs, history of the creation of  
9 Richland County and Lexington County boundary,  
10 Code of Laws of South Carolina and other  
11 documents applying accepted real estate case  
12 laws and procedures and practices in surveying  
13 for retracement and surveying of boundary,"  
14 that's what you said, correct?

15 A: Correct.

16 Q: What case laws are you talking about?

17 A: There's places in here where -- I'll have to  
18 look and see exactly where it is, but we talk  
19 about the evidence that is accepted as far as  
20 in surveying what evidence would normally be  
21 accepted.

22 Q: Right.

23 A: I listed some of the case law there. I didn't  
24 list where the case laws came from but I listed  
25 what I've read as far as the case law.

1 Q: So you've cited the cases upon which you rely  
2 in your report?

3 A: I cited the information from the cases, but I  
4 did not cite the actual case location itself.

5 Q: Case location?

6 A: I didn't cite what the citing is for those case  
7 law.

8 Q: Okay. So ---

9 A: I cited what information is in those, was  
10 presented in those cases that I had relied on  
11 the decisions I make.

12 Q: Okay. That whole wall of books is case  
13 location, but in all those books there's a  
14 specific cite. You haven't cited the specific  
15 case in here?

16 A: That's correct.

17 Q: But you do have those somewhere, don't you?

18 A: The ones that I reviewed, yes.

19 Q: Okay. And if we send you a letter requesting  
20 that, you can provide those cases to me?

21 A: Yes. Well, I can provide you the listing of  
22 them and I may have copies.

23 Q: No, all I need is the cites. I can look them  
24 up.

25 A: Some of them I do have copies of because I

1 reviewed them in order to see how they applied.

2 Q: I don't need copies, just the cites will be  
3 great. I'll send you a letter and I'll request  
4 the cites. The term "retracement" I've seen  
5 that in there several times. What is  
6 retracement in a registered land surveyor's  
7 context?

8 A: Retracement means that you finding the lines as  
9 they were originally determined or surveyed in  
10 the past. You're not creating a new line.

11 Q: And when you say finding the lines, is that  
12 actually going out and doing a survey, a  
13 physical survey out there?

14 A: If would be part of a retracement survey if you  
15 were to go through the entire process, yes.

16 Q: What I'm trying to get in my mind is where you  
17 say finding the lines, is that actually going  
18 out in the field, finding a corner stake,  
19 finding the next stake and then the line  
20 between those two points is finding the line;  
21 is that what you're talking about?

22 A: Well, no. What I'm saying is that a  
23 retracement survey is -- involves doing the  
24 research for the docu- -- and getting the  
25 documents that you as a surveyor are going to

1 use to determine where an existing line on the  
2 ground is located in reference to a previous  
3 survey that had been made for that line and  
4 then your next step would be to go out on the  
5 ground and actually find those lines and  
6 actually measure them again on the ground to  
7 follow in those footsteps of the previous  
8 surveyor.

9 Q: But in the latter portion there where you say  
10 you actually go out there and find those lines,  
11 when you say that, are you finding a point A  
12 and then measuring to point B, is that how you  
13 find the line? I mean there's not actually a  
14 physical line drawn out there, is there?

15 A: Oh, no. No, you're weighing the evidence that  
16 you've got as to where that line should be and  
17 then taking measurements on those points of  
18 evidence to determine where that line would  
19 have been.

20 Q: But that would involve being in the field and  
21 doing it, correct?

22 A: Yes. Before you could actually prepare a plat  
23 and report your findings you would actually  
24 have to go in the field.

25 Q: Okay. If you could turn to, I guess it would

1 be page 20 on your supplemental report, and  
2 that would be the last page, your comments and  
3 conclusions. What is your understanding of  
4 rendering an opinion within a reasonable degree  
5 of certainty? What's a reasonable degree of  
6 certainty? In my mind, that's like are we  
7 playing horseshoes or are we target shooting;  
8 what are we doing on that?

9 A: In my mind, it means that I have done all that  
10 I can to arrive at opinion that I'm giving, and  
11 so I'm certain of my opinion, but you know, if  
12 I had something else to look at, that opinion  
13 may not be the same.

14 Q: Based on the information you've been given,  
15 what you've had the opportunity to review and  
16 there may be information out there that you've  
17 not been given and you can't really account for  
18 that, correct?

19 A: That's correct.

20 Q: All right. And you were not asked to render an  
21 opinion as to whether Ms. Murphy's residence is  
22 in Lexington County or Richland County; that's  
23 not within the scope of what you've been asked  
24 to do, correct?

25 A: I haven't been asked to render an opinion as to



1        which county she's actually located in. Now,  
2        in my report I do talk about what the county's  
3        authority is and that, you know, they show her  
4        as being in Richland County, and I talk about  
5        what as a surveyor I would end up using to  
6        determine where a boundary is, and I refer to  
7        Lucius Cobb's survey as to an example of what  
8        a surveyor would do because, as a surveyor,  
9        surveying a county boundary or municipal  
10       boundary in that the county has the authority  
11       over where that boundary is and that's who you  
12       are making your survey report to, you're going  
13       to follow their regulations and their location  
14       of where the municipality is -- has located  
15       that boundary in their records.

16    Q:    Are you saying that the county has the  
17           authority to establish where the county  
18           boundary is or the state does?

19    A:    Well, the state has the authority to establish  
20           it but the county has the authority to use that  
21           boundary and determine where they are -- where  
22           they're making a call as to where the county  
23           boundary is. They don't have the authority to  
24           -- they're interpreting what the state has  
25           said as to where that is, and that's what

1       they're reporting on their documents and in  
2       their system. So I as a surveyor, if I am  
3       working in a county or in a city or a town and  
4       they have a municipality line shown, I'm not  
5       necessarily going to go and do all the research  
6       to actually relocate where that is and then  
7       have a debate with the county or the town as to  
8       whether they're correct. Their line is the one  
9       that they're enforcing and they have the  
10      authority to enforce the line at that point.

11    Q:    But we're talking about a county and a town;  
12           we're talking about a county and the state,  
13           right?

14    A:    Well, the county is the one that's enforcing  
15           their regulations in relationship to a  
16           boundary. If you're going to get into their --  
17           and they're interpreting where they -- where  
18           the state in their opinion has set the line, I  
19           would assume. Now, if you're going to get into  
20           researching where the state actually did it and  
21           actually resurveying that, then you would  
22           compare those two to see whether they actually  
23           agree or don't agree.

24    Q:    Wasn't Mr. Bowers a director of a state agency  
25           that was given the mandate of determining

1 county boundaries?

2 A: He's given the mandate at the time of that  
3 hearing of being able to assist counties in  
4 determining the county boundary. But he didn't  
5 have the authority to enforce it.

6 Q: Well, he didn't do it, his department did;  
7 isn't that correct?

8 A: Well, his department didn't have the authority  
9 to enforce it.

10 Q: We keep talking about Bobby Bowers did this,  
11 Bobby Bowers did that, Bobby Bowers was an  
12 employee of that state agency, the director of  
13 the state agency admittedly, but he was an  
14 employee of that state agency, wasn't he? Is  
15 that your understanding?

16 A: My understanding is that he was the one at the  
17 hearing expressing an opinion and reporting how  
18 it was found. Now, he does report that his  
19 employees provided him with the information,  
20 but he's the one making the reporting, and  
21 that's why I say Bobby Bowers.

22 Q: Well, he's the one who was testifying as  
23 director of that state Budget and Control Board  
24 division, correct?

25 A: Correct.

1 Q: All right. Mr. Tyler, I think I'm finished.  
2 I'm going to let these other attorneys, I'm  
3 going to yield the field to them.

4 MR. TYLER - EXAMINATION BY MR. MONTGOMERY:

5 Q: Mr. Tyler, I'm Mike Montgomery. I represent  
6 Mr. Gantt. First off I want to ask you, have  
7 you reviewed any document that you attribute  
8 any action involved in this dispute to Mr.  
9 Gantt?

10 A: Well, just the letters that were in this --  
11 presented in Exhibits 1 and 2.

12 Q: Okay. And that would be the letter where Mr.  
13 Gantt asked the Budget and Control Board to  
14 locate the county line?

15 A: That's right.

16 Q: Did he do anything wrong in asking the Budget  
17 and Control Board to locate the county line?

18 A: I don't believe so.

19 Q: Now, we looked at your contract when you were  
20 being examined by Mr. Frawley and you have this  
21 sort of nebulous forensic survey kind of  
22 engagement. At the time that you spoke with  
23 either counsel or with Ms. Murphy, did they  
24 give you a specific assignment as to what your  
25 engagement was to include?

1 A: Verbally I was -- and I think even in the  
2 emails it says that I was asked to first review  
3 the hearing report and those documents and to  
4 provide an opinion about the county line and  
5 whether that was the proper location of the  
6 county line by what they did.

7 Q: Now, did you ever review any work product or  
8 documents of the Budget and Control Board other  
9 than the information in the transcript?

10 A: No.

11 Q: Do you know if there was any work product or  
12 documents by the Budget and Control Board?

13 A: I know of a report that they -- that was sent  
14 from them to the counties prior to this hearing  
15 and I reviewed those, but I didn't actually  
16 include those in my report.

17 Q: Okay. And do you know how this issue came to  
18 light in 2012?

19 A: Nothing except for the letters that I've read.

20 Q: So you are not aware that they were doing a  
21 review of the county boundary and, in  
22 determining that, they determined the county  
23 boundary was incorrect as far as the location  
24 of Ms. Murphy's property?

25 A: My understanding from what I read was that the

1           -- they weren't doing any location on that part  
2           of the boundary until they received a letter  
3           requesting that they do something on that part  
4           of the boundary.

5    Q:     And what is the source of your understanding of  
6           that?

7    A:     The letters that were provided in the  
8           documents.

9    Q:     And so you're not aware that, in fact, there's  
10           been other testimony in this case that  
11           indicates that this matter was flagged along  
12           with two other issues in Richland County and  
13           that's what led to Mr. Gantt being informed of  
14           that?

15   A:     No, I have no knowledge about that.

16   Q:     Would that change your opinion in any way?

17   A:     No.

18   Q:     And why not?

19   A:     Because it's irrelevant as to why they were  
20           doing it as far as my report on what was done  
21           and whether that is the county line or not.

22   Q:     Now, have you actually reviewed the complaint  
23           in this case?

24   A:     No.

25   Q:     Tell me your understanding of what this case is

1 about.

2 A: The only -- I don't have any real knowledge  
3 about what this case is about other than my  
4 involvement with relationship to the location  
5 of the county boundary and whether it was  
6 properly located.

7 Q: What county do you live in?

8 A: Charleston. Well, actually I live in Berkeley  
9 County now. I did live in Charleston.

10 Q: If, in fact, someone said you lived in  
11 Charleston County while you lived in Berkeley  
12 County, would that be something you would  
13 consider an affront?

14 A: If someone said -- I don't understand the  
15 question.

16 Q: If someone said Mr. Tyler lives in Charleston  
17 County and, in fact, you live in Berkeley  
18 County and they were mistaken, would you  
19 consider that an affront?

20 A: I would consider them to be wrong.

21 Q: Okay. But you wouldn't consider that to be  
22 defamatory, would you?

23 A: Well, I don't know, it'd be based on how they  
24 were saying it and where they were saying it.

25 Q: Okay. Now, from a standpoint of the

1 information that you relied on in your report,  
2 did you make any effort to review any work  
3 papers or other documents that were prepared by  
4 the Budget and Control Board in their study of  
5 this property?

6 A: Nothing except what's in this book.

7 Q: Okay. So you made your opinion as to the  
8 surveying that was done without reviewing what  
9 the surveying notes are; is that correct?

10 A: I made my opinion based on the report that was  
11 given of the survey work that was done.

12 Q: Okay. Now, just call your attention to a  
13 couple things. One, you indicated and you have  
14 it in your notebook certain statutes ---

15 A: Yes.

16 Q: --- that were provided to you?

17 A: Yeah.

18 Q: Did you make any effort to determine that those  
19 were all of the statutes relating to the  
20 Lexington Richland County border?

21 A: No, I did not.

22 Q: Okay. And I note in your amended report, okay,  
23 that you, and it's probably a typo on page  
24 three, you talk about as being the location of  
25 a point at Rock Ford. I presume you mean Rocky



1 Ford there?

2 A: That's where now?

3 Q: It's the second bullet point on page three of  
4 Exhibit 1 ---

5 A: Yeah.

6 Q: --- which is your supplemental report.

7 A: Yeah, Y was just left off.

8 Q: Okay. And you say in there, and I presume this  
9 is part of your basis for questioning the  
10 point, that there is nothing in the Code of  
11 Laws of South Carolina, nor the plat of a  
12 survey of November 1921 that specifies,  
13 indicates, or shows any road crossing the creek  
14 at the point on the boundary called Rocky Ford.  
15 Now, explain to me why the lack of a road  
16 somewhere in 1921 provides evidence of the  
17 physical conditions on the ground in 2013?

18 A: The reason behind that was that the point that  
19 was determined to be Rocky Ford by the Geodetic  
20 Survey people was they found a crossing in the  
21 creek and that center of that road crossing the  
22 creek at the center of the creek is where they  
23 chose and said that that is the Rocky Ford it's  
24 called on the survey that's listed here and the  
25 Code of Law.

1 Q: Okay. And my question to you is why does the  
2 absence or presence of a road in 2013 have any  
3 bearing on what the physical condition of the  
4 land was in 1921?

5 A: Because they're using the road as evidence of  
6 where that Rocky Ford is and they're saying  
7 that they located Rocky Ford based on  
8 physically going out and seeing a crossing in  
9 the creek and decided that was Rocky Ford. The  
10 surveys of record show how the points on the  
11 surveys, which would then be interpreted as  
12 being the points that are in the Code, were  
13 located. There's no evidence to show any  
14 correlation between the points on the surveys  
15 having been reestablished as far as where Rocky  
16 Ford was in the surveys to say that it is the  
17 Rocky Ford that they located. As a surveyor,  
18 you can't just assume just because I go out and  
19 find a crossing through a creek that that's the  
20 point that's on the survey. You have to  
21 document that point on the survey based on  
22 other evidence before you can attest to the  
23 fact that that's the point at Rocky Ford. And  
24 they're using that point that they located as  
25 a crossing in the creek as being the point that

1 was on the surveys in order to put the lines  
2 in.

3 Q: And, in fact, that point was located in 1995,  
4 was it not?

5 A: That's what they say and then they say they  
6 went back and located it again.

7 Q: And when it was located in 1995, have you  
8 reviewed any work that would indicate that they  
9 may have, in fact, done that in 1995?

10 A: I've reviewed in the testimony of Sid Miller in  
11 the hearing where he says no additional  
12 surveying was done for that point and the time  
13 that they located it, that they didn't have  
14 time to put into doing other surveying at that  
15 time and that they only GPS'd the point that  
16 they found that they thought could be Rocky  
17 Ford.

18 Q: You'd agree with me that lots of roads and  
19 bridges have been built in Lexington and  
20 Richland County since 1921?

21 A: Oh, sure.

22 Q: And, in fact, Lake Murray didn't exist in 1921,  
23 did it?

24 A: Sure.

25 Q: Okay. And you've done no field work to

1 establish the location of Rocky Ford?

2 A: I am not making opinion as to where it is  
3 actually located. I'm making opinion that no  
4 one has located it at this point accurately  
5 because no one has retraced the surveys that  
6 created the Rocky point.

7 Q: Now, so I want to make sure I understand that  
8 your only analysis or criticism of the work is  
9 based on the testimony that was presented at  
10 the hearing?

11 A: My only knowledge as to where they have said  
12 that they have located the point, that they  
13 show it on the aerial photographs and they  
14 represent that to be boundary line corner and  
15 they express that it was a key point in their  
16 decision that that is the point at Rocky Ford  
17 that's called in the Code. And I differ with  
18 that opinion because they have not shown that  
19 that point that they located is, in fact, the  
20 point that's shown on the surveys which was  
21 then put into the Code.

22 Q: And I want to make sure I understand, that's  
23 really -- you talk about Rocky Ford only but  
24 I'm talking about the entire issue of the  
25 location of the county line. The only

1 documents you reviewed are the documents in  
2 your notebook, correct?

3 A: That's correct.

4 Q: And your opinion is based solely on those  
5 documents which all relate to the testimony in  
6 the hearing in 2013?

7 A: That's correct.

8 Q: And you have not reviewed any other documents  
9 that are located with the Budget and Control  
10 Board or the Office of Geodetic Survey?

11 A: I have not reviewed any other documents other  
12 than what was in the hearing and my opinion  
13 was based on what was in the hearing as far as  
14 the map that showed the location of their  
15 findings.

16 Q: And would it be fair to say to -- to say that  
17 you can't tell me today as we sit here to a  
18 reasonable degree of professional certainty  
19 where Rocky Ford is located?

20 A: Not without taking the plats and going out and  
21 surveying it, no.

22 Q: Okay. And you can't tell me to a reasonable  
23 degree of professional certainty whether or not  
24 Ms. Murphy's house is in Richland or Lexington  
25 County, can you?

1 A: No, I cannot.

2 Q: And tell me a little bit, you've been surveying  
3 for over 30 years. Tell me a little bit about  
4 how the accuracy of surveys improved over that  
5 period of time.

6 A: Well, equipment has improved so the accuracy of  
7 taking measurements has improved over that time  
8 to where it's measurements that are taken today  
9 are more accurate than what would have been  
10 taken at the beginning of my time in surveying  
11 or at the beginning of when these surveys that  
12 establish Rocky Ford, the point Rocky Ford was  
13 actually made. But the location of the points  
14 is still on the face of the earth where they  
15 were created in the beginning by the surveyor  
16 that created them. My job is to find those  
17 points. Then I can use other equipment to --  
18 modern equipment to get accurate measurements  
19 of those. So my measurements will probably  
20 differ somewhat from what was on an older  
21 survey because I can measure between two points  
22 more accurate than they could at that time.

23 Q: And in some of those statutory languages it  
24 talks about to the center of a creek or to the  
25 center of a river or to other items that, in

1 fact, could have shifted over time too, doesn't  
2 it?

3 A: Yes, it does.

4 Q: And you made a statement in your testimony when  
5 you were being examined by Mr. Frawley, you  
6 said that your criticism with some of the  
7 points are not where they are shown, and I want  
8 to understand what you meant by that when you  
9 said that.

10 A: I'm not sure that I understand what I said  
11 either. What was it in reference to?

12 Q: Well, you were just -- it was a criticism you  
13 had with regard to the work of the Budget and  
14 Control Board. And I want to understand how  
15 you can make a statement that some of the  
16 points are not where they're shown without  
17 going out and trying to locate those points  
18 yourself.

19 A: Because the documents that show how those  
20 points were created differ with what was shown  
21 on the maps that were presented by the -- in  
22 the hearing.

23 Q: And explain to me how you can make a  
24 determination without doing a survey that the  
25 documents that show how those points are

1 created differ with the points concluded by the  
2 Geodetic Survey.

3 A: Well, first of all, one of the surveys that  
4 created the point at Rocky Ford was not even  
5 included in their research that was presented  
6 that they made the determination based on.  
7 They showed a center of a road as being  
8 crossing a creek as being the point at Rocky  
9 Ford, whereas the 1912 plat of survey that they  
10 did not include in their presentation but I  
11 have located since then and reviewed, shows at  
12 the point Rocky Ford was actually north of a  
13 road crossing the creek and that the road was  
14 entirely below that point and actually crossed  
15 the line. So if you look at that document and  
16 then look at where they're calling it, even if  
17 that was -- turned out to the Rocky Ford that's  
18 on those documents, the point was north of that  
19 crossing and not the center of the crossing.

20 Q: And of course you don't know if it's the same  
21 road or a different road either 100 years  
22 later ---

23 A: No, I don't.

24 Q: --- do you?

25 A: Huh-uh. No, I don't.



1 Q: So when you're making that assumption, you're  
2 basing it on your view that that road wouldn't  
3 necessarily be in the identical place, not the  
4 idea that the road could have changed location?

5 A: I'm basing it on the fact that they reported  
6 that the center of the road was Rocky Ford  
7 without producing any other evidence to show  
8 that they had arrived at that point that they  
9 were locating was, in fact, the point on the  
10 old survey.

11 Q: And again, the point there is to a reasonable  
12 degree of professional certainty, you can't  
13 determine if they're right or they're wrong,  
14 can you?

15 A: I can determine that they haven't followed  
16 procedures to document their point.

17 Q: Okay. Now, there was also some conversation  
18 with regard to the stake that Ms. Murphy asked  
19 you on her neighbor's property. Did you ever  
20 go out and look at that stake?

21 A: I did.

22 Q: What kind of stake is it?

23 A: It's an iron stake in the ground.

24 Q: And who put it there?

25 A: I don't know.

1 Q: And do you know what purpose it was put for?

2 A: No.

3 Q: And is there anything you can identify from  
4 that stake to indicate that it has any  
5 relationship to the county line?

6 A: Nothing other than the plat that I received  
7 that supports that that is the property that I  
8 was looking at a corner for that shows that  
9 their boundary was, in fact, reported as the  
10 county line, and one portion of the property is  
11 shown by deed to be in Lexington County and the  
12 other portion of the property is shown to be in  
13 Richland County.

14 Q: But, in fact, if you look at the tax map  
15 overlays for Richland County and Lexington  
16 County in that area, they actually are -- show  
17 the same land being in both counties, don't  
18 they?

19 A: I don't know. I haven't actually researched it  
20 to that point to see that.

21 Q: So you haven't looked at what the tax maps say?

22 A: I've looked at the tax map but I've not  
23 investigated as to whether that line is  
24 actually on the county line because it was not  
25 something that I needed to determine for the

1 work that I was doing.

2 Q: Because the work you were doing, as I  
3 understand it, was just to say they didn't do  
4 it right; is that correct?

5 A: No, the work I was doing was to say whether or  
6 not the documents that were presented showing  
7 where the county line is represent a accurate  
8 determination as to whether that is the county  
9 line.

10 Q: And the answer is you don't know whether it  
11 represents an accurate determination, do you?

12 A: Yes, I do.

13 Q: You only contend that the methodology that was  
14 used was incorrect?

15 A: Well, looking at their plat and showing where  
16 the ends of their lines are don't match up and  
17 the methodology they use to determine the  
18 bearings for their lines don't match up with  
19 where the Code or the surveys would have placed  
20 them.

21 Q: But you haven't drawn a map to place any of  
22 those lines or to show any of that difference,  
23 have you?

24 A: No. Because I don't think anyone can take the  
25 bearings and determine where that line is

1 without doing a further survey.

2 Q: Okay.

3 A: Bearings are not -- magnetic bearings and  
4 adjustments to magnetic bearings are not  
5 accurate enough to be used as control for a  
6 boundary line.

7 Q: Okay. Now, in your view as a professional land  
8 surveyor, who determines the location of a  
9 county line, or what entity?

10 A: Well, the State in what I reviewed hired  
11 surveyors to go out and determine the location  
12 of the county line and then by acts of the  
13 legislature, they made that in force as the  
14 county line.

15 Q: And when a surveyor places a county line on a  
16 subdivision plat or a land plat, that is not  
17 controlling as to the location of the county  
18 line, is it?

19 A: No.

20 Q: That is merely a surveyor's opinion of where he  
21 believes the county line is from the evidence  
22 he's reviewed?

23 A: Normally it means that he's reviewed some  
24 document that he has then located that line by  
25 which in most cases would be, as Mr. Cobb did,

1 he reviewed a tax map and on the plat that he  
2 first showed that line on, he says that's where  
3 he's scaled the information from. And that's  
4 typically how a surveyor without getting into  
5 researching and determining a county line by  
6 going to the records would accept that that is  
7 the county line based on the authority that is  
8 ruling on his survey at the time.

9 Q: Do you know if he reviewed the Lexington County  
10 tax map at the time or the Richland?

11 A: He said Richland.

12 Q: And if the Lexington was different, he could  
13 have placed the line at a different place,  
14 couldn't he?

15 A: Well, I guess he could have but that's not what  
16 he said.

17 Q: But you'd agree he placed it where Richland  
18 said it was?

19 A: He placed it based on where the plat said it  
20 was by scaling it off the plat. And then he  
21 had his plat approved by Lexington County and  
22 Richland County as to that being the correct.

23 Q: What's the surveying accuracy of tax maps?

24 A: Not very accurate.

25 Q: So when you're placing a line based off of tax

1 map, there's a little bit of a hope and a  
2 prayer there, isn't there?

3 A: Well, that's why you say approximate. You're  
4 taking that off of the tax map, but you know  
5 that you're taking it from something that is  
6 not an accurate survey of any boundary.

7 Q: Okay. Throughout your review of this have you  
8 seen any evidence that Robert Gantt had any  
9 role whatsoever in the location or the  
10 placement of the line for Richland Lexington  
11 County in this case?

12 A: No.

13 Q: I don't have any further questions.

14 COURT REPORTER: Can we take a quick ---

15 MR. MORRISON: Sure.

16 (Break from 1:25 p.m. until 1:35 p.m.)

17 MR. TYLER - EXAMINATION BY MR. MORRISON:

18 Q: Mr. Tyler, my name's David Morrison. I'm here  
19 representing the school district and Mr. Gantt.  
20 And I've got just a few questions. I think  
21 everything's been covered pretty well. Is  
22 Rocky -- where is Rocky Ford in relation to Ms.  
23 Murphy's property directionally?

24 A: The location that was made by South Carolina  
25 Geodetic Survey would be to the east of her --

1 southeast of her property.

2 Q: To the southeast of her property. And the  
3 county line is where in relation to Rocky Ford  
4 and her property as found by them?

5 A: As found by them, it would be south of her  
6 property, or going through her property.

7 Q: Do you have it on one of the maps in there?

8 A: Yeah, let me look at the map that they did so  
9 I'm saying it right.

10 Q: All right. We're looking at ---

11 A: This is ---

12 Q: --- number 02120?

13 A: Correct.

14 Q: Okay.

15 A: And this is an overlay they made of the survey  
16 of the property that was -- the survey was made  
17 by Lucius Cobb, which is shown on 012119.

18 Q: Okay.

19 A: And they're showing the boundaries of her  
20 property as being north of that line.

21 Q: And where is her property on this one?

22 A: It would be this lot four.

23 Q: Which is lot four, this?

24 A: Uh-huh.

25 MS. STORY: Is that a yes?

1 A: Yes.

2 Q: All right. And this is Lexington County to the  
3 north and east -- north and west of the county  
4 line from Rocky Ford?

5 A: That's how they're shown on this map.

6 Q: And Richland County to the east and south?

7 A: That's what it's showing on this map.

8 Q: Okay. You haven't been out there to try to  
9 determine where Rocky Ford is, have you?

10 A: No, I haven't.

11 Q: How would you go about doing that?

12 A: I would take the surveys of record and look for  
13 evidence that are called on them, and then make  
14 measurements on the evidence I locate to  
15 determine a point in the creek that would at  
16 the distances or reasonable distances of what  
17 these surveys had previously done to determine  
18 -- to create a point at Rocky Ford.

19 Q: Is there a stake in the ground at Rocky Ford?

20 A: I don't know.

21 Q: If there's not a stake in the ground at Rocky  
22 Ford you would be simply measuring to a point?

23 A: You would take the other evidence that's caught  
24 on the survey, which include Newberry County  
25 line, include the rivers, include ties into a



1 survey in 1913 that shows how a survey from  
2 1913 boundary which shows markers and  
3 intersection of railroads and Irmo county town  
4 as evidence of where that line was and then  
5 that survey was the survey before the one that  
6 created the point at Rocky Ford. And so you  
7 can look at the evidence on it, find the  
8 evidence there and then bring the survey around  
9 to get to where the point would be at Rocky  
10 Ford.

11 Q: When you say look for the evidence, are you  
12 looking for a stake in the ground?

13 A: Well, I would be looking for a stake in the  
14 ground, but also other points that might be  
15 identified, such as the boundaries of Newberry  
16 County and the boundaries of Irmo.

17 Q: But to find the boundaries of Newberry County  
18 and to find the boundaries of Irmo, would you  
19 still be looking for a stake in the ground?

20 A: Well, it depends on what information I found on  
21 Newberry County. There is a stake caught on  
22 those old surveys and shows to be at the  
23 intersection of Lexington County and Newberry  
24 County to be a stake in that location.

25 Q: I understand you disagree with the methodology

1           used, but do you agree that when Zupan -- I  
2           believe it was Zupan that located Rocky Ford;  
3           is that right?

4    A:     Him and -- didn't Sid Miller actually went back  
5           out with him and actually took coordinates  
6           using GPS.

7    Q:     When he and Miller located Rocky Ford, do you  
8           know how they went about doing it?

9    A:     Based on what they presented they said that  
10           they found -- they went out and followed the  
11           creek and looked for a point that was a  
12           crossing in the creek, and that was what they  
13           determined to be Rocky Ford based on that  
14           crossing in the creek.

15   Q:     Do you know what the rest of the creek looks  
16           like?

17   A:     Only from looking at it on the aerials and  
18           looking at it on the old surveys.

19   Q:     And from the aerials and surveys, you can't  
20           tell where the creek can be crossed or where  
21           there would be a crossing in the creek, can  
22           you?

23   A:     No.

24   Q:     Do you have any reason to believe that they did  
25           anything other than make the best determination

1           they could as to the location of Rocky Ford?

2    A:     I don't believe they followed good surveying  
3           procedure to arrive at the location of Rocky  
4           Ford. They found a ford and they located that  
5           ford and I have no reason to believe that they  
6           are not proficient in using GPS and that the  
7           coordinates they established for that point are  
8           accurate. But I don't agree that they have  
9           made enough investigation and determination  
10          based on what they presented to show that that  
11          is the point at Rocky Ford.

12   Q:     I understand you don't agree with the  
13           methodology that they used to determine Rocky  
14           Point (sic), correct?

15   A:     I don't agree with the method and I don't  
16           believe that what they have presented documents  
17           that that is the point of the old survey which  
18           created Rocky Ford and the point that they're  
19           saying is Rocky Ford.

20   Q:     Who has more information about that, you or  
21           them?

22   A:     Well, apparently I did because they didn't even  
23           present that they had the old survey.

24   Q:     Well, wouldn't one of the important pieces of  
25           information be having visited the site?

- 1 A: Well, if you have the correct surveys to be  
2 able to look at the site, then it would be.  
3 But if you're looking at the site without the  
4 correct surveys, then you're just assuming what  
5 you see is what's there. Just seeing a marker  
6 or just seeing a point on the ground does not  
7 document that point as being a corner or a  
8 correct point until you do other investigation  
9 to have evidence to show that that is the point  
10 that's caused.
- 11 Q: You weren't with the when they did this, were  
12 you?
- 13 A: No.
- 14 Q: So you don't know what they did when they were  
15 on the site or what they had with them or what  
16 information they had?
- 17 A: I only know what they reported.
- 18 Q: Okay. Based on what they reported, whether you  
19 agree with their method or not, you don't have  
20 any reason to believe they did other than the  
21 best they could, do you?
- 22 A: I believe that they did what they thought was  
23 appropriate at the time to do a fast location  
24 for a boundary line.
- 25 Q: And you don't have any evidence to show that

1 the determination they made is incorrect?

2 A: Yes, I do.

3 Q: What evidence is that?

4 A: The evidence on the plats support that the  
5 center of the road in 1912, it was surveyed  
6 when Rocky Ford was -- the point was created at  
7 Rocky Ford. If that is the road in fact that's  
8 on the 1912 plat, the point would not be in the  
9 center of the road; it would have been north of  
10 that point.

11 Q: Where north of that point?

12 A: It doesn't give a measurement. It just said  
13 where it is north of it, but it shows a picture  
14 of it by the surveyor who created the point,  
15 drew it in.

16 Q: What direction is the creek running?

17 A: It's running in kind of a north and -- north  
18 direction. This is the plat that Geodetic  
19 Survey did not report that they used in  
20 determining the point at Rocky Ford. And it  
21 shows and this is where the point got created.

22 Q: You're referring now to 10007?

23 A: Correct.

24 Q: Go back to the plat you were just looking at a  
25 minute ago.

1 A: Which plat?  
2 Q: The one we talked about a few minutes ago that  
3 ---  
4 MS. STORY: 2120.  
5 Q: --- just turned from.  
6 A: What was the number?  
7 MS. STORY: I think it was 2120. It was Exhibit --  
8 is it 13?  
9 A: That's it.  
10 MS. STORY: Yeah, 121 -- what is that number, 12120.  
11 A: 012120.  
12 MS. STORY: It's Exhibit 13 from the hearing.  
13 Q: Can you orient me as to north and south on this  
14 plat.  
15 A: Sure. North is to the top of the page.  
16 Q: So it is properly oriented as it appears on the  
17 page?  
18 A: (Nods head.)  
19 Q: So the legend would be in the northeast corner?  
20 A: Correct.  
21 Q: Okay. Certainly you agree that all of this in  
22 determining the location of a point or  
23 determining the location of a line is outside  
24 of the school board's expertise?  
25 A: I would think so.

1 Q: It would certainly be outside of Robert Gantt's  
2 expertise?

3 A: Unless he's a surveyor.

4 Q: And the school board, as you have seen in your  
5 documents, the school board had a hearing held  
6 before Judge Cooper for that determination to  
7 be made?

8 A: That's what I understand the hearing was for.

9 Q: And the school board then would rely upon the  
10 findings and determination of that hearing?

11 A: I don't really have knowledge about that, but  
12 that's what I understand.

13 Q: It'd certainly be reasonable for them to do  
14 that?

15 A: Well, the hearing officer in that hearing  
16 reported that that's what he was going to do  
17 was -- he didn't have any authority but he was  
18 going to make a report to the board.

19 Q: And do you know how this -- how that action  
20 proceeded after that hearing was held in front  
21 of the hearing officer?

22 A: No, I don't.

23 Q: Would it be a reasonable thing for the school  
24 district then, the school board to then rely  
25 upon what the hearing officer did?

1 A: I would think so.

2 Q: They certainly wouldn't have any expertise to  
3 say that the testimony or the conclusions were  
4 incorrect, would they?

5 A: I don't know.

6 Q: Wouldn't have the expert -- as far as you're  
7 aware, they wouldn't have that kind of  
8 expertise, would they?

9 A: No, not as far as I'm aware.

10 Q: Unless they were land surveyors?

11 A: That's correct.

12 Q: So they certainly wouldn't have any expertise,  
13 unless they were land surveyors, to say that  
14 this is false or this is wrong?

15 A: I wouldn't anticipate they would.

16 Q: Okay. You don't have any evidence to say that  
17 the school board or Robert Gantt knew that the  
18 information that they were proceeding based  
19 upon the evidence coming from the hearing was  
20 false?

21 A: No.

22 Q: Or any reason to believe that they should not  
23 rely upon that?

24 A: No.

25 Q: Testimony was taken under oath at the hearing?



- 1 A: Yes.
- 2 Q: Ms. Murphy, from what you can tell, was given  
3 the opportunity to attend?
- 4 A: That's what they reported in the hearing.
- 5 Q: And for whatever reason chose not to?
- 6 A: That's what they reported in the hearing.
- 7 Q: Also reported that the media had been notified  
8 of the hearing, correct?
- 9 A: That's what they reported in the hearing, yes.
- 10 Q: And that the public had been notified of the  
11 hearing?
- 12 A: I don't remember if it said the public or not;  
13 I've have to look back and see.
- 14 Q: Well, I'll represent to you ---
- 15 A: I do remember the media.
- 16 Q: --- that we went through it today, it said the  
17 public had been notified; you don't have any  
18 reason to disagree with that, do you?
- 19 A: No.
- 20 Q: Okay. If Ms. Murphy had been notified and  
21 afforded the opportunity to attend and to  
22 participate and the public had been notified  
23 and the media had been notified, this certainly  
24 was all conducted out in the open, wasn't it?
- 25 A: I would say so.

1 Q: Can I get you to turn to page 45 of the emails.

2 A: Okay. I'm there.

3 Q: This has been covered ---

4 MR. MONTGOMERY: Exhibit 5. I believe it's Exhibit  
5 5.

6 Q: This has been covered, I just want to make sure  
7 -- I just want to follow up one more point.  
8 You were asked in the third full paragraph on  
9 that page where in Ms. Murphy's email to you  
10 she asked you to consider whether it might be  
11 helpful for you to come to Chapin and to  
12 "position the iron stake that appears to be the  
13 actual corner of the county line mentioned in  
14 the statute," correct?

15 A: Say it again. I didn't follow back where you  
16 were reading.

17 Q: The third full paragraph, begins with the word  
18 "also."

19 A: Okay.

20 Q: That first sentence, "Also I am considering  
21 whether it might be helpful for you to come to  
22 Chapin and 'position' the iron stake."

23 A: Yes.

24 Q: See that?

25 A: Yeah.

1 Q: You were asked about that earlier and I just  
2 want to clarify. Did you ever do that?

3 A: No, I did not come and locate it. I came to  
4 Chapin and looked at an iron stake that was  
5 reported to be on that plat that I was  
6 furnished for the neighbor's property, but I  
7 did not do any measurements to determine the  
8 actual location of it.

9 Q: So you looked at an iron stake?

10 A: Uh-huh.

11 Q: But you don't know ---

12 MS. STORY: Say yes.

13 Q: --- if it was an iron stake?

14 A: Yes.

15 Q: Don't know whether that was an iron stake that  
16 signified anything or not?

17 A: I know it's -- I know that it's an iron stake  
18 that has been represented as being someone's  
19 corner. Exactly what corner it is, I cannot  
20 say.

21 Q: Represented by whom?

22 A: Well, it's evidence in the ground and flagged  
23 as being someone's corner. I have not  
24 determined which corner or the accuracy of it.

25 Q: Represented to be someone's corner by whom?

1 A: Well, it was shown to me by Ms. Murphy.

2 Q: Okay. Represented to be a corner by anyone  
3 else?

4 A: No.

5 Q: Do you know how long that stake has been in the  
6 ground?

7 A: Well, it's typical looking at it it'd been in  
8 there for some time. I mean it was rusted and  
9 typical evidence that I would see in the field  
10 as a surveyor indicated that it was a point  
11 that had existed in the ground for a  
12 considerable time.

13 Q: Stakes can be moved too, can't they?

14 A: Yeah, but usually when you move them you can --  
15 if they're freshly moved you can kind of  
16 determine that they're not in the same location  
17 because the rust and the deposits that would be  
18 in the ground aren't going to be there.

19 Q: You remove the rust when you move the stake?

20 A: No, you take the stake away and you don't take  
21 the rust with it when you go. It deposits in  
22 the ground.

23 Q: So when you remove a rusted stake from the  
24 ground, the rust comes off the stake?

25 A: Well, it doesn't come off the stake, but when

1           you put it into a new location it doesn't come  
2           off the stake immediately into the ground,  
3           whereas a stake that has been in the ground for  
4           a long time will have rust elements in the soil  
5           itself.

6    Q:     Did you look at the soil around this stake to  
7           determine whether the rust elements in the  
8           soil?

9    A:     I looked at it and dug around it, yes.

10   Q:     What did you see when you dug around it?

11   A:     I saw a stake in the ground with rust around  
12           it.

13   Q:     Rust around the stake, on the stake?

14   A:     On the stake and in the ground.

15   Q:     But all you did was look at it?

16   A:     That's correct. As I said, I did not locate  
17           it. I cannot -- I don't have any measurements  
18           to it.

19   Q:     And it was represented to you by Ms. Murphy in  
20           this email that this was a stake that was shown  
21           on her neighbor's plat?

22   A:     Correct.

23   Q:     So that's where the representation came from?

24   A:     That's correct.

25   Q:     And you don't know which end of the line this

1 stake might represent?

2 A: When you say which end, which end of what?

3 Q: You don't know what it represents? It could be  
4 the end of any line?

5 A: Based on its location and relationship to the  
6 road that it was next to, I would say it was  
7 the end of a boundary line, but I do not know  
8 that it would be in relationship to the county  
9 boundary without doing additional work.

10 Q: And then Ms. Murphy in the same email tells you  
11 that she has a concern about locating and using  
12 that stake because that stake could very  
13 possibly put her in Lexington County, that's in  
14 the last paragraph?

15 A: That's what's written in the email, yes.

16 Q: And she didn't ask you to do anything further  
17 with regard to that stake?

18 A: She asked me to go and look at it.

19 Q: But nothing else?

20 A: No measurements. I wasn't asked to do any  
21 measurements because in my response to her I  
22 said that I did not feel that that would  
23 provide her with sufficient evidence for what  
24 she was asking me to do.

25 Q: Do you know anything about the process the

1 school district used following the board  
2 hearing?

3 A: No.

4 Q: Thank you, sir. That's all I've got.

5 MR. TYLER - EXAMINATION BY MS. STORY:

6 Q: Mr. Tyler, I have a few questions for you.

7 A: Okay.

8 Q: We were looking earlier at this map that's  
9 12120 with our Bates number on JLC&A and K.  
10 Murphy and you said that there is a survey  
11 that's underneath this map and that's an  
12 overlay of the survey?

13 A: It's been overlaid onto the map, yes.

14 Q: Okay. And I think you mentioned that Lucius  
15 Cobb completed that survey; is that right?

16 A: That's correct.

17 Q: Do you know if that survey was submitted to  
18 either Lexington or Richland County for  
19 approval?

20 A: The copy that I have, I'll tell you what number  
21 it is, the copy I have -- I don't know if I can  
22 necessarily read it. 008178 ---

23 Q: Yes, sir.

24 A: --- is a copy, a full copy of that plat, and it  
25 shows the approval from Lexington County and

1 shows the recording information by both  
2 counties, both Richland and Lexington.

3 Q: You were asked earlier if you reviewed any  
4 depositions that are you involved in this  
5 current lawsuit that we're here for today and  
6 you said no; is that correct?

7 A: That's correct.

8 Q: But you did review Mr. Bowers' testimony from  
9 the hearing back in 2013; is that correct?

10 A: That's correct.

11 Q: If he testified truthfully in that hearing,  
12 would you expect that his testimony would be  
13 the same in a following deposition?

14 A: I would.

15 Q: Did you review any documentation or any  
16 testimony that anyone from the Geodetic Survey  
17 section or the Budget and Control Board  
18 actually located any stakes in the ground near  
19 or around Ms. Murphy's property?

20 A: No.

21 Q: You were talking about different evidence that  
22 you look for as a survey on the ground. What  
23 types of things would you look for, just in  
24 general, when you're going out to try to survey  
25 a piece of land?



1 A: Well, boundary lines when they're surveyed and  
2 marked on the ground, you would have stakes  
3 like the one we were talking about earlier,  
4 there would be an iron stake in the ground.  
5 You'd have points that are referenced as far as  
6 the intersection of the boundary line with the  
7 railroad or the intersection of the boundary  
8 line with a road. And you'd have the  
9 intersection of the boundary line to county  
10 boundaries or intersection of creeks. These  
11 are things that would be evidence to support  
12 where the lines on the plat are located.

13 Q: You were provided with a number of documents  
14 from Ms. Murphy that you looked at to make your  
15 opinion. Would those documents be used by a  
16 surveyor in advance of going out and putting  
17 their boots on the ground at a site?

18 A: Yes.

19 Q: Do you know if any of the documents that you  
20 reviewed were also reviewed by the Geodetic  
21 Survey section?

22 A: The two documents that were presented in the  
23 hearing was the plat of 1921, which is their  
24 Exhibit 8, 012090, and the Code of Laws, or the  
25 current Code of Laws, which would be 012092.

1 That's the only documents that were presented  
2 based on locating the county boundary at the  
3 hearing and was referred to as being the  
4 documents they used to place the county line.

5 Q: I believe you had some Code of Laws in your  
6 notebook and one of the things you had was  
7 something that was enacted in 2014, which was  
8 after the hearing transcript that you reviewed  
9 because that would have occurred in 2013,  
10 correct?

11 A: Say again. I didn't follow you.

12 Q: There were some Code of Laws that we were  
13 looking at in your notebook where Mr. Frawley  
14 was going through them with you and one had to  
15 do with something that was enacted in 2014 ---

16 A: Correct.

17 Q: --- you remember that, going over that with Mr.  
18 Frawley just to make sure it was in your  
19 notebook?

20 A: You mean the Code of Laws that would be  
21 relating to the change in the statute for the  
22 authority and requirements by the Geodetic  
23 Survey department to actually make and locate  
24 boundaries?

25 Q: Yes, that's what I'm referring to. Can you

1 tell us what your knowledge of the process was  
2 prior to this law being enacted in 2014 and  
3 then how the law changed that?

4 A: Before that it was county rule as to how  
5 boundaries are located in determining what  
6 boundaries they followed that were in statute,  
7 and when the Geodetic Survey department was  
8 given the responsibility of assisting counties  
9 in determining where those county lines are,  
10 but they had no authority to enforce the  
11 counties changing any lines to match up with  
12 where they interpreted the county boundaries  
13 were.

14 Q: And then the law that was enacted in 2014 that  
15 you have a copy of in your notebook, how did  
16 that change from what you just told me?

17 A: If the procedure is followed that's in this  
18 law, after due notice and after a proper survey  
19 has been made which is required by this Code,  
20 the plat would have to be signed by a licensed  
21 surveyor in the state of South Carolina and  
22 then submitted to be reviewed by the counties  
23 and by other people that are outlined in the  
24 Code as far as property owners and people that  
25 might have an interest in it. Once that appeal

1 process is over, then that plat would actually  
2 be recorded in the courthouse and then would be  
3 submitted to the legislature for their  
4 approval.

5 Q: Do you have any personal knowledge of who if  
6 anyone in particular lobbied for this change in  
7 the law in 2014?

8 A: I've seen a report that said that the  
9 legislature who was working on it had been  
10 asked to do this by the Geodetic Survey  
11 department.

12 Q: And who is that at the Geodetic Survey  
13 department at that time, if you know?

14 A: I don't really know who was head at that  
15 particular time.

16 Q: You explained earlier in testimony what a  
17 geodetic survey is and you talked about the  
18 magnetism of the earth and some other things.  
19 And is there -- when you're talking about a  
20 geodetic survey and then just a regular survey,  
21 do they both still rely on evidence on the  
22 ground such as fords or stakes or notches in  
23 trees, things of that nature?

24 A: Yes, they're both boundary surveys. The only  
25 difference between the two would be how you --

1       how you applied the adjustment for the  
2       curvature of the earth to the measurements that  
3       you would be taking. There would be a longer  
4       distance than what would normally be taken for  
5       a small piece of property. Plain surveying  
6       would be measuring something that's less than  
7       11 miles, whereas a boundary survey for a  
8       county, the overall boundary may be more than  
9       11 miles and that's when the curvature of the  
10      earth would come in as being a factor.

11    Q:    Can you explain what impact the lines that were  
12           determined by the Geodetic Survey would have on  
13           property other than just Ms. Murphy's property?

14    A:    Sure. If they locate -- when they locate the  
15           boundary of the county, it's going to affect  
16           any property that would be in relationship to  
17           that boundary. So if this is the location  
18           different from what they're showing, which is  
19           different from what Richland County shows as  
20           their boundary, properties that would have been  
21           in Richland County would now be in Lexington  
22           County.

23    Q:    I want to look at your supplemental report that  
24           we've marked as Exhibit 1 to your deposition.  
25           If you could take that out real quick.

1 MR. FRAWLEY: Supplemental report.

2 Q: If you'll look with me on page 12 I just want  
3 to ask you a couple of questions about a  
4 paragraph that you've written. On page 12 you  
5 talk about the Richland County GIS line, and  
6 you refer to the ends of the red lines. What  
7 do you mean by the ends of the red lines?

8 A: The ends of the red lines that are shown on the  
9 document 012103 that was prepared by the --  
10 presented as being prepared by Geodetic Survey.  
11 The ends of the red lines would be the points  
12 furthest away from Rocky Ford.

13 Q: And you state in your report that the ends of  
14 the red lines do not match with the Richland  
15 County GIS boundaries. What is the  
16 significance of that?

17 A: Well, if these points as shown are the ends of  
18 the actual county line and it doesn't match up  
19 with the existing Richland County GIS lines,  
20 then those lines are going to have to be  
21 evaluated in order to move what is shown on the  
22 GIS map to the correct line if this is the  
23 correct line. Which means you're going to have  
24 to take the survey and extend the survey of the  
25 county boundary into additional lines in order

1 to have it not be a gap in the county boundary.

2 Q: I want to mark what you've been looking at and  
3 it's labeled as Exhibit 10 for this hearing and  
4 some of these Bates numbers are a little bit  
5 different. I think they've been produced as  
6 duplicates. I happen to have 8453 in my hand.  
7 So we can mark this as Plaintiff's Exhibit 1.

8 (Plaintiff's Exhibit Number 1 was marked for  
9 identification purposes.)

10 Q: If you'll just look at this, Mr. Tyler, this is  
11 what we've already been looking at. It's been  
12 marked Exhibit 10 previously to the 2013  
13 hearing and this is what you've been talking  
14 about with me just a few minutes ago, right?

15 A: That's correct.

16 Q: Okay. I'm going to have another document I'm  
17 going to mark as Plaintiff's Exhibit 2.

18 (Plaintiff's Exhibit Number 2 was marked for  
19 identification purposes.)

20 Q: Just take a moment to go through what I've  
21 marked Exhibit 2. It's a few documents.

22 A: Okay.

23 Q: Do you know if you've seen any of these  
24 documents before today, Mr. Tyler?

25 A: I have.

- 1 Q: Okay. Which ones have you seen just for the  
2 record so we can make sure that we're on the  
3 same page. If you can do it -- if you can  
4 state the Bates number for us, that would be  
5 helpful.
- 6 A: Okay. 010160, 010161, 010162, 010163, 010164.  
7 I'm not sure about this one, so I'm not  
8 positive I've seen this one.
- 9 Q: You're not positive about 010165, right?
- 10 A: That's correct.
- 11 Q: Okay. Now, if you can look with me at the one  
12 that's the second page of the document that's  
13 been Bates labeled 10161.
- 14 A: Okay.
- 15 Q: I just want to compare these, compare that  
16 number with Exhibit 1 to your deposition,  
17 Plaintiff's Exhibit 1 to your deposition, okay?  
18 Can you tell me if those red lines go to the  
19 same places in both of those maps?
- 20 A: No, they don't.
- 21 Q: How are they different?
- 22 A: They've been shifted to the south in the  
23 document Exhibit 1 here in comparison to the  
24 map 010161.
- 25 Q: Okay. And map 010161 was produced as an



1 attachment to an email that's on the first  
2 page of the exhibit. Can you look at that with  
3 me.

4 A: Okay.

5 Q: Can you tell me what that email purports to  
6 tell us about these maps?

7 A: That they are the maps provided to Bobby Bowers  
8 and Will Rogers ---

9 Q: Roberts?

10 A: Will Roberts, yes. I have included an  
11 explanation of the source I used to create the  
12 maps. If you have any questions, please  
13 contact me.

14 Q: And who signed that email?

15 A: Alan however you say his last name.

16 Q: Jon.

17 A: Jon.

18 Q: Can you tell me what the date of that email is?

19 A: It is dated January the 17th, 2013.

20 Q: Can you tell me what the date is of this map  
21 that we've marked as Plaintiff's Exhibit 1 to  
22 your deposition with the district's exhibit  
23 number to it?

24 A: It was an exhibit in the hearing 2/15/13.

25 Q: Do you have any idea why the map that Mr. Zupan

1           gave to Mr. Harrell would have changed before  
2           it was introduced into the hearing in February?

3    A:    No, other than apparently there was something  
4           that caused him to feel like the first one  
5           didn't represent where the line was.

6    Q:    Okay. Those are all the questions I have for  
7           you. Oh, I do have one more question. You've  
8           prepared this supplemental report for us, and  
9           it's pretty lengthy. Just in laymen's terms  
10          and just sitting here today while you're under  
11          oath, can you just give us a brief description  
12          of what your opinion is in this case?

13   A:    My opinion is that proper surveying procedure  
14          was not followed in preparing the maps that  
15          show where the county boundary is or where  
16          Rocky Ford is and that surveys of record that  
17          created those boundaries were not used to  
18          retrace the evidence on the ground or even the  
19          evidence on the area to support that that's  
20          where the boundaries were. And they reportedly  
21          using magnetic readings to determine where  
22          these lines were to plot these lines. Magnetic  
23          readings were taken that they reported were  
24          taken from the Code, and in order to make  
25          adjustments to a magnetic bearing to apply

1 declination to the bearing to get it to true  
2 north so that you can actually plot it on this  
3 ortho map, you have to know the time and place  
4 that the magnetic reading was taken in order to  
5 determine what declination to actually put on  
6 to adjust that. And they would have had to do  
7 declination to create the location of these  
8 lines on the ortho maps, but they didn't report  
9 that any were taken, any adjustments were made  
10 in here. The document you just gave me is  
11 different than what was presented at the  
12 hearing as far as the -- I noticed when I  
13 looked at it just now where they say on the  
14 ortho, which is 010163, they report  
15 declinations as having been taken and are  
16 saying that they took them from the code.  
17 Well, the code is not when they line was  
18 actually measured as a magnetic bearing, the  
19 magnetic bearing would have been measured when  
20 the actual survey was made. The surveys were  
21 of a large area over a long period of time so  
22 it would really be impossible to know exactly  
23 when or where the magnetic readings were taken  
24 because the plats only report when the survey  
25 was finished, not when they actually took the

1 measurement on each line. Surveying using  
2 magnetic bearings is a proximate method of  
3 determining where a line is and normally would  
4 be used, as I said in my report, by a surveyor  
5 to search for other evidence and is not  
6 acceptable practice for determining where an  
7 actual boundary is. These two lines that are  
8 shown were actually created by two separate  
9 surveys, not by one survey. So the relative  
10 location of magnetic to each of them would not  
11 give you an angle that you could actually use  
12 to create the angle between these two lines;  
13 therefore, my opinion is that this has not  
14 followed procedure to document that these lines  
15 are the lines that are the county boundaries as  
16 called for by the surveys of record and the  
17 Code.

18 Q: When you say this, you were holding Plaintiff's  
19 Exhibit 1 to your deposition; is that right?

20 A: That's correct. That's correct.

21 Q: I don't have any other questions for you.

22 MR. TYLER - RE-EXAMINATION BY MR. FRAWLEY:

23 Q: All of your qualms or -- I don't want to say  
24 critiques, that's maybe the wrong word, but  
25 your reservations about the methodology that

1 was used, all of that could have been raised in  
2 the February 15, 2013, hearing before Judge  
3 Cooper had Ms. Murphy and her attorney chosen  
4 to attend the hearing and offer a cross-  
5 examination of Bowers and Sid Miller, who also  
6 testified, correct?

7 MS. STORY: Object to the form. You can answer.

8 A: If they have the knowledge to evaluate it, yes.

9 Q: And in order for lawyers like me who don't know  
10 beans about surveying, if I want to gain the  
11 knowledge for purposes of me doing my job, I  
12 hire somebody like you, an expert, to be a  
13 consultant or to serve as an expert witness,  
14 wouldn't I?

15 A: Normally, yes.

16 Q: I mean you've made somewhat of a living on  
17 that, haven't you?

18 A: That's been one of the things I've done as a  
19 surveyor, yes.

20 Q: Right. If you're an attorney and you lack the  
21 knowledge, you hire someone who does have the  
22 knowledge and that person offers you questions  
23 to ask or a critique of what it is that was  
24 done. That could have been done back in  
25 February of 2013, correct?

1 A: I would assume it could be. I mean I don't  
2 have knowledge of what was actually going on at  
3 that time other than what was presented in the  
4 hearing ---

5 Q: Right.

6 A: --- to know whether they even knew to do that.

7 Q: Okay. I mean you've read that Judge Cooper  
8 said she had notice -- maybe she did, maybe she  
9 didn't -- that's an issue beyond your  
10 knowledge. But assuming she had proper notice,  
11 assuming she had an attorney, assuming she had  
12 the opportunity to get someone with your  
13 expertise, she could have raised all these  
14 issues that you're talking about today and she  
15 could have raised them almost two years ago and  
16 maybe we wouldn't even be here now, correct?

17 MS. STORY: Object to the form. You may answer.

18 A: Yes.

19 Q: And as far as who actually did what -- you know  
20 we've heard what wasn't reported and so forth.  
21 Would you agree with me based on your review of  
22 the Cooper transcript that Bobby Bowers was not  
23 the guy who went out there and did the research  
24 or did the -- did the surveying or checked for  
25 the Rocky Ford points; would you agree with

1           that statement?

2    A:     I would agree that he's not the person who  
3           actually physically did anything. His people  
4           that were under him actually did all of it.  
5           And that was reported in the transcript by Sid  
6           Miller that he and other members of the  
7           Geodetic Survey team had actually went out  
8           there. Who else might have went with them I  
9           have no knowledge.

10   Q:     Right. And you were able to review Mr.  
11           Miller's testimony in the transcript, correct?

12   A:     Correct.

13   Q:     But you were not able to review what Will  
14           Roberts did or what Alan-Jon Zupan did other  
15           than the Zupan recording transcript because you  
16           didn't read those guy's depositions, did you?

17   A:     No.

18   Q:     So you don't know if they testified on their  
19           depositions as to what they actually did in the  
20           investigation?

21   A:     I don't know what they testified as. I know  
22           what Mr. Miller testified.

23   Q:     Okay. And Miller was one of the guys who was  
24           actually out there doing the work?

25   A:     He was actual PLS. Actual professional land

1 surveyor.

2 Q: One of the things that was mentioned when Ms.  
3 Story asked you the questions was this 2014  
4 Act. And I want to make sure I've got it right  
5 in there. You said that prior to the Act, the  
6 South Carolina Geodetic Survey had no right to  
7 enforce the changing of county lines; is that  
8 an accurate statement?

9 A: That's correct.

10 Q: And after the Act, they are allowed to do that?

11 A: As long as they follow the procedure that was  
12 set out in the Act, which means that an actual  
13 ground survey would have to be made and go  
14 through the process of having a land surveyor  
15 make it and sign and seal and certify the plat.

16 Q: Okay.

17 A: So it would actually have -- instead of an  
18 aerial photograph you'd actually have a survey  
19 of the actual physical -- a plat of the actual  
20 physical survey attested to and taken  
21 responsibility of by a licensed land surveyor.

22 Q: Well, the South Carolina Budget and Control  
23 Board through Bobby Bowers, its director, who  
24 testified at the February 15, 2013, hearing,  
25 they didn't enforce any change in county line



1           then, did they? They just testified to what,  
2           based on their review, they thought it should  
3           be as a recommendation to the school board.  
4           Isn't that what happened in the hearing?

5    A:     Yes.

6    Q:     And in fact, Judge Cooper said I don't have any  
7           authority to order anything here; we're going  
8           to make a finding, we're going to have a  
9           hearing here. I'm going to make a finding and  
10          I'm going to do a report and recommendation to  
11          the school board. Isn't that what happened?

12   A:     That's what it says in the transcript yes.

13   Q:     And because Ms. Murphy and her attorney chose  
14          not to participate in that, that report and  
15          recommendation to the school board and what the  
16          school board justifiably acted on was pretty  
17          one-sided, wasn't it?

18   MS. STORY: Object to the form. You can answer.

19   A:     She was not involved in the hearing as far as  
20          what was reported, so it would have been only  
21          the people that were at the hearing and given  
22          testimony that would have expressed opinion or  
23          presented anything at the hearing.

24   Q:     Right. But the Budget and Control Board wasn't  
25          enforcing any change at that point. They're

1 just putting up testimony for the judge to hear  
2 it and make a recommendation; isn't that what  
3 happened in the hearing?

4 A: Yes.

5 Q: Mr. Tyler, I appreciate your patience. I don't  
6 know if anybody else has any other questions,  
7 but make sure when you get back to your office  
8 you add up your time and send me an invoice and  
9 we'll get it paid.

10 A: Okay.

11 Q: Thank you.

12 A: Thank you.

13 MR. TYLER - RE-EXAMINATION BY MR. MONTGOMERY:

14 Q: Mr. Tyler, I have just a couple.

15 A: Okay.

16 Q: I'm going to call your attention back to  
17 Plaintiff's Exhibit 1. And just following up,  
18 did you make any effort in your review to  
19 ascertain the placement of any of these lines  
20 on this exhibit?

21 A: I don't follow the question you're asking.

22 Q: Okay. If you look at this line there are one,  
23 two -- there are five lines shown on this  
24 exhibit.

25 A: Correct.

1 Q: One is the Lexington Richland County boundary  
2 as defined by the Code of Laws of South  
3 Carolina; one is a USGS County Boundary from  
4 topographic map; one is a Lexington County GIS  
5 boundary; one is a Richland County GIS  
6 boundary; and one is a US Census county  
7 boundary, correct?

8 A: Correct.

9 Q: And they're all a little bit different, aren't  
10 they?

11 A: They're all different, yes.

12 Q: And, in fact, I asked you I think about had you  
13 determined that Lexington Richland Counties  
14 boundaries overlapped and this reflects that  
15 they do, doesn't it?

16 A: Yes.

17 Q: And it reflects that if you looked at the  
18 Lexington County GIS boundary, it would show  
19 Kim Murphy's house as being in Lexington  
20 County, correct?

21 A: Yes.

22 Q: The only, of all the lines shown on this, only  
23 the Richland County GIS boundary shows Kim  
24 Murphy's residence being in Richland County,  
25 isn't it?

1 A: That's what's shown on this plat, on this map,  
2 yeah.

3 Q: And my question to you is have you made any  
4 effort to verify the other lines shown on this  
5 map?

6 A: No, I have not.

7 Q: And in fact, those lines would all be  
8 maintained in computer geo databases, GIS  
9 databases maintained by these various agencies,  
10 wouldn't they?

11 A: Yes.

12 Q: And so do you have any reason to believe that  
13 any of these agencies has acted to try to  
14 misplace the line?

15 A: As I said in my report, in reviewing them, they  
16 all should be the county line. The intent was  
17 that each one of these lines has been  
18 represented would be on the county line and  
19 none of them match.

20 Q: Okay. None of them match, but you'd agree with  
21 me that of the ones that don't match, all but  
22 one show Kim Murphy's house being in Lexington  
23 County, don't they?

24 A: All but one that's on this map, yes.

25 Q: Yes, sir. Have you looked at any other

1 delineations of lines maintained by government  
2 agencies?

3 A: No.

4 Q: Okay. Are you aware or were you given the  
5 opportunity to review any documents relating to  
6 a prehearing conference that Judge Cooper had  
7 with the parties before he had his hearing?

8 A: No.

9 Q: Do you know if Ms. Murphy and her attorney  
10 chose to avail themselves of that prehearing  
11 conference?

12 A: No, I don't.

13 Q: Now, from a standpoint of this case, explain to  
14 me, if you know, why you believe that in the  
15 instance of whether or not there was a  
16 conspiracy or whether or not there was some  
17 defamation of Ms. Murphy that you believe the  
18 location of her residence or whether or not the  
19 -- let me strike that. Let me go back. In the  
20 context of what you understand this case to be,  
21 explain to me why whether or not the survey  
22 presented by the Budget and Control Board to  
23 the school board was correct or incorrect is  
24 relevant?

25 A: The only thing that I can say to that is that

1           what was presented in the hearing was presented  
2           as being accurate, and in my opinion as a  
3           surveyor, it is not accurate and, therefore,  
4           her house or her property in relationship to  
5           the line by Code for the county has not been  
6           determined, and it was not pointed out in the  
7           hearing that this was a compiled map and did  
8           not represent a survey.

9    Q:     But you'd agree with me that with regard to  
10           Plaintiff's Exhibit 1, four out of the five  
11           agencies that maintain GIS databases place her  
12           residence in Lexington County?

13   A:     All of the lines that are shown on this plat  
14           were reported to have been mapped by the  
15           Geodetic Survey. I have not verified in any  
16           way that they are accurately plotted to what  
17           the records show them to be.

18   Q:     Just from a practical standpoint, what would  
19           that entail or involve?

20   A:     You would have to get the information and then  
21           determine how they -- how they actually have it  
22           in relationship to the coordinates and put it  
23           onto this aerial.

24   Q:     Okay. Thank you, Mr. Tyler. I have no further  
25           questions.

1 MR. TYLER - RE-EXAMINATION BY MR. MORRISON:

2 Q: Going back to Exhibit 1 and 2 right in front of  
3 you, Ms. Ashley asked you about the fact that  
4 the lines on Exhibit 1 were slightly different  
5 from the lines on page two of Exhibit 2; you  
6 see that?

7 A: Yes.

8 Q: On Exhibit 1, Kim Murphy's residence is in  
9 Lexington County?

10 A: Yes.

11 Q: And on Exhibit 2, the line is slightly  
12 different, isn't it?

13 A: Yes.

14 Q: On Exhibit 2, Kim Murphy's residence is in  
15 Lexington County?

16 A: By what they're showing, yes.

17 Q: And at the hearing the ultimate conclusion of  
18 those who testified was that Kim Murphy's  
19 residence is in Lexington County?

20 A: That's what they reported, yes.

21 Q: And you can't contest that; you can just  
22 contest the method by which they made that  
23 determination?

24 A: That's correct.

25 Q: And you can't contest the accuracy of the four

1 out of five lines on Exhibit 1; you can just  
2 contest the accuracy or the methodology by  
3 which they made those determinations?

4 A: That's correct.

5 Q: Thank you, sir.

6 MR. TYLER - RE-EXAMINATION BY MS. STORY:

7 Q: I just have one more question. If it would  
8 have been relatively easy for Ms. Murphy to get  
9 a survey done of the county line before the  
10 February 2013 hearing, wouldn't it have been  
11 just as easy for the district to do that as  
12 well?

13 A: Yes.

14 Q: That's all I have.

15 MR. FRAWLEY: Your day just got better.

16 (There being no further questions, the deposition was.  
17 concluded at 2:25 p.m.)



Exhibit 4 from Tyler Deposition

Cc : Ashley Story <astory@jlewiscromerlaw.com>, Chelsea Rikard  
<crikard@jlewiscromerlaw.com>, Iris Ray <iray@jlewiscromerlaw.com>

Thank you, Ronnie. Your feedback makes sense. I would, however, at least have you put your eyes on the stake and document it in some way in your report that you saw it. (That's far more than they did!) The stake/line is shown on the plat (attached) of our neighbors' tract of land. Bowers' alleged line also ends on the same tract of land, but in a much different location. (The county line splits their home. Even though the bedroom is on the Richland County side, the counties allowed them to pay the residential taxes on the Lexington County side so that EMS, etc. would be available to them.)

It you think that would work when you bring a draft report to Cola for review, it is fine with me... or if you happen to be heading up I-26 towards the Chapin area before that point.

Thanks also for your concern! All my children will be home soon for Christmas, which will certainly take my mind off of things!

On Tue, Dec 8, 2015 at 4:36 PM, <rtylertfi@comcast.net> wrote:

Hi Kim,

After studying your email this is to provide to you my feedback.

While we could obtain measurements for the location of the iron stake you reference in your email and report its approximate location on the aerial exhibit, I do not see that as being cost beneficial for you. Without other surveying to support its location this would not document that this iron stake is a point on the county line. In my opinion, at this point, the documents I have reviewed do not provide a resurvey establishing the location of the Richland/Lexington County Line. Surveying the location of this iron stake, just as surveying the location of a point called Rocky Ford, without a retracement survey of the original surveys of the Count Line does not document a resurvey for the location of this County Line.

I am working toward and almost ready to provide a written report for you on my opinion in this matter. It is important that I take advantage of this delay to do additional study of the documents and prepare support of my opinion before I provide a written report. Once my opinion is provided in a written report any later changes will be subject to question.

Hope you do not let this matter keep you from enjoying a Merry Christmas. Thanks Kim,

Ronnie

**Ronnie L Tyler PLS BIC**

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843-364-3170 Cell

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**From:** "Kim Murphy" <[movingmountainskwm@gmail.com](mailto:movingmountainskwm@gmail.com)>

**To:** "Ronnie Tyler" <[rtylertfi@comcast.net](mailto:rtylertfi@comcast.net)>

**Cc:** "Ashley Story" <[astory@jlewiscromerlaw.com](mailto:astory@jlewiscromerlaw.com)>, "Chelsea Rikard" <[crikard@jlewiscromerlaw.com](mailto:crikard@jlewiscromerlaw.com)>, "Iris Ray" <[iray@jlewiscromerlaw.com](mailto:iray@jlewiscromerlaw.com)>

**Sent:** Monday, December 7, 2015 11:31:03 AM

**Subject:** Re: Deposition

Hi Ronnie,

Things are getting to crunch time and I'm not happy they postponed. I had hoped your testimony would be on the record sooner than later. I might be wrong but I feel like it's a stalling tactic to avoid that from happening. I wouldn't put it passed them to use such tactics to prohibit me from deposing the other witnesses before our deadline. We're still waiting on their discovery documents.

Do you have anything preliminary yet that you may be able to provide?

Also, I am considering whether it might be helpful for you to come to Chapin and "position" the iron stake that appears to the actual corner of the county line mentioned in statute -- the beginning of the line that trends northeast towards the alleged (or one of them :)) Rocky Ford point. And, once it's positioned, then place its location on the aerial (Exhibit 10) that also shows the other five lines from Bobby Bowers. (The stake is shown on our neighbor's plat, which I believe you have.)

It is likely the same "stake" that Alan-Jon Zupan overlooked. Alan-Jon is to be deposed in January 5, but I'm not holding my breath. It is also the stake that Lee Harrell, Richland County head of mapping found with our neighbors and informed them that it is a county line corner.

By locating it and placing it on the Exhibit 10 with the other lines, which also shows the color-coded tax map lines where the counties come together, the corner is a consistent point on the line. I think it's important to note that Bowers left off highlighting the tax map line -- the only line that, according to my meeting two weeks ago with the Attorney General and three of his head attorneys, *determines my residency*.

The only thing that bothers me about documenting its location is that if the Rocky Ford point they used is for whatever reason deemed to be the same as the point referenced in statute, it's very possible that using the iron stake as the other end of the line, I believe I would be in Lexington County. But then again, they failed to follow a process to make an accurate determination -- such as doing a boundary survey.

Please let me know your thoughts on this. Thanks!

Kim

On Mon, Dec 7, 2015 at 10:40 AM, <rtylertfi@comcast.net> wrote:  
Hi Ashley,

Received your email on the postponing of my deposition for 12/17/2015 and our prep meeting that was set for this Wednesday.. I am sorry that I did not respond sooner, I was out last week and just read your email. Thank you Ashley.

Exhibit 5 from Tyler Deposition

On Thu, Oct 22, 2015 at 2:03 PM, <rtylertfi@comcast.net> wrote:

Hi Kim,

Just read your email. It will probably be better that I first finish reviewing the Hearing transcript and have time to put together some preliminary thoughts. After that we can talk more about my preliminary opinion and the merits of my reviewing additional items for my report. Cost is a consideration, as our agreement provides a maximum fee to me allowing for only 25 hours of my time with expenses, before your additional approval. It does not take much to burn through 25 hours and it is important, for me, that you and Ashley find that your fee to me is well managed. Thanks Kim.  
Ronnie

**Ronnie L. Tyler, PLS BIC**  
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843-577-7195 Office Direct  
843-364-3170 Cell  
Post Office Box 291

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**From:** "Kim Murphy" <movingmountainskwm@gmail.com>  
**To:** RTylerTFI@comcast.net, "Ashley Story" <astory@jlewiscromerlaw.com>  
**Cc:** "Chelsea Rikard" <crikard@jlewiscromerlaw.com>, "Iris Ray" <iray@jlewiscromerlaw.com>  
**Sent:** Thursday, October 22, 2015 1:10:37 AM  
**Subject:** Peripheral documents to consider in Ronnie's report

Hi Ronnie and Ashley,

Because we are alleging *conspiracy* in this particular case, which is more than that Bowers did not adequately assess the county line, I've been giving some extra thought about whether to consider in the report information from five of the peripheral documents, which are attached.

I agree with the questions Ashley is requesting you answer in your report. But, the peripheral documents not only could be used as guidance, clarification or to further support your opinion but will, I believe, more importantly, influence the outcome of the report and more clearly reflect the conspiracy.

During your review, Ronnie, of the 2-15-13 Hearing transcript and exhibits and other documents you planned to assess, can you please review the peripheral documents and the items I have listed below so that they, too, can be incorporated in your report. If you feel any of it is out of your expertise or you have any other hesitation, please contact me to discuss.

My concern is that, without including information from these documents, the initial report may have a slightly different outcome -- one that is more favorable to Defendants and one that may not go far enough to engender conspiracy. And, possibly, it may not help as much as it could along with the rest of the documents we have when it comes to setting up the conspiracy allegation.

In addition, I'm fearful that we will not have an opportunity to submit subsequent reports inclusive of that information.

We have previously discussed these peripheral documents but I thought I would

compile/further discuss them below. I welcome your feedback. (To keep my records straight, I've attached the documents with bates numbers that, at some point, may change. Ronnie, though you have already received the pertinent pages from the emails that Will Roberts sent to me, I am sending the complete file labeled "Will Roberts' email 1-15-13 to 1-28-13" just for verification. There is no need to print entire document, only the portions I have noted or you feel are of use.)

**1. The county line they presented at one point is shown in a different location on their Hearing exhibits and they didn't inform anybody.** (Along with the 2-15-13 Hearing transcript, the peripheral documents required are: page 3 of Will Roberts' email 1-15-13 to 1-28-13, Zupan 1-17-13 email to Lex Co.)

One very important fact that engenders conspiracy is that the county line Bowers documented with azimuths in his determination letter (Exhibit 2), which soon after his office superimposed on aerials and sent to me and to Lexington County, was later changed to a different location. And, secondly, it should also be noted in the report the fact that there was no disclosure in the Hearing transcript that the location of the line had been relocated from the line previously represented in aerials.\*

*The fact that the county line was changed can only be garnered by comparing the aerials sent emails in January 2013 to me from Will Roberts (created by Zupan) and sent to Lexington County from Zupan with the aerials the Defendants have as exhibits in the 2-15-13 Hearing transcript (Exhibit 10 shows the entire length of the two line segments).*

By comparing the aerials side by side you can *visually* see that there are two different versions of the line.

They also reworded the "On orthophotography" documents. The difference is visible by comparing the document in Zupan's email to Lexington County with the document in Exhibit 8 (also in Exhibit 9). In the Hearing document, you will see where they specifically deleted the *azimuths* from it.

**2. The azimuths in Bowers' determination letter are different than in their supporting aerial exhibits.** (Along with the 2-15-13 Hearing transcript, the peripheral document required is: Zupan 1-17-13 email to Lex Co.)

In the third methodology in Bowers' determination letter (Exhibit 2), Bowers specifically uses **azimuths** from the bearings written in state statute (Exhibit 8)\*\* as the *determining factor* in identifying the location of the line establishing (allegedly) my county of residence and used by the board to remove me for "cause" (verses a route challenging whether I am an elector)\*\*\*. No map showing the line was attached just a reference to distance and bearings.

To *discredit* that third methodology - the location of the county line, I think we should take it a step further and not just show the line on the aerials was changed but, when they relocated the county line, *the azimuths changed*. And

now the azimuths in Bowers' determination letter are *different* than the azimuths in arials they used as exhibits. This, too, was not disclosed.

The *only* way it can be garnered that the azimuths in Bowers' determination letter are different than in their Hearing exhibit, which would discredit Bowers' third methodology, is to calculate the azimuths using the aerial of Zupan's original email to the Lexington County and the aerial in the Hearing transcript (Exhibit 10) and compare those calculations to the azimuths in Bowers determination letter.

(To show that the azimuths are different, Ronnie would have to go through the same effort as Surveyor John Gee.)

Though part of the IT conspiracy, the following items shown in the peripheral documents also relate to whether they appropriately or thoroughly conducted an assessment. They too should be included because they show their deficiencies. The peripheral documents also help show who was involved and when.

1. In 1995, they found two "fords" on the creek and positioned them with GPS. In Hearing transcript, Miller acknowledges locating only one point, but neither point was verified. (Garnered from 1-28-13 Zupan transcript and Hearing transcript.)
2. No Boundary Survey was done in 1995 or before Bowers wrote his determination letter or before Hearing on 2-15-13. (On 1-28-13, Zupan, who was involved in drawing the lines, stated "no stakes" were listed in statute - a statement he later corrected.) (Garnered from 1-28-13 Zupan Transcript, Will Roberts' - No Authority to Change Line, and the Hearing Transcript.)
3. There was *minimal* effort put forth in 1995 and they did not get back to sight until a "couple weeks" before 2-15-13 Hearing (clearly after my 1-28-13 call to Zupan). (Garnered from 1-28-13 Zupan Transcript and Hearing transcript.)
4. In January, after Bowers wrote his determination letter, the *same version* of the line that was shown on arials Roberts sent to Plaintiff is the same version that Zupan sent to Lexington County officials. (Garnered from page 3 of Will Roberts' email 1-15-13 to 1-28-13, Zupan 1-17-13 email to Lex Co.)
5. In Ronnie's report, I wondering if it would be helpful to also note that the azimuths in Bowers determination letter, which subsequently changed, were also used in his 1-11-13 letter to Jasper Salmond (with instructions to remove me from the voter rolls). (Garnered from 1-11-13 Bobby Bowers - Letter to Jasper Salmond.)
6. Zupan, Sid Miller, John Cloyd (Richland County Assessor), Lee Harrell (Richland County Mapping) were involved in the reconnaissance effort in 1995. (Garnered from 1-28-13 Zupan Transcript, Will Roberts' email 1-15-13 to 1-28-13 - specifically the emails dated 1-24-13 and 1-28-13, and Hearing transcript.)

I have recently been reminded of our upcoming deadlines and feel that it's important to pack a good punch while we have the opportunity. And, because conspiracy is the very heart of this action, I think we need to get straight to it with as much as we have. I appreciate the help and understanding from both of you. Please let me know if you have any questions or any feelings of why you think we should hold back.

Kim

P.S. I also want the report to be as strong as possible that the process they followed was wrong. According to The State Newspaper article on Oct 4 related to Bowers' new county boundary law, state mapping will begin to advise property owners of *changes in the county line* in December, just before we are to be ready to go to court. Don't know that I will be one of the lucky ones (just kidding), but, if a real boundary survey (after the fact) is done and it conclusively puts me in Lexington County, I really don't want them -- in any way -- to use it against me. But one thing you can count on... if they

really do a boundary survey, the line will be different than the line Bowers created.

\*I totally believe they expected I would just resign or that I would be forced to resign after Salmond removed me from the voter rolls and the line Bowers created on paper would go away. They didn't feel like they had to do their due diligence, which would take a lengthy time beyond the end of my term, because they thought they had a plan in place that would quickly and fairly quietly remove before there was any hearing.

\*\*Probably not a factor??? The statute of the Lexington County line does not reflect the same description of the line as the Richland County statute. Bowers and Miller assume (and maybe they have that authority) that the Richland County statute is an accurate description of the line and that is the description that should be used in their findings. If a surveyor was hired to find the county line, I don't know the process they would take to verify which statute -- or parts of it should be used and I don't know if Bowers staff followed that process or properly reconciled the differences in the statutes.

**\*\*\*Discredit the third methodology, which they used to remove me for "cause", verses challenge whether I am an elector using that specific process.** The location of the county line is obviously an important factor to them in their case against me. Their case centered around it more than the Precinct line (Bowers second methodology). Sid Miller, a surveyor, was their expert witness. After all, they weren't trying to argue whether or not I was an *elector* and they said that.

I think it's important that, while we have the opportunity, with the help of Ronnie's report, we totally discredit the value of the county line referenced on Bowers' determination letter and on exhibits with the methodologies they said they used (or didn't use) to determine it.

Bowers determination letter to Gantt wasn't a report like Judge Cooper gave to the Board as his "findings". Bowers took the next step and *immediately* sent the letter to Jasper Salmond with instructions to remove me from the voter rolls (and did it in a way to avoid alerting the Commission who it was they were to remove or that it was an elected official.) They were banking on Salmond removing me and probably didn't even consider the spot they would be in with regard to the so-called county line.

I thought about a comment Ronnie threw out... one that might have used as a defense -- that based on the work they did, even without doing a boundary survey, it was evident enough that I didn't live in Richland County. Maybe at one time they could have used that rationale. But, now they can't go there. At no time did they represent on documents or in testimony that any of the lines they placed on aerials or listed in letters were "approximate", like a surveyor would do. And, then Bowers began to treat the line as if it was the real line when they sent it to Lexington County.

And Bowers didn't represent the location of the county line as "*approximate*", like a surveyor would have done with the little work Bowers used. Bowers took the position that the line was *the county line*

--  
Kim Murphy 803-446-6565  
154 Old Laurel Lane  
Chapin, SC 29036

--  
Kim Murphy 803-446-6565  
154 Old Laurel Lane  
Chapin, SC 29036

---

Re: Deposition Date Response

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1 Q: Have you looked at it?

2 A: I have looked at it.

3 Q: Do you remember that letter?

4 A: I do.

5 Q: Okay. It's dated December 6, 2013. So that  
6 would have been, what, about a year before you  
7 retired, correct?

8 A: No.

9 Q: No, two years.

10 A: Two years.

11 Q: Yeah.

12 A: Yeah.

13 Q: In that letter you indicate -- and let me see  
14 if I can remember the paragraph. Do you  
15 remember how this letter came about, what  
16 prompted the letter?

17 A: Bishop had contacted Seth Rose and maybe  
18 another councilperson and -- with his concerns  
19 about the line and why a decision had not been  
20 made as it related to the correctness of the  
21 line.

22 Q: This is the line between Richland County and  
23 Lexington?

24 A: Lexington and Richland, right. And he was --  
25 my remembrance is that he was in a hurry for

1 the matter to be settled so that the community  
2 could settle down. And I tried as best I could  
3 to tell him that it really wasn't in my hands,  
4 that the Geodetic Survey was making a study and  
5 investigating that particular property line.  
6 And while it was very, very important to him  
7 and certainly was important to us, but the  
8 Jocassee Gorges line between North Carolina and  
9 South Carolina was in the final stages of work  
10 and that the state was putting the effort to  
11 get that done. And then I think there was  
12 still some work that had to be done on the  
13 South Carolina/Georgia line as it related to  
14 the Savannah River. So our priority was not  
15 one but it was probably about a hundred. So  
16 they worked on it when they had time. And then  
17 there really wasn't a procedure that was  
18 outlined in law as to what needed to be done.  
19 So I think there was a delay in getting a law  
20 passed through the general assembly protecting  
21 the state and the citizens as it related to  
22 their rights. So one could make a  
23 determination of where the line was. Then the  
24 parties had to be notified. Then there was an  
25 appeal process, and it was very elaborate. But



1 Survey, at one time in 1995 may have gone out  
2 there and looked for some marker in the Rocky  
3 Ford area. Do you have any recollection of  
4 that?

5 A: I think Lee did go out with -- Lee Harrell ---

6 Q: Right.

7 A: --- who was our chief cartographer ---

8 Q: Right.

9 A: --- I think he went out with Alan Zupan and  
10 maybe Sid and there was -- there was another  
11 guy that worked there who had blonde hair. I  
12 can't remember. Anyway, I'm sure that Lee --  
13 I feel comfortable that Lee went out there with  
14 them to look and see what was out there. We've  
15 had more problems with the Rocky Creek going  
16 all the way to the end of the line with making  
17 corrections there.

18 Q: That's the -- you're speaking of the county  
19 line between Richland and Lexington County ---

20 A: Right.

21 Q: --- that goes through the Rocky Creek thing and  
22 goes on out for some distance the other way?

23 A: Yeah.

24 Q: Approximately, and if you'd just give us an  
25 estimate, how long -- or how long does that

1 line run where those issues have come to your  
2 attention?

3 A: I don't know. But see ---

4 Q: Go ahead.

5 A: --- the problem is that when land was very,  
6 very cheap, it didn't cause anybody any pain.  
7 But, boy, when land became valuable, it became,  
8 you know, a big deal. So with a house, we  
9 don't get too uptight about that. We can say,  
10 all right, you can -- the majority of the land  
11 is in Richland so we'll take it. But if you  
12 have heartburn with that, we can -- we can work  
13 around that. But if it's a commercial  
14 property, we're going to take our portion and  
15 Lexington will get their portion because there  
16 are big bucks there.

17 Q: Do you happen to recall or can you give me any  
18 information about that 1995 survey that we've  
19 been talking about out there in Rocky Creek, if  
20 that in any way involved the Murphy property or  
21 if it involved a more -- a more broad look down  
22 that line?

23 A: I think it was broader than that. I'm not --  
24 my sense was that we were continuously having  
25 trouble trying to determine where the darn

1           thing was. And one of our requests to the  
2           Geodetic Survey was, boy, when you get this  
3           Rocky Creek thing done, keep going, don't stop.

4    Q:     You know Moffatt Burriss?

5    A:     I do.

6    Q:     I guess like all of us do. And Moffatt  
7           Burriss, Jr., his son, lives next door to --  
8           out there to Kim and that property also is  
9           there's some question whether it is in  
10          Lexington County or Richland County. Do you  
11          know what -- was Mr. Burriss in any way -- did  
12          you ever hear any problem about his or Murphy's  
13          status as Lexington or Richland before 2012 or  
14          2013?

15   A:     I don't think so.

16   Q:     All right. Now, let's go to 2013, to January  
17          of 2013, and let me give you -- let's mark this  
18          as a document.

19   COURT REPORTER: That will be Plaintiff's 1.  
20          (Plaintiff's Exhibit Number 1 was marked for  
21          identification purposes.)

22   Q:     Take a minute and look at it. It's a letter  
23          that's dated January the 11th, 2013, and this  
24          came from the FOI from the county I think. I  
25          don't see a Bates stamp on it.

1 year, 9,000 building permits, and then having  
2 to deal with the public. Now, if you don't  
3 think that we had something to do, you're  
4 wrong. It's a full-time job, and you can take  
5 one thing and it can distract you, and you  
6 can't get your work done.

7 Q: You have to prioritize, right?

8 A: That's right. And the deal is we're looking at  
9 a tax base of \$24 billion, a revenue stream of  
10 400 million. This is how the schools are  
11 funded. So while I would like for every  
12 taxpayer to think that I gave his problem my  
13 entire attention, that just really is not the  
14 way it is. We hit the ground running. We look  
15 at the basic information which is furnished.  
16 We have to make a decision and move on to the  
17 next one because there are plenty of them  
18 coming.

19 Q: All right. Now, the Budget and Control Board  
20 did not get the plenary authority they wanted  
21 to make the final decision on these cases until  
22 2014; isn't that true?

23 A: I think that's correct.

24 Q: And to your knowledge and, of course, are you  
25 aware of any other public official who's been

1           elected to office during all your years of  
2           service that for some reason lines have changed  
3           or that person has been declared ineligible  
4           geographically to hold the position they hold  
5           that had been eliminated in the middle of their  
6           term?

7    A:    Not that I'm aware of, no.

8    Q:    Is this the first and only one you've seen?

9    A:    Yes.

10   Q:    And if today -- if today, tax bills or -- have  
11           tax bills to your knowledge, up until the time  
12           you retired, continued to go out from Richland  
13           County where this -- where Mr. and Ms. Murphy's  
14           property was taxed in Richland County?

15   A:    Yes.

16   Q:    And you have made some effort yourself, which  
17           you've testified to, to talk to Lexington or  
18           whoever else you have to talk to to just try to  
19           get this straightened out, haven't you?

20   A:    Yes.

21   Q:    But it hadn't been straightened out yet, has  
22           it?

23   A:    No.

24   Q:    And for tax purposes ---

25   A:    Not to the best of my knowledge.

1 Q: To the best of your knowledge. And for tax  
2 purposes, she and her husband are still  
3 residents of Richland County, aren't they?

4 A: They are, yes.

5 Q: You don't -- again, I'm asking you the question  
6 about the 1995 visit. Do you have any  
7 independent recollection of your going out  
8 there?

9 A: I don't believe I've ever been out there.

10 Q: All right. Do you know whether Lee Harrell  
11 sent aerials related to this case to his two  
12 personal email addresses?

13 A: I don't know.

14 Q: Do you know why he would've done that?

15 A: I do not.

16 MR. CROMER: Y'all give us a minute. I've got  
17 another exhibit that I want to try and cover.  
18 In the meantime, if you'll allow me to cover it  
19 when y'all get through, y'all can go ahead and  
20 ask him whatever questions you want. That's  
21 the only other thing I would have to ask him  
22 about.

23 MR. CLOYD - RE-EXAMINATION BY MR. FRAWLEY:

24 Q: Mr. Cloyd, one of the questions that Mr. Cromer  
25 asked you was in all your experience, are you



Minutes/ February 14, 2011

The Board of Trustees of School District Five of Lexington and Richland Counties met at River Springs Elementary School with the following members present:

Mr. Robert Gantt, Chairman  
Mrs. Beth Hutchison-Watson, Vice Chairman  
Mrs. Ellen Baumgardner, Secretary  
Mrs. Jan Hammond  
Mrs. Kim Murphy  
Mr. Jim Turner  
Mr. Ed White  
Dr. Stephen Hefner, Interim District Superintendent

The following staff were in attendance:

Ms. Helen Anderson, Chief Instructional Services Officer  
Dr. Angela Bain, Chief Human Resource Services Officer  
Mr. Gary Black, Chief Technology Services Officer  
Dr. Karl Fulmer, Chief Financial Services Officer  
Mr. Keith McAlister, Director, New Design and Construction  
Mr. Buddy Price, Director, Office of Community Services

Robert Gantt called the meeting to order and gave welcoming remarks.

Reverend Matthew Rings, St. Andrews Presbyterian gave the Invocation. Kyle Madden, a second grade student at River Springs Elementary School led the Pledge of Allegiance.

Robert Gantt, Beth Watson, Julie Painter and Robin Cox presented the School Board Spotlight.

A welcome and brief overview of River Springs Elementary School was given by Melanie Cohen, principal.

During the superintendent's report, Dr. Fulmer gave an update on the cost of the Chapin High School's wetlands lawsuit (Exhibit C).

During public participation, Mary Moslet spoke regarding lawsuits.

Michael Harris presented proposed revisions to board policies J: JICA "Student Dress" replaces JCDB "Dress Code, JICA-R "Student Dress" replaces AR-JCDB-R "Dress Code", JICF "Secret Societies/Gang Activity" replaces JCDAF "Gangs and Gang Related Activity", JICFA add "Hazing" JICFAA "Harassment, Intimidation or Bullying" replaces JCDAAAA "Harassment, Intimidation or Bullying", JICI add "Weapons In School" (Exhibit G).

The Board discussed board meeting guideline parameters.

SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES

Meeting of February 14, 2011

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | B<br>A<br>U<br>M<br>G<br>A<br>R<br>D<br>N<br>E<br>R | G<br>A<br>N<br>T<br>T | H<br>A<br>M<br>M<br>O<br>N<br>D | M<br>U<br>R<br>P<br>H<br>Y | T<br>U<br>R<br>N<br>E<br>R | W<br>A<br>T<br>S<br>O<br>N | W<br>H<br>I<br>T<br>E |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-----------------------|---------------------------------|----------------------------|----------------------------|----------------------------|-----------------------|
| 1. M. Watson                      S. Hammond<br><br>Enter executive session to consider the following: 2a) selected employment items (Exhibit A); 2b) requests for instruction at a place other than school (Exhibit B); and 2c) a contractual matter regarding the new elementary school property – Derrick Pond Road                                                                                                                                                                                                                                                                                                                     | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 2. M. Baumgardner              S. Hammond<br><br>Approve the agenda<br><br>M. Turner                      S. Hammond<br><br>Amend to move item 16 (Board meeting guideline parameters) to the discussion agenda as item 19-1<br><br>M. Watson                      S. Baumgardner<br><br>Amend to move item 7 (approve the agenda) and item 8 (approve the minutes of the December 13, 2010 board meeting, the January 18, 2011 budget workshop, and the January 24, 2011 board meeting) until after the welcome and brief overview of River Springs Elementary School<br><br><br>Vote on the amendment<br><br>Vote on the original motion |                                                     |                       |                                 |                            |                            |                            |                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 3. M. Watson                      S. Baumgardner<br><br>Approve the minutes of the January 18, 2011 budget workshop and the January 24, 2011 board meeting<br><br>M. Watson                      S. Hammond<br><br>Amend to move the approval of the January 18, 2011 budget workshop and the January 24, 2011 board meeting to the discussion agenda as item 19-2                                                                                                                                                                                                                                                                         |                                                     |                       |                                 |                            |                            |                            |                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |

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SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES

Meeting of February 14, 2011

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| 4. M. Watson                      S. White<br><br>Move the approval of the December 13, 2010 board meeting to the end of this meeting as item 19-3                                                                                                                                                                                                                                                                                                                                                                                                                         | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 5. M. Baumgardner              S. Watson<br><br>Make it a goal to conclude the meeting at 9:30 p.m. and review at 9:15 p.m. anything that has not been completed to be tabled to the next meeting                                                                                                                                                                                                                                                                                                                                                                          | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 6. M. Hammond                  S. White<br><br>Move item 12-1 (approve a covered batting cage for the baseball team at Irmo High School Exhibit D) to the action agenda and approve it                                                                                                                                                                                                                                                                                                                                                                                     | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 7. M. Watson                      S. Baumgardner<br><br>Approve the selected employment items (Exhibit A)                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 8. M. Watson                      S. Baumgardner<br><br>Approve the requests for instruction at a place other than school (Exhibit B)                                                                                                                                                                                                                                                                                                                                                                                                                                      | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 9. M. Watson                      S. Baumgardner<br><br>Approve first reading of proposed revisions to board J policies: JIB add "Student Involvement In Decision Making", JICEA "School Related Student Publications" replaces JHCC "Student Publications", JICG "Tobacco Use By Students" replaces JCDA "Tobacco Free Facilities/Possession and Use of Tobacco", JICG-R "Tobacco Use By Students" replaces AR-JCDA-R "Tobacco Free Facilities/Possession and Use of Tobacco", JICH "Drug And Alcohol Use By Students" replaces JCDA/JCDAC "Alcohol/Drug Use" (Exhibit E) | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |

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SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES

Meeting of February 14, 2011

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| 10. M. White                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | S. Watson      | X                                                   | X                     | X                               | No                         | X                          | X                          | X                     |
| Resolved that the Board of Trustees of District Five of Lexington and Richland Counties disapproves of the lawsuit brought by Mrs. Kim Murphy, Murphy vs. School District Five of Lexington and Richland Counties and DHEC, which has cost the School District in excess of \$1.57 million as of February 14, 2011, and is delaying the renovations to Chapin High School and denying students the timely use of much needed facilities. The Board also disapproves of the recent appeal filed by Mrs. Kim Murphy on January 20, 2011, requesting that DHEC deny a construction permit for the sewer system which permit is necessary to begin renovations at Chapin High School. The Board requests that Mrs. Murphy abide by the vote of the majority of the Board of Trustees to proceed with the renovations at Chapin High School. |                |                                                     |                       |                                 |                            |                            |                            |                       |
| 11. M. White                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | S. Watson      | X                                                   | X                     | AB                              | No                         | AB                         | X                          | X                     |
| The School District publish this resolution in the board briefs, email blast, as well as send it to local media, and in the board brief synopsis identify the resolution as pertaining to the lawsuit brought by Mrs. Kim Murphy, Murphy vs. School District Five of Lexington and Richland Counties and DHEC.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                |                                                     |                       |                                 |                            |                            |                            |                       |
| 12. M. Watson                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | S. Hammond     | X                                                   | X                     | X                               | No                         | X                          | X                          | X                     |
| Approve the recommendation for temporarily suspending the Administrative Rule IEC-R for the 2011-2012 budget cycle.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                |                                                     |                       |                                 |                            |                            |                            |                       |
| 13. M. Watson                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | S. Baumgardner | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| Approve the minutes of the January 18, 2011 budget workshop                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                |                                                     |                       |                                 |                            |                            |                            |                       |
| 14. M. Murphy                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | S. Baumgardner |                                                     |                       |                                 |                            |                            |                            |                       |
| Approve the minutes of the January 24, 2011 board meeting                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                |                                                     |                       |                                 |                            |                            |                            |                       |
| M. White                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | S. Watson      | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |

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SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES

Meeting of February 14, 2011

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-----------------------|---------------------------------|----------------------------|----------------------------|----------------------------|-----------------------|
| Amend that the attachments are properly stamped with a disclaimer that states the Board majority did not approve, disapprove, or otherwise act upon the contents of this attachment                                                                                       | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| Vote on original motion                                                                                                                                                                                                                                                   |                                                     |                       |                                 |                            |                            |                            |                       |
| * 15. M. Murphy S. Watson<br>Table the December 13, 2010 board meeting minutes to the next board meeting                                                                                                                                                                  | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 16. M. Hammond S. Baumgardner<br>Adjourn at 9:45 p.m.                                                                                                                                                                                                                     | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| * Postponed in order to listen to tape 2 of audio which was just put on the website to replace tape 2 of 1/24/11 mtg that was placed there in error. For some reason Gantt had entire meeting transcribed but the audio (tapes 2) for the 1/24/11 was also used in error. |                                                     |                       |                                 |                            |                            |                            |                       |

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# Board Briefs

## School District Five of Lexington & Richland Counties

1020 Dutch Fork Road • Irmo, South Carolina • 476-8000

Synopses of meetings of the Board of Trustees of School District Five of Lexington and Richland Counties are provided for your information by the Office of Community Services.

September 12, 2011

At the September 12, 2011 school board meeting, the following took place:

- Superintendent Stephen Hefner gave a detailed presentation regarding his ideas for moving Lexington-Richland Five forward over the next four years. More information on his presentation, entitled Vision 2015, can be [found here](#).
- The school board recognized the Irmo Arbor Day Committee for the landscaping work they completed at Dutch Fork Elementary. The committee raised more than \$30,000 to plant shrubs, plants, sod and other items to make the school's curbside appeal more inviting.
- An update on the cost of the lawsuit brought by Kim Murphy, *Murphy vs. School District Five of Lexington and Richland Counties and DHEC*, was provided. As of September 1, 2011, the estimated cost of the lawsuit exceeds \$1.8 million.
- The board adopted a resolution requesting the South Carolina School Boards Association (SCSBA) to consider sponsoring legislation that would prohibit a school board member from instituting any legal proceedings or administrative action before any governmental agency or court to oppose any action undertaken by the school board on which the member has a seat. The resolution also requests members of our legislative delegation to consider the same legislation. Finally, the resolution requests the SCSBA to review the temporary restraining order against defendant Murphy, obtained by Maggie Stroud and the D5 Citizens Ensuring the Implementation of the Referendum, Inc. and consider providing assistance to Maggie Stroud and the D5 Citizens Ensuring the Implementation of the Referendum, Inc.
- The 10-day enrollment count was provided. Student population in grades pre-kindergarten through 12<sup>th</sup> grade declined by two students since last year.
- The school board approved revisions and additions to policies IB "Academic Freedom," IHAE "Physical Education," IHAF "Arts Education," IHAG "Music Education," IHAH "World Language Education," IA "Instructional Goals and Learning Objectives" and IE "Organization of Instruction."
- The board gave first reading approval to revisions to policy ADF "School Wellness."
- First reading approval was given to policies JLA "Student Insurance Coverage;" JLCC "Communicable/Infectious Diseases;" JLCDA "Individual Healthcare Plans;" JLCDA-E "Indemnification/Hold Harmless Agreement for Self-Administration of Medication;" JLCE "First Aid and Emergency Care;" and JLCFA "Training of Unlicensed Personnel for Select Nursing Tasks."

- The school board discussed the proposed 2011-12 Park-School Agreement with the Irmo Chapin Recreation Commission.

The next regularly scheduled meeting of the school board will be Monday, September 26 at 7 p.m. at the district administration building. The public is invited and encouraged to attend.

program; Lewis Gossett spoke regarding Vision 2015; Jane Walker spoke regarding policies under review; Michelle Estridge spoke regarding Chapin Middle School; Kevin Derrick and John Lindower spoke regarding upgrades for Irmo High School's athletics facilities; Jack Wolfe spoke regarding the building program; and Tosha Adison regarding Irmo High School .

Buddy Price presented the proposed ICRC 2011-2012 Park-School Agreement (Exhibit J).

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A = Absent  
AB = Abstain  
N = No  
X = Yes  
R = Recuse

SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES

Meeting of September 12, 2011

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | B<br>A<br>U<br>M<br>G<br>A<br>R<br>D<br>N<br>E<br>R | G<br>A<br>N<br>T<br>T | H<br>A<br>M<br>M<br>O<br>N<br>D | M<br>U<br>R<br>P<br>H<br>Y | T<br>U<br>R<br>N<br>E<br>R | W<br>A<br>T<br>S<br>O<br>N | W<br>H<br>I<br>T<br>E |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-----------------------|---------------------------------|----------------------------|----------------------------|----------------------------|-----------------------|
| 1. M. Baumgardner                      S. Hammond<br><br>Enter executive session to consider the following: a) employee grievance hearing (Exhibit A); b) selected employment items (Exhibit B); c) student enrollment matter; and d) requests for approval of instruction at a place other than school (Exhibit C)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | X                                                   | X                     | X                               | X                          | X                          | A                          | A                     |
| 2. M. Hammond                      S. Watson<br><br>Approve the agenda                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 3. M. White                      S. Watson<br><br>That the Board adopt the following four resolutions in a singular motion: <b>RESOLVED</b> , that the Board of Trustees of District 5 of Lexington & Richland Counties hereby requests that the South Carolina School Board Association consider sponsoring legislation that would prohibit a School Board Member from instituting any legal proceedings or administrative action before any governmental agency or court to oppose any action undertaken by the school board on which the member has a seat and that the South Carolina School Board Association allow the Chairman of the District 5 Board to present this request as a formal proposal for a legislative initiative at the School Board Associations' December 2011 meeting. <b>RESOLVED</b> , that the Board of Trustees of District 5 of Lexington & Richland Counties hereby requests that each member of our legislative delegation consider sponsoring legislation that would prohibit a School Board Member from instituting any legal proceedings or administrative action before any governmental agency or court to oppose any action undertaken by the school board on which the member has a seat. <b>RESOLVED</b> , that the Board of Trustees of District 5 of Lexington & Richland Counties hereby requests that the South Carolina School Board Association review the TEMPORARY RESTRAINING ORDER AGAINST DEFENDANT MURPHY obtained by Maggie Stroud and D5 Citizens Ensuring The Implementation of the Referendum, Inc. and consider providing assistance to Maggie Stroud and | X                                                   | X                     | X                               | No                         | X                          | X                          | X                     |

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SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES

Meeting of September 12, 2011

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | B<br>A<br>U<br>M<br>G<br>A<br>R<br>D<br>N<br>E<br>R | G<br>A<br>N<br>T<br>T | H<br>A<br>M<br>M<br>O<br>N<br>D | M<br>U<br>R<br>P<br>H<br>Y | T<br>U<br>R<br>N<br>E<br>R | W<br>A<br>T<br>S<br>O<br>N | W<br>H<br>I<br>T<br>E |
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| D5 Citizens Ensuring The Implementation of the Referendum, Inc. with this important policy issue before the court that affects every school district in this state. <b>RESOLVED FURTHER</b> , the Chairman shall be authorized to write letters to the South Carolina School Board Association and the legislative delegation representing District 5 communicating these resolutions and requests to be submitted on behalf of the Board and include a copy for their review of the TEMPORARY RESTRAINING ORDER AGAINST DEFENDANCE MURPHY.                                                                                                                                    |                                                     |                       |                                 |                            |                            |                            |                       |
| 4. M. Hammond S. Baumgardner<br><br>The Board deny the request for relief in connection with a grievance filed by a former employee of the District.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | X                                                   | X                     | X                               | No                         | X                          | X                          | AB                    |
| 5. M. Watson S. Baumgardner<br><br>Approve the selected employment items (Exhibit B)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 6. M. Watson S. Baumgardner<br><br>Approve the requests for approval of instruction at a place other than school (Exhibit C)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 7. M. Watson S. Hammond<br><br>Second reading approval of proposed revisions and additions to I policies: Add new board policy IB "Academic Freedom", Add new board policy IHAE "Physical Education", Add new board policy IHAF "Arts Education", Add new board policy IHAG "Music Education", . Add new board policy IHAH "World Language Education", Replace IA "Philosophy", IB "Goals and Objectives" and IKA "Teaching Methods" with IA "Instructional Goals and Learning Objectives", Replace AC "School District Organization Plan" with IE "Organization of Instruction (Exhibit F)<br><br>M. Murphy S.<br><br>Amend to pull out 11a IB "Academic Freedom" and vote on |                                                     |                       |                                 |                            |                            |                            |                       |

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SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES

Meeting of September 12, 2011

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-----------------------|---------------------------------|----------------------------|----------------------------|----------------------------|-----------------------|
| it separately                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                     |                       |                                 |                            |                            |                            |                       |
| Vote on original motion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 8. M. Baumgardner      S. Hammond<br><br>First reading approval of proposed revisions and additions to J policies": JLA "Student Insurance Coverage" replaces JGA "Student Insurance Program, JLCC<br>"Communicable/Infectious Diseases" replaces JGCC<br>"Communicable Diseases", JLCC-R<br>"Communicable/Infectious Diseases" replaces JGCC<br>"Communicable Diseases - Students", JLCDA "Individual Healthcare Plans" replaces JGCDA "Individual Healthcare Plans", Add JLCDA-E "Indemnification/Hold Harmless Agreement For Self-Administration of Medication", JLCE<br>"First Aid And Emergency Care" replaces JGFGA "First Aid & Emergency Care", JLCFA "Training Of Unlicensed Personnel For Select Nursing Tasks" replaces JDCDAA "Training Of Unlicensed Personnel For Select Nursing Tasks" (Exhibit G) | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 9. M. Watson      S. Hammond<br><br>First reading approval of proposed Administrative Rule for Policy IB "Academic Freedom" (Exhibit H)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | X                                                   | X                     | X                               | No                         | X                          | X                          | X                     |
| 10. M. Watson      S. Hammond<br><br>First reading approval of proposed revisions to board policy ADF "School Wellness" (Exhibit I)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | X                                                   | X                     | X                               | No                         | X                          | X                          | X                     |
| 11. M. Hammond      S. Baumgardner<br><br>Approve the minutes of the August 8, 2011 board meeting<br><br>M. Murphy      S. Turner<br><br>Amend the minutes to withdraw the Exhibit #3 and replace                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | No                                                  | No                    | AB                              | X                          | AB                         | No                         | No                    |

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SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES

Meeting of September 12, 2011

|                                                                | B<br>A<br>U<br>M<br>G<br>A<br>R<br>D<br>N<br>E<br>R | G<br>A<br>N<br>T<br>T | H<br>A<br>M<br>M<br>O<br>N<br>D | M<br>U<br>R<br>P<br>H<br>Y | T<br>U<br>R<br>N<br>E<br>R | W<br>A<br>T<br>S<br>O<br>N | W<br>H<br>I<br>T<br>E |
|----------------------------------------------------------------|-----------------------------------------------------|-----------------------|---------------------------------|----------------------------|----------------------------|----------------------------|-----------------------|
| with the original document that I proposed to go on the record |                                                     |                       |                                 |                            |                            |                            |                       |
| Vote on original motion                                        | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 12. M. Watson                      S. White                    | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| Adjourn at 10:45 p.m.                                          |                                                     |                       |                                 |                            |                            |                            |                       |

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Attachment 1 is included with  
the minutes of the 9-12-11  
meeting, at the request of Board member  
Ed White  
pursuant to S.C. Code Ann. § 30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
did not approve, disapprove, or otherwise  
act upon the contents of this attachment.

ON THE RECORD STATEMENT  
SUBMITTED BY ED WHITE

September 12, 2011

Kim Murphy v. South Carolina Department of Health and Environmental Control and  
District 5 of Lexington & Richland Counties

1. The damage as a result of the legal proceedings filed by Mrs. Murphy for the Chapin High School project is now approximately \$7,638,655. This amount includes the actual expenditures from legal and consulting fees, the estimated increase in construction costs based on current bid prices, and the increased interest cost over the 20-year life of the bonds. Because we are in a near zero interest rate environment, the \$7,638,655 amount of estimated damages today approximates the present value of the payments over the 20-year life of the bonds that will be issued to fund the project. A complete transcript of the 10-day trial and the Court's Order is posted on the District 5 website and I would encourage anyone trying to understand why we are incurring these expenses to read the transcript of the trial and the Court Order.
2. I would like to recognize the extraordinary ruling that Maggie Stroud and the group, D5 Citizens Ensuring The Implementation of the Referendum, Inc., obtained from our state court that keeps Mrs. Murphy from filing additional legal proceedings against District 5 construction projects. This court Order has a profound significance not only for District 5, but for all school districts throughout the state. A copy of the **TEMPORARY RESTRAINING ORDER AGAINST DEFENDANT MURPHY** is attached and I am requesting that the District post a copy of the **TEMPORARY RESTRAINING ORDER** on the District 5 website. I would like to personally thank Maggie Stroud and the D5 Citizens Ensuring The Implementation of the Referendum, Inc. because they took the initiative to raise private funds, to hire an attorney and press for this court Order to help District 5. It is a tremendous ruling of profound significance for District 5 as well as for all school districts in the state.
3. I see a very important policy consideration in this **TEMPORARY RESTRAINING ORDER**. The policy concern is that as a School District we do not have an effective legal remedy against a fellow Board Member who institutes legal proceedings to challenge a decision or action of this Board when the challenge causes economic damage to the District. The reason we do not have an effective legal remedy is that a School Board Member has immunity from legal liability for anything they do in their role as a Board Member. Any decision by a School Board to seek a legal remedy against a fellow Board Member is complicated by the reality it would have to prove the Board Member was acting outside the scope of their authority or role as a Board Member. As a practical matter, any lawyer defending a School Board Member would argue the person's actions were within the scope of their role as a Board Member. It could be difficult for a court to make a factual conclusion that the actions were

Attachment C is included with  
the minutes of the 9-12-11  
meeting, at the request of Board member  
Ed White  
pursuant to S.C. Code Ann. § 30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
did not approve, disapprove, or otherwise  
act upon the contents of this attachment.

September 12, 2011  
Page 2

completely outside the scope of their role as a Board Member and a court would probably favor protecting the Board Member's immunity.

4. The practical reality is that it is too easy for a political group to marshal their resources behind a Board Member and let the Board Member bring the legal proceeding to challenge the School District's actions in the Board Member's name and have the shield of immunity for all of their actions. This means a political group could conspire, engage in misrepresentations, and abuse the legal process for an improper motive and be shielded from liability by simply hiding behind the name of the Board Member who brought the action.
5. In contrast, if private citizens file a legal proceeding to challenge a School District's actions for improper motives, conspire to misrepresent facts to abuse the legal process and cause the School District economic damages in doing so, the School District can pursue legal remedies in the court system and seek compensation for the damages caused without the shield of a Board Member's immunity from liability. In other words, if private citizens bring abusive legal proceedings against a School District, they face the risk that they could be personally liable for the economic damages they cause.
6. I would like to publicly encourage Maggie Stroud and the D5 Citizens Ensuring The Implementation of the Referendum, Inc. to press ahead in the court system to seek a permanent order against Mrs. Murphy to restrain her from bringing further legal proceedings in her name to block District 5 construction projects.
7. I know Maggie Stroud and the D5 Citizens Ensuring The Implementation of the Referendum, Inc. is raising private funds to continue the legal process to acquire the permanent order and I want to thank you again for your efforts.
8. I believe as a Board Member we should adopt a resolution as the Board of Trustees of District 5 that: (a) we send a letter to the South Carolina School Board Association to ask it to review the **TEMPORARY RESTRAINING ORDER AGAINST DEFENDANT MURPHY** and consider assisting Maggie Stroud and the D5 Citizens Ensuring The Implementation of the Referendum, Inc. with this important policy decision pending before our court system; (b) we ask the South Carolina School Board Association to consider sponsoring legislation that prohibits a School Board Member from instituting any legal or administrative proceeding before any court or governmental agency to oppose a school board action; and (c) we write a letter to the entire legislative delegation representing District 5 asking them to review the **TEMPORARY RESTRAINING ORDER AGAINST DEFENDANT MURPHY** and consider adopting legislation to the same effect.



Minutes/March 19, 2013

The Board of Trustees of School District Five of Lexington and Richland Counties met at the District Administration Building with the following members present:

Mr. Robert Gantt, Chairman  
Mrs. Beth Burn Watson, Vice Chairman  
Mrs. Ellen Baumgardner, Secretary  
Mrs. Jondy Loveless  
Mrs. Kim Murphy  
Mr. Jim Turner  
Mr. Ed White

The following staff were in attendance:

Dr. Stephen Hefner, Superintendent  
Ms. Helen Anderson, Chief Instructional Services Officer  
Dr. Angela Bain, Chief Human Resource Services Officer  
Mr. Michael Harris, Director of Student Services  
Mr. Keith McAlister, Director of New Design and Construction  
Mr. Mark Bounds, Public Information Officer

Chairman Gantt called the meeting to order.

The Board conducted a hearing regarding board member's residency which included receipt of Judge Cooper's Report, Exhibits, Transcript from the February 15, 2013 Evidentiary Hearing, and statements of legal counsel.

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A = Absent  
AB = Abstain  
N = No  
X = Yes  
R = Recuse

[www.lex5.k12.sc.us](http://www.lex5.k12.sc.us)  
1020 Dutch Fork Road • Irmo, South Carolina 29063 • (803) 476-8000

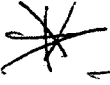
**SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES**

Meeting of March 19, 2013

|                                                     |                       |                                      |                            |                            |                            |                       |
|-----------------------------------------------------|-----------------------|--------------------------------------|----------------------------|----------------------------|----------------------------|-----------------------|
| B<br>A<br>U<br>M<br>G<br>A<br>R<br>D<br>N<br>E<br>R | G<br>A<br>N<br>T<br>T | L<br>O<br>V<br>E<br>L<br>E<br>S<br>S | M<br>U<br>R<br>P<br>H<br>Y | T<br>U<br>R<br>N<br>E<br>R | W<br>A<br>T<br>S<br>O<br>N | W<br>H<br>I<br>T<br>E |
|-----------------------------------------------------|-----------------------|--------------------------------------|----------------------------|----------------------------|----------------------------|-----------------------|

|                                                                                                       |                |   |   |   |    |   |   |   |
|-------------------------------------------------------------------------------------------------------|----------------|---|---|---|----|---|---|---|
| 1. M. Baumgardner                                                                                     | S. Loveless    | X | X | X | No | X | X | X |
| Approve the agenda                                                                                    |                |   |   |   |    |   |   |   |
| 2. M. White                                                                                           | S. Loveless    | X | X | X | No | X | X | X |
| Adopt the Resolution (Order of Removal Pursuant to S.C. Code 59-19-60 of Mrs. Kim Murphy) as attached |                |   |   |   |    |   |   |   |
| 3. M. Watson                                                                                          | S. Baumgardner | X | X | X | No | X | X | X |
| Adjourn at 8:45 p.m.                                                                                  |                |   |   |   |    |   |   |   |

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 Mr. Chairman, I move that the board adopt the following Resolution:

|                         |   |                              |
|-------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA | ) | BEFORE THE BOARD OF TRUSTEES |
|                         | ) | OF LEXINGTON-RICHLAND        |
| COUNTY OF RICHLAND      | ) | SCHOOL DISTRICT FIVE         |

**ORDER OF REMOVAL PURSUANT TO S.C. CODE § 59-19-60**

1. On March 19, 2013, the Board of Trustees ("Board") of Lexington-Richland School District Five ("District") held a special meeting concerning the matter of the residency of trustee Kim Murphy. The Board has considered the record of proceedings and evidence of the hearing conducted by Judge Cooper on February 15, 2013. Mrs. Murphy (and/or her counsel) and the Board's legal counsel were given the opportunity to present arguments upon the question of her residency and the existence of cause for removal pursuant to S.C. Code Ann. § 59-19-60, at the March 19, 2013, special meeting.

2. The Board finds that the procedural requirements of "notice and ... an opportunity to be heard" of S.C. Code Ann. § 59-19-60 were complied with. At its meeting on January 14, 2013, and stated upon the minutes thereof, the Board approved an inquiry into the residency of Kim Murphy with reference to Act No. 326 of 2002. The Chairman of the Board issued a letter to Mrs. Murphy concerning the question of her residency dated January 15, 2013, requesting a response by January 21, 2013. Mrs. Murphy replied via legal counsel by letter dated January 18, 2013. Mrs. Murphy circulated an e-mail dated February 28, 2013, concerning the Board's inquiry, and Mrs. Murphy placed an "on the record statement" concerning this matter into the minutes of the Board's January 28, 2013, meeting. By letter of January 29, 2013, Board counsel advised Mrs. Murphy that Judge Cooper had scheduled a conference to prepare for a hearing on the matter on Friday, February 1, 2013, at 10:00 a.m., in the conference rooms of the South Carolina Bar offices, and to request that Mrs. Murphy and/or her counsel be present for the meeting. Judge Cooper issued a Pre-Hearing Order dated February 1, 2013. The Pre-Hearing order was e-mailed to [KWMurphy@lexrich5.org](mailto:KWMurphy@lexrich5.org) on the same day. On February 4, 2013, a copy of the Pre-Hearing Order was hand-delivered to Mrs. Murphy's residence. Judge Cooper's order provided that the parties should submit to him any pre-hearing briefs and documents no later than February 13, 2013, and that he would conduct the evidentiary hearing on February 15, 2013, at 10:00 a.m. at the District Five board room at 1020 Dutch Fork Road, Irmo, SC. Reports of the Board's inquiry and Judge Cooper's plan for the hearing were widely circulated in the local press.

3. Judge Cooper convened the hearing on February 15, 2013, and took evidence as reflected in the transcript and exhibits supplied to the Board for its consideration prior to the March 19, 2013, Board meeting. The hearing before Judge Cooper is recorded in the transcript and exhibits received by the Board. Although Mrs. Murphy and her counsel were present at the Board office prior to the hearing, neither appeared at the hearing.

4. Judge Cooper sent a Report and Recommendation to the Chairman, which was received at the District Office on Friday, February 15, 2013. The Chairman scheduled the special meeting of March 19, 2013, and arranged the complete transcript and exhibits, along with Judge Cooper's Report and Recommendation, to be published to the Board and the public on Monday, March 18,

Attachment 1 is included with  
the minutes of the 3-19-13  
meeting, at the request of Board member  
Ed White

2013. These materials were also hand-delivered to the Board and to Mrs. Murphy's counsel on March 18, 2013.

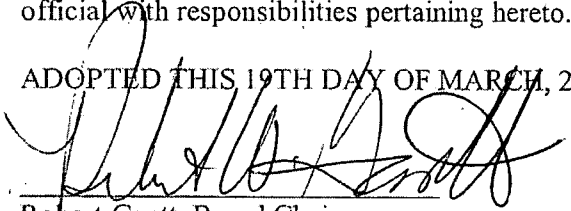
5. Upon due consideration and deliberations upon the complete record, the supplementary arguments before the Board of Trustees at its March 19, 2013, and the Report and Recommendation prepared by Judge Cooper, *see, Young v. Charleston County Sch. Dist.*, 397 S.C. 303, 725 S.E.2d 107 (2012), the Board of Trustees hereby concurs in, and adopts as its own, Judge Cooper's Report and Recommendations as the Board's own findings of fact and conclusions of law in this matter, incorporating the same into this Order.

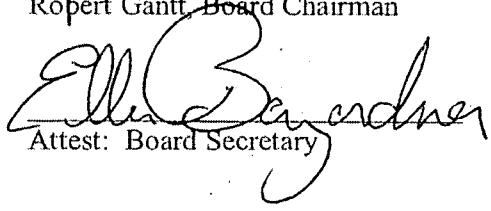
6. Accordingly, the Board finds legal cause exists for the removal of Mrs. Murphy from the office of trustee pursuant to S.C. Code Ann. § 59-19-60.

7. Therefore, pursuant to S.C. Code Ann. § 59-19-60, the Board hereby REMOVES Mrs. Murphy from the office of school trustee of School District Five of Richland and Lexington Counties, effectively immediately.

8. The Chairman shall provide copies of this Resolution to Mrs. Murphy and to any public official with responsibilities pertaining hereto.

ADOPTED THIS 19TH DAY OF MARCH, 2013.

  
Robert Gantt, Board Chairman

  
Attest: Board Secretary

Attachment 2 is included with  
the minutes of the 3-19-13  
meeting, at the request of Board member  
Ed White



### OPENING STATEMENT OF CHAIR

Thank you for attending this Special-Called Meeting of the School District Five of Lexington and Richland County, School Board of Trustees.

The purpose of our meeting this evening is to conduct a hearing to consider the residency of Mrs. Kim Murphy and her continued service as a member of the Board of Trustees. All parties in this matter have had more than two months to gather information in preparation for this hearing. In addition, all parties have been given the opportunity to participate in meetings and the evidentiary hearing conducted by Judge G. Thomas Cooper on February 15, 2013.

This Hearing is held pursuant to the Board's authority under South Carolina Code of Laws § 59-19-60 to remove a Board member for cause. The South Carolina Budget and Control Board's Division of Research and Statistics has opined that Mrs. Kim Murphy does not reside in Richland County as required under Act No. 326 of 2002. Retired Circuit Court Judge G. Thomas Cooper, Jr., conducted an evidentiary hearing on February 15, 2013 to take evidence regarding this matter and thereafter on March 14, 2013 issued his "Findings and Recommendations" for the Board on the questions of Mrs. Murphy's residency and the Board's authority to remove her from the Board should the Board find she does not reside in Richland county. The transcript and exhibits from the evidentiary hearing have been provided to the Board along with Judge Cooper's "Findings and Recommendations". The Board is not bound by Judge Cooper's findings and recommendations but will review the record from the hearing on February 15, 2013 as evidence at this hearing, in addition to any remarks Mrs. Murphy and her counsel wish to make. I have asked Mrs. Murphy's legal counsel to limit his remarks, if any, to

Attachment 3 is included with  
the minutes of the 2-19-13  
meeting, at the request of Board member  
Robert Orr  
pursuant to S.C. Code Ann. §30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
did not approve, disapprove, or otherwise

30 minutes.

Additionally, Mr. John Reagle with Childs & Halligan will have 30 minutes to present the evidence and findings of Judge Cooper. Mr. Reagle has asked to reserve five minutes of his 30 minutes for concluding or rebuttal remarks following Mrs. Murphy's attorney's comments.

As this is a hearing, public comment is not appropriate as it may bias the Board. The Board must only consider factual and legal information in this matter.

After hearing from legal counsel, the Board will deliberate and entertain any motions on whether or not to remove Mrs. Murphy from the Board. We appreciate the cooperation of counsel in bringing this matter in an orderly fashion before the Board and the public's interests in this hearing. This proceeding is being transcribed by a court reporter.

Attachment 4 is included with  
the minutes of the 3-19-12  
meeting, at the request of Board member  
Robert G. Gentry  
pursuant to S.C. Code Ann. § 30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
did not approve, disapprove, or otherwise

Public Statement

*this*  
This evening at a Special-Called Board Meeting of the Lexington - Richland Five Board of Trustees, the Board considered the recommendation of the Honorable Judge Thomas Cooper and other legal and factual information concerning the residency of Board of Trustee member, Kim Murphy.

After careful consideration and deliberation the Board sustained (agreed) with the opinion of Judge Cooper which states there is clear and convincing evidence that Ms. Murphy's residence is in Lexington County. Therefore, her residence in Lexington County deprives her of the qualifications for office as a representative of Richland County on the Lexington - Richland Five School Board of Trustees. Based on these facts, the Board voted to remove Ms. Murphy from the Board of Trustees.

We thank Ms. Murphy for her service on the Board and wish her well in the future.

In previous communication, Ms. Murphy and others have attempted to shape this issue as a personal action toward Ms. Murphy. Nothing could be further from the truth. Our actions this evening center on the simple truth that she does not live in the county which she was elected to represent, a simple but essential requirement of the law. To allow Ms. Murphy to remain on the Board would violate state law and potentially invalidate future decisions made by the Board.

We sincerely hope that Ms. Murphy will honor this decision and "do the right thing" as she has stated previously in public meetings, regarding the law and residency requirements. We also hope there will be no further disruption or distraction for the Board, the school district or the taxpayers in School District 5 regarding this matter.

Over the next few days we will consult with legal counsel on the next steps for filling the now vacant Richland County seat on the Board of Trustees. In the meantime, our Board will continue to focus our efforts on providing the very best educational experience possible for all students in School District 5.

*Thank You*  
*[Signature]*

Attachment 5 is included with  
the minutes of the 3-19-13  
meeting, at the request of Board member  
Robert Smith  
pursuant to S.C. Code Ann. § 30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
did not approve, disapprove, or otherwise

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# CLARENDON CITIZEN

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## CSD1/CSD2 board changes

ARTICLE | JUNE 2, 2012 | BY SHARRON HALEY



Sean Briley

Clarendon School District 1 had one board member removed from office while Clarendon School District 2 had a new board member appointed.

On May 30, the Clarendon County Board of Education voted unanimously to remove Ricky Johnson from the CSD1 Board of Trustees.

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"Mr. Johnson does not live in District 1," CCBE Chairman George Wilson announced at the meeting. "We have been unable to reach Mr. Johnson. We have left messages on his phone and we've sent him a letter and he has not responded to either."

The CCBE handed out information at the meeting that listed Johnson's address as Lake Arbu Drive in Manning.

Wilson said Johnson left the CCBE no option other than to remove him from the CSD1 board effective immediately.

Anyone interested in being considered for the empty seat on the CSD1 board can file an application with the Clarendon County Clerk of Court's Office beginning June 6 and ending at noon on June 19.

LT. Sean Briley with the Clarendon County Sheriff's Office will be filling the seat vacated when David Epperson resigned from the board in April to assume his duties of Clarendon County Administrator/Attorney.

The CCBE interviewed Briley along with six other candidates on May 30 before electing Briley for the position.

"I feel that we have made a good choice," Wilson said after the votes were tallied. "Mr. Briley will make an excellent board member."

"I'm extremely excited about being chosen to serve on the Clarendon 2 board," Briley said Friday. "I'm ready to get my feet wet. I'm ready to go to work to ensure that all of our children get the best education that we can provide."

Attachment 6 is included with the minutes of the 3-19-13 meeting, at the request of Board member Beth Watson pursuant to S.C. Code Ann. §30-4-90(a)(4) and Board Policy BEDG. The Board majority did not approve, disapprove, or otherwise act upon the contents of this attachment.

# JASPER COUNTY SUN

Wednesday, January 30th, 2013

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## Ridgeland, SC Weather

 **68°** |  
MOIST & CLOUDY  
5 DAY FORECAST

## Williams has 'unfinished business'

By Anthony Garzilli

Published on Wednesday, November 21, 2012 - 10:41 am |

Saying she has "unfinished business" to accomplish, Pamela Williams plans to run for the vacant District 9 Jasper County school board seat.

Williams said she spoke to board members Randy Horton and Barbara Clark, who recently was elected to County Council, and decided she wants to continue to work to improve the county's schools.

"I think anyone who knows me, knows the job I try to do," Williams said.

Williams planned to run for another school board term this fall, but a county Election Commission correction before the elections moved her from District 8 to District 9.

The commission said it corrected a mistake, that Williams, who lives on Jenkins Avenue just outside Maconville, should have been registered in District 9.

Todd Moyd won the District 8 seat as a write-in candidate.

He'll be joined by Bennie Hazel (District 2) and Debora Butler (District 6), who won election as write-in candidates.

Clark held the District 9 seat, but her election to County Council gives Williams a chance to run for the open seat. A special election will be held on the 13th Tuesday after Clark's vacancy is official, according to the county Election Commission.

Randy Horton was re-elected to the District 4 seat and Williams said she'd like to support him.

"Randy has worked quite hard," she said.

Horton thinks Williams looks out for the children.

"She does an excellent job on the school board," Horton said. "We need people like her on the school board. The children of Jasper County need her on there."

Horton said he and Williams have a like-minded approach.

"Me and Ms. Williams look at it in the same way," he said. "When you got policies and policies are being broken ... we just look at things that there's a right way and a wrong way."

Williams, who began in education in 1989, said the board's responsibilities include not only ensuring students receive a good education, but that money is spent wisely.

She thinks in the past the board has not had time to review proposed budgets.

"That's always my concern, the budget is put on the table and we're not given adequate time to go over the budget," Williams said. "I have to read the information, do a little research on my own, then make an informed decision."

Horton wants to see a unified board, one that includes Williams.

"I want the new board to be more united for the children," Horton said. "Hopefully we can be better for the children of Jasper County."

Williams said she's still passionate about being a board member and welcomes the commitment the position demands.

"It's part of what we promise to do," Williams said. "I wouldn't do it if I didn't feel I can adequately represent the people."

## CONTACT US

Have questions? Contact us  
 (843) 728-6181 or email at  
[news@jaspercountysun.com](mailto:news@jaspercountysun.com)

Attachment 7 is included with  
 the minutes of the 3-19-13  
 meeting, at the request of Board member  
Beth Watson  
 pursuant to S.C. Code Ann. §30-4-90(a)(4)  
 and Board Policy BEDG. The Board majority  
 did not approve, disapprove, or otherwise  
 act upon the contents of this attachment.

## S.C. POLITICS

### DOT elects new chairman

**John P. Edwards** has been elected chairman of the S.C. Department of Transportation.

Edwards represents the 4th Congressional District on the commission. He succeeds **R. Eddie Adams**, who remains a commissioner representing the 3rd Congressional District.

Edwards, of Greenville, is owner and president of Edwards Piping & Machinery.

Also, **Harrison Rearden**, representing the 6th Congressional District, was elected vice chairman. Rearden is retired from the S.C. Department of Social Services.

New commissioners are **Chad Ingram** and **Mike Wooten**.

\*  
\*  
■ Ingram represents the 2nd Congressional District, a position formerly held by **Craig Forrest**. Because of reapportionment, Forrest no longer lives in the 2nd District. Forrest will serve as an at-large member of the commission for the remainder of his term.

Ingram, of Aiken, is chief executive of Garvin Oil Co.

■ Wooten is the first commissioner to represent the newly formed 7th Congressional District. Wooten, of Murrells Inlet, is president and founder of DDC Engineers in Myrtle Beach.

EXH

Attachment 8 is included with the minutes of the 3-19-13 meeting, at the request of Board member Beth Watson pursuant to S.C. Code Ann. § 30-4-90(a)(4) and Board Policy BEOG. The Board majority did not approve, disapprove, or otherwise act upon the contents of this attachment.

# Board Meeting Resolutions

## SCHOOL DISTRICT FIVE OF LEXINGTON AND RICHLAND COUNTIES

Meeting of September 12, 2011

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | B<br>A<br>U<br>M<br>G<br>A<br>R<br>D<br>N<br>E<br>R | G<br>A<br>N<br>T<br>T | H<br>A<br>M<br>M<br>O<br>N<br>D | M<br>U<br>R<br>P<br>H<br>Y | T<br>U<br>R<br>N<br>E<br>R | W<br>A<br>T<br>S<br>O<br>N | W<br>H<br>I<br>T<br>E |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-----------------------|---------------------------------|----------------------------|----------------------------|----------------------------|-----------------------|
| 1. M. Baumgardner                      S. Hammond<br><br>Enter executive session to consider the following: a) employee grievance hearing (Exhibit A); b) selected employment items (Exhibit B); c) student enrollment matter; and d) requests for approval of instruction at a place other than school (Exhibit C)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | X                                                   | X                     | X                               | X                          | X                          | A                          | A                     |
| 2. M. Hammond                      S. Watson<br><br>Approve the agenda                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 3. M. White                      S. Watson<br><br>That the Board adopt the following four resolutions in a singular motion: <b>RESOLVED</b> , that the Board of Trustees of District 5 of Lexington & Richland Counties hereby requests that the South Carolina School Board Association consider sponsoring legislation that would prohibit a School Board Member from instituting any legal proceedings or administrative action before any governmental agency or court to oppose any action undertaken by the school board on which the member has a seat and that the South Carolina School Board Association allow the Chairman of the District 5 Board to present this request as a formal proposal for a legislative initiative at the School Board Associations' December 2011 meeting. <b>RESOLVED</b> , that the Board of Trustees of District 5 of Lexington & Richland Counties hereby requests that each member of our legislative delegation consider sponsoring legislation that would prohibit a School Board Member from instituting any legal proceedings or administrative action before any governmental agency or court to oppose any action undertaken by the school board on which the member has a seat. <b>RESOLVED</b> , that the Board of Trustees of District 5 of Lexington & Richland Counties hereby requests that the South Carolina School Board Association review the TEMPORARY RESTRAINING ORDER AGAINST DEFENDANT MURPHY obtained by Maggie Stroud and D5 Citizens Ensuring The Implementation of the Referendum, Inc. and consider providing assistance to Maggie Stroud and | X                                                   | X                     | X                               | No                         | X                          | X                          | X                     |

A = Absent  
AB = Abstain  
N = No  
X = Yes  
R = Recuse

# Board Meeting Resolutions

## SCHOOL DISTRICT FIVE OF LEXINGTON AND RICHLAND COUNTIES

Meeting of September 12, 2011

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | B<br>A<br>U<br>M<br>G<br>A<br>R<br>D<br>N<br>E<br>R | G<br>A<br>N<br>T<br>T | H<br>A<br>M<br>M<br>O<br>N<br>D | M<br>U<br>R<br>P<br>H<br>Y | T<br>U<br>R<br>N<br>E<br>R | W<br>A<br>T<br>S<br>O<br>N | W<br>H<br>I<br>T<br>E |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|-----------------------|---------------------------------|----------------------------|----------------------------|----------------------------|-----------------------|
| D5 Citizens Ensuring The Implementation of the Referendum, Inc. with this important policy issue before the court that affects every school district in this state.<br><b>RESOLVED FURTHER</b> , the Chairman shall be authorized to write letters to the South Carolina School Board Association and the legislative delegation representing District 5 communicating these resolutions and requests to be submitted on behalf of the Board and include a copy for their review of the TEMPORARY RESTRAINING ORDER AGAINST DEFENDANCE MURPHY.                                                                                                                                 |                                                     |                       |                                 |                            |                            |                            |                       |
| 4. M. Hammond S. Baumgardner<br><br>The Board deny the request for relief in connection with a grievance filed by a former employee of the District.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | X                                                   | X                     | X                               | No                         | X                          | X                          | AB                    |
| 5. M. Watson S. Baumgardner<br><br>Approve the selected employment items (Exhibit B)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 6. M. Watson S. Baumgardner<br><br>Approve the requests for approval of instruction at a place other than school (Exhibit C)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | X                                                   | X                     | X                               | X                          | X                          | X                          | X                     |
| 7. M. Watson S. Hammond<br><br>Second reading approval of proposed revisions and additions to I policies: Add new board policy IB "Academic Freedom", Add new board policy IHAE "Physical Education", Add new board policy IHAF "Arts Education", Add new board policy IHAG "Music Education", . Add new board policy IHAH "World Language Education", Replace IA "Philosophy", IB "Goals and Objectives" and IKA "Teaching Methods" with IA "Instructional Goals and Learning Objectives", Replace AC "School District Organization Plan" with IE "Organization of Instruction (Exhibit F)<br><br>M. Murphy S.<br><br>Amend to pull out 11a IB "Academic Freedom" and vote on |                                                     |                       |                                 |                            |                            |                            |                       |

A = Absent  
AB = Abstain  
N = No  
X = Yes  
R = Recuse



Watson Attachment to Board Meeting Minutes

Attachment 1 is included with  
the minutes of the 3-28-11  
meeting, at the request of Board member  
Beth Watson  
pursuant to S.C. Code Ann. § 30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
did not approve, disapprove, or otherwise

For the record statement from Beth H. Watson, March 28, 2011 the contents of this attachment.

A statement made by Ms. Kim Murphy during Dr. Fulmer's report on the updated cost of Ms. Murphy's lawsuit was incorrect (March 28, 2011 School Board meeting). She claimed it was not her legal appeal that delayed construction at Chapin High School. Instead, she claimed, the building project was held up because the school district was waiting on approval from the Office of School Facilities relating to the addition of gypsum board to the ceiling of the gymnasium for greater sound-proofing and the replacement of HVAC duct work in the existing building. If the school district had been able to bid out the project in 2010 as planned, construction would be underway. The gypsum board and duct work improvements would have been added as change orders. This was not the cause of the delay.

The delay in construction is a direct result of Ms. Murphy's legal appeal. Mr. Howard Coogler, Office of School Facilities with the Department of Education, sent an Email message on Friday, Jan. 14, 2011 at 10:25am, to Luke McCary with Stevens-Wilkinson and Keith McAlister, Director New Design and Construction, Lexington-Richland School District Five.

Mr. Coogler concludes his email with the following notice:

"However, I would be remiss if I did not point out that any approval to advertise at this time would carry with it the provision that bids could not be opened until all permits are approved and the court case on the stream mitigation/disturbance issue resolved."

His email told the school district in no uncertain terms, the opening and awarding of construction bids was not permissible until all permits had been approved (without pending legal appeals) and the court case was resolved. Without the ability to select a construction firm and award the job, obviously construction cannot begin.

The delay in the construction at Chapin High School rests firmly on the shoulders of Ms. Kim Murphy, who has now filed two legal appeals with the Administrative Law Court, appeals to permits that have been granted to School District Five by the permitting agencies. Her first legal appeal resulted in 10 days in court before an Administrative Law judge and has cost taxpayers in School District Five \$578,535 in legal, architectural and environmental services charges. Estimated expenses for staff time spent on this legal appeal and increased costs for construction due to the delay bring the total estimated cost of Ms. Murphy's legal appeal to \$1.63 million as of March 14, 2011.

Another disturbing result of the construction delay is the loss of Build America Bonds, which provided unprecedented subsidies to offset bond interest expenses. Our securities brokerage firm has estimated the impact at this time of missing these cost-saving bonds will cost School District Five taxpayers \$6,346,100 over the life of the bonds.

Until all legal appeals have been settled either through the court system or are withdrawn by Ms. Murphy, construction on the Chapin High School bond referendum plan cannot move forward. As one speaker at public participation noted during a recent school board meeting, the legal appeal initiated by Ms. Murphy is an example of "abuse of process."

Beth Hutchison Watson, Board of Trustees, Lexington-Richland School District Five

## White Attachment to Board Meeting Minutes

Attachment 2 is included with  
the minutes of the 3-28-11  
meeting, at the request of Board member  
Ed White  
pursuant to S.C. Code Ann. § 30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
did not approve, disapprove, or otherwise  
act upon the contents of this attachment.

For the record statement from Ed White, March 28, 2011.

I would like to include in the minutes the March 15, 2011 letter from Pam Baker of the McNair Law Firm to Robert Guild, Mrs. Murphy's attorney and Mrs. Murphy is the person bring this lawsuit, and the letter from Robert Guild to Ms. Baker dated March 25, 2011. For the Record I would like to state that Mrs. Murphy's lawsuit has cost the District \$1.63 million in increased construction costs and approximately \$6.3 million in increased interest expense. I would also like to note that no one has articulated to us what Mrs. Murphy wants to conclude her lawsuit. I would note we don't need presentations or movies of what she wants we want someone to articulate in 5 or 10 sentences what objective is being pursued by the lawsuit that has wasted so much money. Someone needs to tell us what she wants.

For the Record by Beth Burn Watson and Ellen Baumgardner, February 27, 2012

I want to go on the record to say that Dr. Karl Fulmer's report on the updated estimated cost of Kim Murphy's lawsuit delaying renovations at Chapin High School is factual and correct. It is shameful and disrespectful, not to mention without proof of evidence, for Mrs. Murphy to accuse Dr. Fulmer of putting forth false information. In fact, Mrs. Murphy is the one who continues to make false claims about the \$12.4 million that taxpayers are paying to defend the frivolous lawsuits brought by Mrs. Murphy.

Attachment 1 is included with  
the minutes of the 2-27-12  
meeting, at the request of Board member  
Beth Watson + Ellen Baumgardner  
pursuant to S.C. Code Ann. §30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
did not approve, disapprove, or otherwise  
act upon the contents of this attachment.

Item "For The Record" requested by **Beth Watson** for attachment to the Minutes.

Item "For The Record" requested by **Ellen Baumgardner** for attachment to the Minutes.

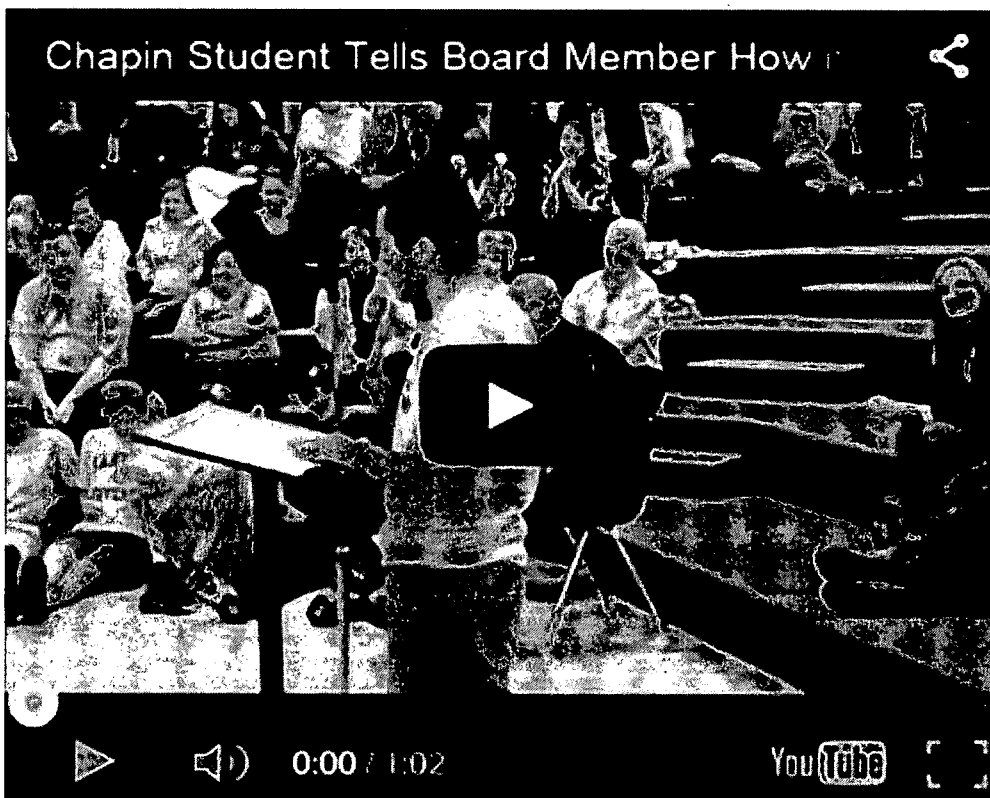
## Chapin Student Tells District 5 Board Member Don't Oppose Renovation

by Kevin Dietrich  
Nov. 16, 2011, 8:25 a.m.

Chapin High School sophomore class president Matteo Macaluso singled out Lexington-Richland District 5 school board member Kim Murphy during the Nov. 14 board meeting for her opposition to renovating his school.

"... let it be known should there be any further delays to purposely stall our much-needed renovations you will be met with heavy resistance not only from around the community but also by the student body of Chapin High School," Macaluso says during the public participation portion of the meeting. "Especially since you continually insult all of our intelligences (*sic*), because at Chapin high

school, in case you didn't know, we have smart students who see right through your lies. ... And if needed, this resistance will form, I personally guarantee."



7/20/2014

Gmail - School Board Meeting 6/13 - Appalling

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## School Board Meeting 6/13 - Appalling

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Kim Murphy <movingmountainskwm@gmail.com>  
To: Kim Bridges Stroman <kstroman@mac.com>

Fri, Jun 17, 2011 at 9:48 PM

Kim - FYI - From someone that I just met and did not know was in the audience until I got this note. I have deleted his contact info (I suggested he send it to Beth Bum Watson as well. She was missed somehow.) Take care

----- Forwarded message -----

From: pat

Date: Tue, Jun 14, 2011 at 12:25 PM

Subject: School Board Meeting 6/13 - Appalling

To: Ed White <EWhite@lex5.k12.sc.us>

Cc: Robert Gantt <rgantt@lex5.k12.sc.us>, Ellen Baumgardner <EBaumgar@lex5.k12.sc.us>, Carol Sloop <CSloop@lex5.k12.sc.us>, Jan Hammond <JHammond@lex5.k12.sc.us>, Jturner@lex5.k12.sc.us, KMurphy@lex5.k12.sc.us

Mr. White:

My wife and I recently moved to Irmo; we attended last night's school board meeting in an effort to become more familiar with our new community. We were appalled by the lack of sensitivity shown to fellow board members during the meeting. This is addressed to you because your actions and demeanor in our opinion stood out as the worst among a group of poorly behaved civic officials.

We were appalled that every time you had the floor you used your time to attack and to punish another board member. Not once did you offer anything constructive, not once did you evidence cordiality that might spark an attempt at coming to a common understanding of the issues. It was most appalling that Mr. Gantt never once cited you for twisting the truth even when you manufactured numbers to make a case that another board member was squandering taxpayer money when she came forward with a concern about location of practice fields. As a board member she has a responsibility to question actions she thinks harmful to the environment whether you agree with her thinking or not. When you disagree with the position of another board member you have a responsibility to state your disagreement in a civil manner while being respectful of the other person - you evidenced a lack of respect and an ignorance of what is acceptable behavior.

It was most appalling to listen to your diatribe of being appalled that a board member had released a taped segment of a board meeting to the public - you shrieked about the nerve of her to inform and enlighten members of the community! When a proposal was made to tape future meetings for the purpose of increased community involvement six members of the board voted it down - that was appalling. Perhaps there is a better or less costly way accomplish this, but not one of the six dissenters stepped forward with a proposal to explore the alternatives - that was appalling.

7/20/2014

Gmail - School Board Meeting 6/13 - Appalling

It was appalling to witness Mr. Gantt's iron fisted manner of limiting and containing discussion of the proposal to increase property taxes at a time when home values are plummeting and when the burden of additional taxes will very likely escalate foreclosure rates within the community. He effectively cut short any penetrating questions from citizens or from board members, but he welcomed lengthily discussion from teachers of the tired old shibboleth that more money results in better education. It was appalling to witness four members of the board who came to the meeting for the express purpose of rubber stamping a budget set forth to capture the greatest tax increase permitted.

Last night's board meeting was set in a harsh framework of meanness and contempt. There was not even a glimmer of cordiality nor was there any semblance of a spirit of cooperation that might result in some understanding of a position different than the 'party line'. You used the word appalling, a word we hear infrequently, but a word so appropriate to describe last night's meeting.

Pat

Columbia, SC

Pat

—  
Kim Murphy 446-6565  
154 Old Laurel Lane  
Chapin, SC 29036

4/11/2015

Gmail - Meeting last week



Kim Murphy <movingmountainskwm@gmail.com>

---

## Meeting last week

1 message

---

Frank Legare <franklegare@bellsouth.net>

Wed, Nov 23, 2011 at 4:52 AM

To: Robert Gantt <rgantt@lexrich5.org>, ewhite@lexrich5.org, Ellen Baumgardner <ebaumgar@lexrich5.org>, Beth Watson <bhwatson@lexrich5.org>, Jim Turner <jimturnjr@gmail.com>, Jan Hammond <jhammond@lexrich5.org>, Kim Murphy <movingmountainskwm@gmail.com>

All,

I did not attend the meeting last week but read the summary of the goings on in The New Irmo News. I was quite taken aback by the statement "How do I hate thee, let me count the ways..." from one of the speakers. I was poised to send a letter to the NIN but before (thankfully) I could I had the opportunity to hear what she said.

Here is my observation: She did not attack Mrs Murphy head on. What she did was a flanking maneuver (to get around the policy) by speaking as if she (the speaker) was Mrs Murphy. Simply she was mocking her.

If you have a minute please examine the definition of the words mock and mockery. In case you don't have the time I included selected excerpts below.

### MOCK:

1. Properly, to imitate; to mimic; hence to imitate in contempt or derision; ...
2. To deride; to laugh at; to ridicule; to treat with scorn or contempt.

MOCKERY: The act of deriding and exposing to contempt, by mimicking the words or actions of another.

I believe that a policy once written and approved should be adhered to by all parties all the time. What lesson is taught when rules are adjusted to accommodate some people but not all the people? When does mocking anyone meet the standard of decorum, dignity and respect? I think the thing that bothers me most is that some board members seemed to be reveling in what the woman was saying!

I pray each of you have a great Thanksgiving.

Francis W. Legare

106 Bridgewater Circle

Irmo, SC 29063

803-781-2483

October 15, 2010

TO: Herbert M. Berg, Ed.D.  
Superintendent

FROM: Karl E. Fulmer, Ed.D.  
Chief Financial Services Officer

RE: Estimated Cost of Kim Murphy's Lawsuit Delaying Renovations at  
Chapin High School

**Combining all the costs referenced below, the lawsuit by Ms. Kim Murphy has cost the school district at least \$1.2 million.**

As a result of the protest and subsequent lawsuit the costs associated with the delay of the Chapin High School renovation project continue to increase. A summary of those costs are as follows:

- The school district anticipates that construction costs will continue to increase. The initial delay in the Chapin High School renovations started when Ms. Murphy protested and then appealed the Water Quality Permit. DHEC cleared the project on May 24, 2010. Ms. Murphy subsequently filed her lawsuit further delaying the project. As of today, the resulting nine month delay has increased construction costs by an estimated **\$1,020,000.**
- To date our retained professional staff estimates they have incurred extra costs due to expenses related to attending meetings and drafting alternative designs at the request of the Corp of Engineers during Ms. Murphy's administrative protest. That estimated amount is **\$99,299.**
- Attorney fees related to the protests and lawsuit continue to accumulate and currently total **\$69,042.**

In addition, the project will require the issuance of approximately \$45,000,000 of 20-year General Obligation Bonds. Ms. Murphy's lawsuit will delay the issuance of these bonds, which places the district at risk for increases in interest rates and the potential sunset of the Build America Bonds Program (BAB), which has provided unprecedented subsidies to the district to offset bond interest expense. The district's financial advisors project that the sunset of the BAB program would result in a 100 basis point (1.0%) increase in borrowing costs to the district. A 1% increase in interest costs for \$45,000,000 in bonds would translate into an increase of payments of approximately \$4.5 million over the life of the bonds. The 1% increase would also increase the cost to carry the loan by approximately \$292,000 per year.

Also, the additional fees of Tidewater Environmental Consultants, the district's environmental expert, and Stevens and Wilkinson, the district's architect, are estimated to be significant as a result of Ms. Murphy's lawsuit, but are yet to be determined.

With these additional costs, and the expectation of further costs, it is almost certain the Chapin High School renovations project may exceed our budget and require some components of the project to be scaled back.



# Letter from Murphy to Gantt

December 31, 2010

Dear Robert,

I hope you and your family are having a wonderful holiday season. As we come to the close of 2010 and before the New Year begins, I feel the time is appropriate to address some things that I feel are very important related to recent actions of the Board and administration.

Because you have the position of chair, I am directing my communication to you. Actions that occurred during my first three school Board meetings have taken me aback. To be straight and to the point, some I see as very sneaky and underhanded and unbefitting to our school district.

First, I take great issue with the way the Board meeting was conducted on Monday, December 13, 2010. When I had the floor, it was disrespectful to me that I was continuously interrupted in the middle of conversations, not only by some Board members, but also by staff. I was not permitted to ask questions on the subject matter and I was unfairly limited in the amount of time that I could address a particular subject. As well, it was an embarrassment to this District. I am hopeful that this was a one time instance and that future Board meetings will be conducted with the decorum that is expected of this school district and with mutual respect of ideas and concerns from all sitting Board members. However, I am not yet confident that this will happen.

That being said, we have an awesome responsibility and I am a firm believer that the business of the school district is "public" business and it is to be conducted "publically." I believe our constituents feel the same way and I will do my part to assure that happens -- even if it means they see that the school district may be operating in a manner that far from compliments it. Because I do feel it is public business, I am recounting and documenting my concerns and requests for information and I am forwarding this letter to the New Irmo News. My comments are not necessarily in the order of importance or listed chronological order.

I would like to address, point by point, issues related to the construction of the proposed elementary school on Derrick Pond Rd., off of Mt. Vernon Church Rd. in White Rock.

- A. At the November 8, 2010 Board meeting, as chairman, you made a statement to the Board that action related to adapting the Oak Pointe Elementary School architectural plans to the new elementary school site would be tabled until the Dec. 13 meeting, but discussion on the subject would take place. You made this statement after I contacted you requesting the item, which was originally on the Action Agenda for that night, be deferred because it was the first meeting for Jim Turner and me. In fact, prior to the meeting, when I contacted you to request that this action be deferred, you were initially and adamantly opposed to it. You later contacted me just before the Nov. 8 meeting and indicated that the vote to move forward on the site adaptation would be "tabled".
  - 1. As instructed, Beth made the motion that night to "table the vote on the new elementary school site adaption until the Dec. 13 school Board meeting." The motion passed unanimously. The item as listed on the Agenda and the actual motion to table the project, led me to believe that

at the Dec. 13 Board meeting the Board would simply be approving site adapting the Oak Pointe Elementary School architectural plans to the new elementary school site -- basically a schematic drawing approval of a modified set of existing plans -- verses approving the architect to design a completely new school. Because there had been no previous motions related to the elementary school or architectural designs since the bond referendum passed, except to purchase the property, this was a reasonable assumption. In fact, it would be a stretch to even consider the plan enclosed in our Board packet a schematic drawing since it was only a rendering of the building footprint indicating walls but no designation of rooms. **However, though the Board tabled "the vote on the new elementary school site adaption until the Dec 13 school Board meeting," two days later the project was received by the Dept. of Education requesting their approval of the Design Development Plans -- a step that, by contract, would take place following the Board's approval of the Schematic Design and the Design Development Plans. This action was in direct disregard to the Board's motion to table the item. (I provided documentation from the Dept. of Ed. to show that this was indeed the case, however, you would not permit me to describe the document that was very much pertinent to the subject matter. In fact, one Board member wadded up the document and threw it on the floor.)**

**Please determine and inform the Board who gave the authorization for the architects to proceed with incurring costs for the Design Development stage of the proposed elementary school and the submittal to the Dept. of Education before the Board authorized them to do so. In addition, please provide the Board with an appropriate schematic drawing of the new elementary school.**

2. Also at the Nov 8 meeting, Jan raised questions that had previously been asked by Carol Sloop at the Oct 25 meeting related to the sewer line availability (and its cost) for the proposed elementary school. Jan expressed concern of unexpected and exorbitant costs (an additional \$500,000 to \$800,000) charged by Richland County Utilities for Oak Pointe Elementary School's sewer line and the County's apparent refusal to provide District 5 with a financial commitment for that project. There was also discussion of the District's desire to prevent a repeat of that happening again at the proposed elementary school. I continued with questions related to the sewer line proposal being discussed by the engineer for the proposed elementary school after the engineer said that District 5 could be reimbursed for sewer line installation costs in the form of non-cash tap certificates. I commented that tap certificates would be worthless to us because, unlike developers, District 5 is not in the business of developing or selling houses that need sewer hookups (taps). It would, therefore, be very difficult for the District to convert the tap certificates into cash. The engineer briefly discussed Richland County's sewer extension agreement *moratorium* which would be required to be lifted in order for sewer to be extended to the proposed school site. The engineer said he was meeting with Richland County officials and would be able to give us an update prior to the Dec. 13 Board meeting. I also questioned the cost to run water to the site, cost for required road widening, cost for site development, and other construction costs. No one in attendance was able to provide answer to any of the questions, even though the vote was to have been that night. However, the Board was told the cost information would be provided before the Board meeting on Dec. 13 -- prior to re-

scheduled vote for the site adaptation for the proposed elementary school. **But, no cost information or update on sewer status was provided to the Board before the Dec. 13 vote and no information has been provided to us to date. In addition, whether accidental or intentional, the District's audio did not pick up this important discussion.**

**Please provide the Board with cost estimates to run water and sewer to the site, widen roads, develop the site, construct the school, an update of the sewer extension agreement moratorium issue, the estimated detailed construction budget and total project budget.**

3. During the discussion at the Nov. 8 meeting of the design proposed for the new elementary school, I asked the architect what the "core" capacity and the "classroom" capacity was for the school and whether the plan had the capability of accommodating a classroom addition. The response from the architect was that the core capacity *and* classroom capacity was designed for 750 students and that the school's design could accommodate six (6) additional classrooms. I asked if that meant the design at Oak Pointe Elementary could also accommodate six (6) additional classrooms. The architect's response was "yes" because they were the same plan. Additionally, he pointed out where the additional classrooms would be located. **Whether accidental or intentional, the District's audio did not pick up this important discussion of the architect documenting that both the design for the proposed elementary school and Oak Pointe Elementary School can accommodate 6 additional classrooms.**

**Please provide the Board with a copy of the floor plans to document that the proposed elementary school and Oak Pointe Elementary School have the capacity to add on six (6) more classrooms.**

4. At the Nov. 8 meeting, the architect stated that the core capacity of the new elementary school was 750 students. However, I question this because in all of the bond referendum campaign materials it was stated that the core capacity would be for 900 students. I asked the Board and administration if the Board had voted to reduce the core capacity of the school to less than the 900-student core capacity advertised to the public in the bond referendum campaign. You and Ed stated that the campaign material was purely conceptual and that the plan was to build the core to only 750 students. I presented the flier that Dr. Berg disseminated during the bond referendum campaign which reflected that the project would be constructed with a core capacity of 900 students. The architect was going to go back and check to verify what the core capacity was for the new elementary school. **The Board has not voted to reduce the core capacity of the elementary school. Though there has been no discussion that the 750 student core capacity information provided to us by the architect was correct or incorrect, the plans submitted in the Dec. 13 Board packet have a notation that the core will accommodate 900 students.**

**Please provide the Board with the Program for the school that will indicate the specific types and numbers of teaching stations within the school, as well as documentation stating the classroom and core capacity of the proposed elementary school. Please also provide a copy of the architects fully executed contract including all addenda and attachments and the date approved by the school Board.**

- B. Also at the Nov. 8 meeting, it was presented in Executive Session that there was an issue with a 2.7-acre parcel that was part of the tract purchased for the proposed elementary school on Derrick Pond Rd. (I had requested a copy of the original contract at this meeting and have not yet received it. I have asked for it again under a separate email.) According to Herb, the title search could not identify that the property owners had clear title on the parcel. Herb said we had three options: bring a Quiet Title action, condemn the parcel, or do not follow through with attempting to obtain the parcel. No vote was taken on the matter, Herb sent us additional information that I received on Nov. 18, 2010, and the matter was brought before the Board at the Dec. 13, 2010-Board meeting.

At the Dec. 13 Board meeting in Executive Session, the matter was discussed and then later brought before the Board for a vote. It was reiterated to the Board that clear ownership of the 2.7 acres could not be established and the three options noted in the above paragraph were to be considered. You said the property owners had written letters urging District 5 to condemn "their" land (the 2.67 acres) and you called it a "friendly condemnation". It was also discussed that there would be additional costs (approximately \$7,500 to \$10,000) to exercise the condemnation proceedings. It was stated that the school building would work on the site without the 2.7 acres, however Keith said there would be additional costs for required landscape buffering from Richland County. You and Ed stated that a benefit of condemning the land was that the school district could move forward faster to build the proposed school. Ed also said that if another owner came forward during the condemnation proceedings, that owner would be allowed to make an appeal for compensation (though they would lose their land). Beth moved for the District to proceed with condemnation, seconded by Ed, and the motion passed 4-3-1 with Robert, Ed, Beth, and Ellen supporting the motion.

1. The Design Development plans that were submitted to the Dept. of Education on Nov. 10, 2010, *just two days after* the Board deferred action on the project and one month prior to the vote to condemn the 2.7-acre parcel, reflect the 2.7-acre parcel as part of the design – as if the Board had already voted to include this parcel in the site.

**Who authorized the architect to design the 2.7-acre parcel in the Design Development Plans submitted to the Dept of Education prior to the Board determining the course of action for that parcel?**

2. Keith made the statement that additional landscape buffering would be required if the district did not obtain the 2.7-acre parcel and he and Robert said that the additional costs to landscape would be the equivalent of the condemnation fees. According to the alternative design that was presented to the Board that would avoid utilizing the 2.7-acre parcel, the closest point of any driveway or building is approximately 50' away from the property line. The existing substantial natural buffer could be enhanced with additional plantings, or buffered by a fence, if required by Richland County, but spending \$7,500 - \$10,000 to provide a buffer seems excessive.

**Please provide documentation or the design that reflects the necessity of a \$7,500 - \$10,000 landscape buffer.**

3. It was represented by you and Ed that the title search indicated the owner of the property in question could not be clearly identified and that the owners of the larger tracts (two 22-acre parcels) had a better claim to the title. It was indicated to us that everything was done to identify who might be the rightful owner. **However, according to the Richland County GIS system, the property belongs to someone else and, according to the property owner, no one has contacted them and they live right there! Who, in good conscience, could proceed with condemning someone's property?** For your information, the four Board members who voted to support this act (you, Ed, Beth and Ellen) represented the following statement in a letter dated March 8, 2010 to the Army Corps of Engineers:

"Condemnation of the adjacent property is not a feasible option for this project. The district owns sufficient property at this location for the required fields and condemning the adjacent property could destroy public relation in a district already plagued by distrust because of previous administrations as well as trigger potential legal issues. School Board members who are elected by the public would not vote to condemn the privately own land of their constituents. It is a priority of the District's Board to maintain favorable relations with the public and adjacent property owners for future endeavors."

**I urge the Board to rescind the condemnation action. Although I have requested the original contract in previous correspondence, please provide the Board with copies of all documents related to the acquisition of properties on or near Derrick Pond Rd, how the property lines were established for the 2.7-acre parcel, and all documents related to proceeding with the condemnation action.**

4. The item on the Executive Session Agenda was listed only as "Property matter," with no description and there was no information on the matter in our Board packet. After you called for the motion to go into Executive Session and asked for any discussion, I asked you which property matter we were discussing. You said, "We will wait and see when we get in there." The South Carolina Freedom of Information Act says in 30-4-70(b):

"Before going into executive session the public agency shall vote in public on the question and when the vote is favorable, the presiding officer shall announce the specific purpose of the executive session."

The description of "Property matter" was certainly not specific enough for this matter to meet the letter of the law and it may be a violation. And when I asked for the specific purpose, you declined to inform the Board/public.

Additionally, had the item been properly identified on the Agenda and information included in the Board packet and had members of the Board known in advance of the seriousness of the matter, there would have been an opportunity to do some research. Surely it would have been discovered that the property owner lives right there.

**In an attempt to meet the letter of the SCFOI law so that there are no questions as to whether we are, please list the specific purpose on future Executive Session Agendas.**

- C. According to the architect's contract, the "Owner," who is the District 5 School Board, is to first approve the Schematic Drawings then submit those plans to Dept. of Ed. for their approval. Next, the Board is to approve the Design Development Plans, and then those plans are to be submitted for approval to Dept. of Ed. Finally, the Board is to approve the Construction Documents and those plans are to be submitted and approved by the Dept. of Ed.

1. As of Dec. 13, 2010, no approvals from the Board had occurred for any phase of the plans, including whether the Board had determined using an existing set of plans or have the architect draw a new set. Yet, as stated in A.1., above, even after the Board voted to "table" the action, the architect had already submitted the Design Development Plans to the Dept. of Ed. At the Dec. 13 Board meeting, Ed made the motion, seconded by Ellen, to "proceed with the site adaption of the new elementary school..." Jim asked if approving that motion was approving site adapting an existing plan on the school site or approving all the other processes that the district would go through to build the elementary school. I believe that with comments you and Herb made, the Board was led to believe that this was a simple vote of to proceed with adapting existing plans to the school site. You said that the Board was only approving the site adaptation, there were a lot of other votes that would occur, and that the vote was one of the first steps in the process. Then Herb said each step has to be approved by the Board and it has to be done one step at a time. But when asked, Keith said, in direct contradiction to you and Herb, the architects had already gone through the steps to site adapt this plan, gone through the Change Orders from Oak Pointe Elementary School's plan and the vote that was about to take place was to "send the project to bid". We haven't even seen Schematic Drawings and the Construction Documents aren't even finished. The vote passed 4-3 (Robert, Beth, Ed, and Ellen voting in favor of the motion). **The proper process for approving plans was evaded. In addition, the District has a legal obligation and fiduciary duty to abide by its contracts unless there is a vote approved by the Board to amend them and all who are a party are in agreement to the amendment.**

**Please provide Minutes of meetings to indicate the Board voted to amend the architects contract (the contract, amendments and addenda have been requested above).**

2. Oak Pointe Elementary was a very costly school and was millions of dollars over-budget. In addition, there were numerous Change Orders.

**Please provide documentation on how the Change Orders are being incorporated in the proposed elementary school plan as well as other alterations to the original Oak Pointe Elementary design.**

- D. At the Nov. 8 meeting, I had several specific questions related to the 2010 Comprehensive Annual Financial Report that was presented to the Board that night. Karl said he was unprepared to answer the questions and said that the type of questions I asked weren't normally asked in public session.

# Letter from Murphy to Gantt

You reiterated that and asked that I put my questions in writing. The variances are significant enough that there should be an explanation for the differences.

**Please provide me with answers to my questions, below, as was discussed at that meeting.**

| REVENUES                                   | ORIGINAL<br>BUDGET | FINAL<br>BUDGET | ACTUAL    | VARIANCE        |
|--------------------------------------------|--------------------|-----------------|-----------|-----------------|
| <b><i>Please explain the variance.</i></b> |                    |                 |           |                 |
| 1310 Regular Day School from Patrons       | \$ 600,000         | \$ 600,000      | \$ 16,191 | \$ (583,809)97% |
| 1510 Interest on Investments               | 600,000            | 600,000         | 122,088   | (477,912)80%    |

***How many students was the budget based on?***

|                                 |            |            |            |                |
|---------------------------------|------------|------------|------------|----------------|
| 3300 Education Finance Act      |            |            |            |                |
| 3310 Full-Time Students (Total) | 22,726,440 | 22,726,440 | 18,615,729 | (4,110,711)18% |

| EXPEDITURES                            | ORIGINAL<br>BUDGET | FINAL<br>BUDGET | ACTUAL     | VARIANCE       |
|----------------------------------------|--------------------|-----------------|------------|----------------|
| <b><i>Please explain variance.</i></b> |                    |                 |            |                |
| 113 Elementary Programs:               |                    |                 |            |                |
| 100 Salaries                           | 18,198,783         | 18,202,425      | 19,852,161 | (1,649,736)9%  |
| 231 Board of Education                 |                    |                 |            |                |
| 318 Audit Services                     | -                  | -               | 31,500     | (31,500)100%   |
| 254 Purchased Services                 |                    |                 |            |                |
| 321 Public Utilities                   | 512,681            | 512,681         | -          | 512,681 100%   |
| 400 Supplies and Materials             |                    |                 |            |                |
| 470 Energy                             | 3,038,738          | 3,038,738       | -          | 3,038,738 100% |
| 266 Tech and Data Processing Services: |                    |                 |            |                |
| 100 Salaries                           | 916,030            | 916,030         | 1,327,709  | (411,679)45%   |

- E. At the Dec. 13, 2010 Board meeting, I had three questions (two are listed below) related to discrepancies in the October and November Revenue and Expense Reports that were in our Board packet. Two questions were partially answered. Karl said he would get back to me more complete answers, though I have not received them yet. I was interrupted by staff in the middle of my third question. Beth said that in the future, since Karl was the CFO, that I should send an email to him in advance so he can ask his staff because Karl is not likely to have all the documentation with him at the meeting. (Beth's request may be difficult because of receiving the Board packet only a few days before we are to be prepared to vote. As a Board member, there maybe times when I will do that, however, I don't know what Karl knows and I will likely ask him the questions and he can either answer them or get back to me with an answer.)

## Letter from Murphy to Gantt

1. My first question was related to the Revenue Reports that showed discrepancies in the year-to-date number for Vehicle Taxes (#11120). The October Year-To-Date revenue was listed as \$1,129,217.04 and the Current Revenue for November was listed as \$330,054.67 (for a total of \$1,459,271.71), but Year-To-Date revenue for Nov. for that item was listed as \$2,402,790.33.

### **Why is the Year-To-Date for Nov. off by almost a million dollars?**

2. My second question was related to a discrepancy in either the year-to-date numbers or current revenue numbers. In October, zero (0) Year-To-Date revenue was listed for Richland Co Vehicle Taxes (#100-001-110-0007-00) and zero (0) Current Revenue was listed for November, but the Year-To-Date revenue listed for Nov. was \$943,519.22.

### **How did we pick up \$943,000 without having any current revenue or previous year-to-date revenue for that item?**

- F. Jim asked why the Year-To-Date Revenue on the Budget Report by Account did not reconcile to the Year-To-date on the new summary sheet. Karl said he would provide an answer to the Board but we have not received it yet.

### **Please provide a reconciliation for the Budget Report by Account and the new summary sheet.**

I understand that I am asking for a good bit of information, though, we should have it filed safely and it should be easily accessible. If you are unable to provide it to the Board or disinclined to do so, please provide an explanation of why that is the case.

Robert, I do hope we can work together on this school Board... in the best interest of the district we represent—and especially for the children. And I am hopeful that in your position as chairman you will promote that. I plan on introducing new things to District 5... like live-streaming our meetings, in hopes of bringing greater transparency to our district, and a greater level of trust and involvement from our community. I hope you and my fellow Board members will be receptive to them. (Thank you for allowing me to place the live-streaming item on the Agenda for Discussion at our last meeting. I look forward to staff's finding on January 10.)

But as you have seen, this is not a popularity contest and I am not going to "go along to get along" if I don't feel that it is in the best interest of District 5. I do consider serving this district a very important position and I will do my best (though I may stumble trying to learn the ropes). If I am unfamiliar with certain matters, I will do my own research and I will seek advice from others -- this includes Executive Session items. If I feel a vote is being rushed through, I will speak out. It is also likely that I will continue to recount and document issues of concern.

We're fortunate to the opportunity to live and raise our children in a very good district and much of it has to do with our involved parents and the wonderful teachers and staff members we have who truly care about the kids and our community. I'd like to continue to improve on in because I want, not only



## Letter from Murphy to Gantt

my children, but my neighbors' kid - district-wide - to grow up and become successful and to want to raise their families here, as well.

Best regards,

Kim Murphy

Cc:

District 5 Board Members

Dr. Herb Berg

New Irmo News



December 20, 2012

Mr. Bobby Bowers  
Office of Research & Statistics  
South Carolina State Budget & Control Board  
1201 Main Street, Suite 715  
Columbia, SC 29201

Re: School District Five of Lexington and Richland Counties

Dear Mr. Bowers:

I am writing to you as Chairman of the Board of Trustees of School District Five of Lexington and Richland Counties. It has come to my attention, from sources which I deem reliable, that Board member Kim Murphy, who currently represents Richland County on the Board of Trustees of School District Five, is not in fact a resident of Richland County as specifically required by Act No. 326 of 2002. As you may be aware, such rumors have been around for some time.

The purpose of my letter is to request that the South Carolina State Budget and Control Board Office of Research and Statistics make a determination as to whether or not Ms. Murphy resides in Richland County, as required by law, and whether she is, in fact, a resident of Richland County legally qualified to represent Richland County on the School District Five Board.

Thank you for your assistance with this matter.

Respectfully submitted,

Robert W. Gantt  
Chairman, Board of Trustees

NICKI HALEY, CHAIRMAN  
GOVERNOR

CURTIS M. LOFTIS, JR.  
STATE TREASURER

RICHARD ECKSTROM, CPA  
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

Division of Research and Statistics  
Bobby M. Bowers  
DIRECTOR  
803-734-3793

HUGH K. LEATHERMAN, SR.  
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE  
CHAIRMAN, HOUSE WAYS AND MEANS  
COMMITTEE

MARCIA ADAMS  
EXECUTIVE DIRECTOR

January 11, 2013

Mr. Robert W. Gantt  
Chairman, Board of Trustees  
Richland Lexington School District 5  
1020 Dutch Fork Rd.  
Irmo, SC 29063

Dear Mr. Gantt,

Per your request we have reviewed the county location of the residence of Ms. Kim Murphy; who currently represents Richland County on the Board of Trustees of School District Five of Richland and Lexington Counties. Our review was based on the address of 154 Old Laurel Ln., Chapin, SC 29036. This information was obtained through the South Carolina State Election Commission voter registration database.

We used three sources to determine the county location of Ms. Murphy's residence: 1. the U.S. Census Bureau, 2. Precinct maps on file with this office based on codified law, and 3. Research and field work conducted by the South Carolina Geodetic Survey.

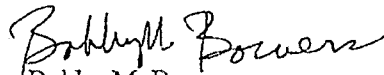
The U.S. Census Bureau PL94-171 database shows Ms. Murphy's address as being located in U.S. Census Block 450630212042059. This puts Ms. Murphy in the State of South Carolina in Lexington County in Tract 021204 in Block 2059. Based on the database, the entire street of Old Laurel Ln. is located in Lexington County.

The next analysis we conducted was based on the official precinct maps on file with our office. As established in §1-11-360 our office serves as the focal point for verifying official precinct information for the counties and serves as the official repository for precinct maps. The map on file with this office (P-63-10) show Ms. Murphy is a resident of Lexington County and should be voting in the Lexington County Chapin precinct for House District 85, Senate District 18, and Lexington County Council District 6. In addition to Ms. Murphy's address it has come to our attention that another address located on Old Laurel Ln. is also located in the incorrect county, voting in the incorrect precinct and election districts.

The third source is research and field work conducted by the South Carolina Geodetic Survey. Section 4-3-460 of the Code of Laws of South Carolina 1976 defining the Richland County boundary states that Rocky Ford on Wateree Creek is a point on the Richland-Lexington county boundary. GPS was used to determine the coordinates for Rocky Ford. From Rocky Ford, one boundary line segment bears northwest and another bears southwest. The northwest-trending line segment from Rocky Ford to its intersection with Risters Creek has an azimuth of  $343^{\circ}$  for a distance of 9405 feet. The southwest-trending line segment from Rocky Ford has an azimuth of  $243^{\circ}$  for a distance of 3920 feet. Plotting this information on orthophotography demonstrates that Ms. Murphy's house is in Lexington County – about 0.1 mile northwest of the boundary.

All three sources show that Ms. Murphy is a resident of Lexington County. Act No. 326 of 2002 requires that four members be elected from the Lexington County portion of the school district and three members are to be elected from the Richland County portion of the district. As Ms. Murphy was elected in 2010 for a seat in Richland County while residing in Lexington County she is and was not qualified to hold her position for which she has been elected. If Ms. Murphy desires, she may run for a seat for the Lexington County portion of School District Five at the next general election.

Sincerely,

  
Bobby M. Bowers

BMB:wfr



January 22, 2013

The Honorable G. Thomas Cooper, Jr.  
P.O. Box 192  
Columbia, SC 29202

Re: School District Five of Lexington and Richland Counties  
Kim Murphy Residency Issue

Dear Judge Cooper:

I have been informed by Kenneth L. Childs, of Childs & Halligan, attorneys for the School District, that you had indicated you were willing, if necessary, to act as a "hearing officer" for the Board of Trustees of School District Five of Lexington and Richland Counties ("Board") and to review the issues of Board Member Kim Murphy's qualifications to serve on our Board as a representative of Richland County. Please see attached correspondence.

This Board exercises the duties of the county board of education with regard to its own school district, and thus the Board has the duty to make the decision required by South Carolina Code § 59-19-60, whereby "[s]chool district trustees shall be subject to removal from office for cause ... upon notice and after being given an opportunity to be heard ...." S.C. Code § 59-19-60. Specifically, we anticipate that you would conduct a hearing with due notice and an opportunity for both Mrs. Murphy and the District to be heard, in order to consider the evidence and legal issues involved and then make a report and recommendation to the Board on this question, as an aid to the Board's exercise of its duty under § 59-19-60.

By copy of this letter, I am requesting Messrs. Childs and Halligan to communicate in writing with you concerning the legal issues in this matter, serving a copy of any such communication on Ms. Murphy or her attorney, and also by copy of this letter inviting Ms. Murphy or her attorney to provide you with any written information, which they may care to submit. It is in the interest of all concerned to accomplish this task expeditiously.

We appreciate your willingness to assist our Board and the District in this matter, and we will, of course, pay a reasonable fee, plus expenses, for your services.

Sincerely yours,

Robert Gantt, Board Chair

Attachment

c: All Board Members  
Kenneth L. Childs, Esq.  
Ms. Kim Murphy  
www.lex5.k12.sc.us  
1020 Dutch Fork Road • Irmo, South Carolina 29063 • (803) 476-8000

## Roberts, Will

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**From:** Melissa M. Kaiser <mkaiser@childs-halligan.net> on behalf of Kenneth L. Childs <kchilds@childs-halligan.net>  
**Sent:** Wednesday, December 12, 2012 10:52 AM  
**To:** Roberts, Will  
**Subject:** Attached Letter  
**Attachments:** Attached Letter.pdf

Will,

I would like to discuss the attached draft letter with Bobby Bowers. There is no pride in authorship.

Please ask Bobby to call me when he gets to the office this morning.

Thank you for your continuing assistance with this matter.

Ken

---

Kenneth L. Childs, Esq.  
Childs & Halligan, P.A.  
PO Box 11367  
Columbia, SC 29201  
(803) 254-4035

**NOTICE:** This e-mail may contain information that is PERSONAL AND CONFIDENTIAL, NON-DISCLOSABLE AND PROTECTED BY ATTORNEY/CLIENT PRIVILEGE. If you have received this e-mail in error, this does not constitute permission to examine, copy or distribute the accompanying material. If you receive this message in error, please notify us by telephone as listed above immediately.

[DRAFT]

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December \_\_, 2012

Mr. Bobby Bowers  
Office of Research & Statistics  
South Carolina State Budget & Control Board  
1201 Main Street, Suite 715  
Columbia, SC 29201

Re: School District Five of Lexington and Richland Counties

Dear Mr. Bowers:

I am writing to you as Chairman of the Board of Trustees of School District Five of Lexington and Richland Counties. It has come to my attention, from sources which I deem reliable, that Board member Kim Murphy, who currently represents Richland County on the Board of Trustees of School District Five, is not in fact a resident of Richland County as specifically required by Act No. 326 of 2012. As you may be aware, such rumors have been around for sometime.

The purpose of my letter is to request that the South Carolina State Budget and Control Board Office of Research and Statistics make a determination as to whether or not Ms. Murphy resides in Richland County, as required by law, and whether she is, in fact, a resident of Richland County legally qualified to represent Richland County on the School District Five Board.

Thank you for your assistance with this matter.

Respectfully submitted,

Robert Gantt  
Chairman, Board of Trustees

/mmk

**Murphy**

---

**From:** JOHN CLOYD <CLOYDJ@rcgov.us>  
**Sent:** Wednesday, November 13, 2013 11:53 AM  
**To:** ROXANNE ANCHETA  
**Subject:** RE: Richland County boundary issue

The boundary with Lexington has not been formally settled. I am advised that the General Assembly must pass a bill in order to make this happen. It will be months before this can be accomplished. Hope this helps.

John Cloyd

-----Original Message-----

**From:** ROXANNE ANCHETA  
**Sent:** Tuesday, November 12, 2013 1:00 PM  
**To:** JOHN CLOYD  
**Subject:** FW: Richland County boundary issue

Mr. Cloyd,

I've been tracking this one for a while now.

Just wanted to see where we were with it, and if we could close it out and/or give Mr. Rose an update.

I hope you had an enjoyable Veterans Day. Thank you so much for your service, Mr. Cloyd!

Roxanne Matthews Ancheta  
Assistant County Administrator  
Richland County Government  
P.O. Box 192  
Columbia, SC 29202  
(803) 576-2057 [Office]  
(803) 576-2137 [Fax]  
anchetar@rcgov.us  
www.rcgov.us

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-----Original Message-----

**From:** ROXANNE ANCHETA  
**Sent:** Monday, July 08, 2013 10:51 AM  
**To:** JOHN CLOYD  
**Subject:** RE: Richland County boundary issue

10-4



Cloyd's Email Discussing Boundary Dispute

Roxanne Matthews Ancheta  
Assistant County Administrator  
Richland County Government  
P.O. Box 192  
Columbia, SC 29202  
(803) 576-2057 [Office]  
(803) 760-3329 [Cell]  
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-----Original Message-----

From: JOHN CLOYD  
Sent: Monday, July 08, 2013 10:28 AM  
To: ROXANNE ANCHETA  
Subject: RE: Richland County boundary issue

They have not returned my call.

John Cloyd

-----Original Message-----

From: ROXANNE ANCHETA  
Sent: Monday, July 08, 2013 9:44 AM  
To: JOHN CLOYD  
Subject: RE: Richland County boundary issue

No worries.

I was just curious if you had heard back from Lexington.

(Per my email below: Once we hear back from Lexington County, assuming they are agreeable to accepting these two parcels, we will be able to resolve most, if not all, of the issues raised in the email below.)

Roxanne Matthews Ancheta  
Assistant County Administrator  
Richland County Government  
P.O. Box 192  
Columbia, SC 29202  
(803) 576-2057 [Office]  
(803) 760-3329 [Cell]  
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Cloyd's Email Discussing Boundary Dispute

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-----Original Message-----

From: JOHN CLOYD  
Sent: Monday, July 08, 2013 9:40 AM  
To: ROXANNE ANCHETA  
Subject: RE: Richland County boundary issue

Not yet. I expect it will be months before the Geodetic Survey & Mapping has time to finalize the boundary. Remember this project has been out there for over 20 years. Hope this helps.

John Cloyd

-----Original Message-----

From: ROXANNE ANCHETA  
Sent: Monday, July 08, 2013 9:19 AM  
To: JOHN CLOYD  
Subject: FW: Richland County boundary issue

Mr. Cloyd,

Do you have an update for me on this item?

Happy Monday!

Roxanne Matthews Ancheta  
Assistant County Administrator  
Richland County Government  
P.O. Box 192  
Columbia, SC 29202  
(803) 576-2057 [Office]  
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-----Original Message-----

From: ROXANNE ANCHETA  
Sent: Monday, July 01, 2013 2:33 PM  
To: Seth Rose  
Subject: FW: Richland County boundary issue

Cloyd's Email Discussing Boundary Dispute

Mr. Rose,

As recently as Friday, June 28, our Assessor (John Cloyd) met with the SC Geodetic Survey with regards to this matter.

The GIS boundaries for Lexington County and Richland County have not been corrected to show the correct line because there is still some doubt about a couple of the control points. The geodetic survey will establish, as best they can, the control points, one of which is in a creek bed, which will require extensive research and on-the-ground-hands to determine where the line should be placed. Once this has been done, it will be definite and certain as to where the line will be. However, there is no estimated timeline for the completion of this.

However, based on information that the two counties have with regards to the line, which is based on the geodetic survey, we are working with Lexington County to see if it is agreeable to give them taxing authority on two parcels in question, which clearly lie in Lexington County. The Lexington County Assessor is checking with the Lexington County Administrator on this.

Once we hear back from Lexington County, assuming they are agreeable to accepting these two parcels, we will be able to resolve most, if not all, of the issues raised in the email below.

I will keep you posted as this item progresses.

Roxanne Matthews Ancheta  
Assistant County Administrator  
Richland County Government  
P.O. Box 192  
Columbia, SC 29202  
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-----Original Message-----

From: mabishop@earthlink.net [mailto:mabishop@earthlink.net]  
Sent: Friday, June 28, 2013 5:44 PM  
To: sethrose@rcgov.us  
Subject: Richland County boundary issue

Mr. Rose:

Thank you for taking time to speak with me today. As we discussed, the Budget and Control Board, Division of Research and Statistics, issued a letter dated January 11, 2013 stating that the county boundary as represented by Richland County for parcel R00600-01-36 and an adjacent parcel are incorrect and residents of those parcels are actually legal residents of Lexington County. If you are unfamiliar with this issue a copy of the letter can be found here:

# Email Cancelling Photographer

4/2/2015

Gmail - Re: School Board Photographs



Kim Murphy <movingmountainskwm@gmail.com>

---

## Re: School Board Photographs

1 message

---

Amee White <awhite@lexrich5.org>

Mon, Dec 10, 2012 at 11:57 AM

To: Kim Murphy <movingmountainskwm@gmail.com>

Mark Bounds postponed the photography session. He is seeking a time that is more convenient to take both new administrators and new board member pictures. He is looking for the most cost effective option.

Thank you,  
Amee

On Mon, Dec 10, 2012 at 11:44 AM, Kim Murphy <movingmountainskwm@gmail.com> wrote:  
With board members or with photographer?

Sent from my iPhone

On Dec 10, 2012, at 11:43 AM, Amee White <awhite@lexrich5.org> wrote:

Good morning,

We had a scheduling conflict.

Have a good afternoon.  
Amee

On Mon, Dec 10, 2012 at 11:08 AM, Kim Murphy <movingmountainskwm@gmail.com> wrote:  
Why was it postponed?

Sent from my iPhone

On Dec 10, 2012, at 9:17 AM, Amee White <awhite@lexrich5.org> wrote:

Good morning,

Please be advised that we have postponed taking pictures of the board on January 14, 2013. We will let you know when another date is scheduled.

Thank you and have a great day!

HAPPY HOLIDAYS TO YOU AND YOUR FAMILY.

Amee

----- Forwarded message -----

From: **Amee White** <awhite@lexrich5.org>

Date: Fri, Dec 7, 2012 at 11:35 AM

Subject: School Board Photographs

To: ebaumgar@lexrich5.org, "Baumgardner, Ellen" <ebaumgardner@sc.rr.com>,

"Gantt, Robert" <ganttrw@bellsouth.net>, "Gantt, Robert"

<RGantt@lexrich5.org>, "Hutchison, Beth" <BHWatson@lexrich5.org>,

"Hutchison, Beth" <EFH@sc.rr.com>, Jim Turner <jimturnjr@gmail.com>, Jim

## Email Cancelling Photographer

4/2/2015

Gmail - Re: School Board Photographs

Turner <jturner@lexrich5.org>, Jondy Loveless <jloveles@lexrich5.org>, Jondy Loveless <jondy1120@bellsouth.net>, Kim Murphy <kwmurphy@lexrich5.org>, Kim Murphy <movingmountainskwm@gmail.com>, "White, Ed" <ed.white@nelsonmullins.com>, "White, Ed" <EWhite@lexrich5.org>, "White, Ed" <thewhites@sc.rr.com>  
Cc: Sybil Stowers <sstowers@lexrich5.org>, Mark Bounds <MBounds@lexrich5.org>

We have arranged for a photographer to be at the board meeting on Monday, January 14, 2013, to take a group photograph of the board. We have frequent requests from the schools for group photos for yearbooks, programs, etc. Also, we would like to take individual photos. The photographer will be set up by 5:30 p.m. and we will take individual shots as you arrive and conclude with the group photograph before executive sessions starts.

The specific location at Chapin High School has not been determined at this time; however, I will let you know where the pictures will be taken prior to the January 14 meeting.

If you have any questions, please let me know.

Thank you and have a great weekend!  
Ame

--

### **Ame White**

Administrative Secretary for Mark A. Bounds  
Office of Public Information  
School District Five of Lexington and Richland Counties  
1020 Dutch Fork Road  
Irmo, South Carolina 29063

(803) 476-8118  
(803) 476-8217 - Fax

--

### **Ame White**

Administrative Secretary for Mark A. Bounds  
Office of Public Information  
School District Five of Lexington and Richland Counties  
1020 Dutch Fork Road  
Irmo, South Carolina 29063

(803) 476-8118  
(803) 476-8217 - Fax

### **Ame White**

Administrative Secretary for Mark A. Bounds

## Email Cancelling Photographer

4/2/2015

Gmail - Re: School Board Photographs

Office of Public Information  
School District Five of Lexington and Richland Counties  
1020 Dutch Fork Road  
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--  
***Amee White***

Administrative Secretary for Mark A. Bounds  
Office of Public Information  
School District Five of Lexington and Richland Counties  
1020 Dutch Fork Road  
Irmo, South Carolina 29063

(803) 476-8118  
(803) 476-8217 - Fax

## Roberts, Will

---

**From:** Keith R. Powell <kpowell@childs-halligan.net>  
**Sent:** Monday, January 28, 2013 1:11 PM  
**To:** Bowers, Bobby; Roberts, Will  
**Cc:** Kenneth L. Childs  
**Subject:** FW: URGENT District 5 update - Tax dollar protection!

Gentlemen - FYI. Enjoy the show.

Keith R. Powell

Childs & Halligan, P.A.

Columbia, South Carolina

[www.childs-halligan.com](http://www.childs-halligan.com)

(803) 254-4035

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**From:** Kenneth L. Childs  
**Sent:** Monday, January 28, 2013 12:53 PM  
**To:** Keith R. Powell  
**Subject:** Fwd: URGENT District 5 update - Tax dollar protection!

FYI - please forward to bobby & Will

---

Kenneth L. Childs  
Childs & Halligan, P.A.  
PO Box 11367  
Columbia, SC 29211  
(803) 254-4035

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Begin forwarded message:

**From:** "ROBERT W GANTT" <ganttrw@bellsouth.net>  
**To:** "Kenneth L. Childs" <kchilds@childs-halligan.net>, "Kathryn Long Mahoney" <kmahoney@childs-halligan.net>, "John M. Reagle" <jreagle@childs-halligan.net>  
**Subject:** Fw: Fwd: Fw: Fwd: URGENT District 5 update - Tax dollar protection!

FYI

-----Original Message-----

From: Kim Murphy <[movingmountainskwm@gmail.com](mailto:movingmountainskwm@gmail.com)>

To: Kim Murphy <[movingmountainskwm@gmail.com](mailto:movingmountainskwm@gmail.com)>

Sent: Sun, Jan 27, 2013 6:57 pm

Subject: URGENT District 5 update - Tax dollar protection!

Dear Voter and Taxpayer in Lexington-Richland School District 5:

I do like to keep all of you informed, but this isn't the way I had envisioned it! I've earned a reputation the hard way as a school board member who protects YOU and the way YOUR money is spent by the board. I know that you have recognized as well as I have that the establishment REALLY hates someone looking over their shoulders! Even though I've known they've opposed my efforts to watch out for your tax dollars, I surely didn't see this one coming. As you've probably read in the papers, the School Board and specifically its Board Chairman, Robert Gantt, have taken the totally over-the-top approach of getting rid of me and my taxpayer protection attitude by challenging my residency! Now, they are spending YOUR tax money hiring lawyers just to get me kicked off the board so that you have virtually no one looking out for the way they waste our tax dollars.

Just to clear the air, my family and I have resided in Richland County for 12 years. Yes, we had to obtain a RICHLAND COUNTY building permit, we have RECEIVED and PAID, annually, residential tax bills from RICHLAND COUNTY (Lexington County even bills us for the 2.82 acres of land we own on the Lexington County side of our property that doesn't include our home), my husband and I are registered to vote in the Springville Precinct in RICHLAND COUNTY (in fact, on January 17, 2013—just LAST WEEK—I received the new Photo Voter Registration Card from RICHLAND COUNTY VOTER REGISTRATION OFFICE), I first filed to run in 2004 (a race I lost), in RICHLAND COUNTY and was placed on the ballot and the election was certified by the RICHLAND COUNTY Election Commission. Again, in 2010, when I won this seat, I filed to run for this position in RICHLAND COUNTY, and the election was certified by both the county and state election commissions. I could go on and on but you get the picture. Since we haven't moved, we obviously still reside in Richland County. The only way my residency changes is if they attempt to move the county lines.

Here's the point, the opposition only fires on you if you're over the target!! I wonder what Gantt and his cronies are cooking up to attempt to slide by YOU—the taxpayer—and why they want me off the board so badly that they have to resort to such desperate means?



I have an obligation to you--the 5948 voters who supported me, as well as a duty to this district--which Gantt and some others apparently don't feel. If you know me well, I don't like asking for help. I always seek your input and advice, but I don't like asking you to do something for me, but this time I really need your help. Some of you can make phone calls to pressure the establishment and their puppet, Robert Gantt, into backing off this absurd effort to unseat a duly elected Board member. Some others of you can write emails or hand written letters detailing our anger at this blatant power grab and wasteful spending on lawyers' fees, still others could write a small check to help me defend myself against this outrage. The truth of the matter is that with unlimited funding from YOUR tax dollars and the ability to hide the expenses in some unlabeled cost category, Gantt and his horde will easily outspend our abilities to fight this attack.

For your convenience, I've attached a map showing the location of our house. You'll also find below the numbers and email addresses for Robert Gantt and the rest of the School Board as well as other elected officials that might help. We've often said that we see our nation and state and community going downhill due to excessive government spending, regulation and waste and we don't know what we can do to stop it. Well, I've been stopping it here for some time, and now I need your help to fight off an effort to stop me from protecting you. I am humbled by all of the support and prayers and thank you in advance for helping out in this situation.

God Bless

Kim

PS Please forward this email to anyone who shares your concerns.

Contact Information - Board Members and House and Senate Representatives:

Mr. Robert Gantt, Chairman

1213 Old Tamah Road

Irmo SC 29063

[RGantt@lexrich5.org](mailto:RGantt@lexrich5.org) Hm: 781-5408 Cell: 920-0652

Mr. Ed White

327 Steeple Crest North

Irmo SC 29063

[EWhite@lexrich5.org](mailto:EWhite@lexrich5.org) Hm: 781-8424

Mrs. Beth Watson, Vice Chairman

906 Shadetree Court

Columbia SC 29212

[BHWatson@lexrich5.org](mailto:BHWatson@lexrich5.org) Cell: 261-7123

Mrs. Ellen Baumgardner, Secretary

229 Woodwinds West Drive

Columbia SC 29212

[EBaumgar@lexrich5.org](mailto:EBaumgar@lexrich5.org) Hm: 731-0610 Cell: 397-7457

Mr. Jim Turner  
137 Char Oak Drive  
Columbia SC 29212  
[JTurner@lexrich5.org](mailto:JTurner@lexrich5.org) Hm: 781-8979

Mrs. Jondy Loveless  
228 Lookout Pointes Drive  
Chapin SC 29036  
[jloveles@lexrich5.org](mailto:jloveles@lexrich5.org) Hm: 345-0547

Dr. Stephen Hefner, Superintendent  
1020 Dutch Fork Road  
Irmo SC 29063  
[shefner@lexrich5.org](mailto:shefner@lexrich5.org) Wk: 476-8116

Rep. Nathan Ballentine  
324 Sienna Dr  
Chapin, SC 29036  
[nathanballentine@schouse.gov](mailto:nathanballentine@schouse.gov) B: 734-2989 Cell: 206-4199

Rep. Chip Huggins  
308 Wayworth Ct  
Columbia, SC 29212  
[chiphuggins@schouse.gov](mailto:chiphuggins@schouse.gov) B: 734-2971 Cell: 331-8468

Rep. Rick Quinn  
610 Spruce Glen Ct  
Lexington, SC 29072  
[rickquinn@schouse.gov](mailto:rickquinn@schouse.gov) B: 212-6897 Cell: 467-6209

Senator John Courson  
2934 Wheat St  
Columbia, SC 29205  
[seducomm@scsenate.gov](mailto:seducomm@scsenate.gov) B: 212-6250 Hm: 256-7853

Senator Ronnie Cromer  
P.O. Box 378  
Prosperity, SC 29127  
[ronniecromer@scsenate.gov](mailto:ronniecromer@scsenate.gov) B: 212-6330 Cell: 924-0099

Map Source: <http://www3.richlandmaps.com/rcgeoportal/> (Zoom in tightly to the northwest corner using Hwy 176, Hwy 76 and I-26. Add the satellite layer and zoom in closer. Add the parcel layer and zoom in again.)

--

Kim Murphy 803-446-6565  
154 Old Laurel Lane  
Chapin, SC 29036

<The\_State\_-\_School\_Board\_member\_will\_'hold\_ground'\_to\_keep\_seat\_1-26-13.pdf>



RE: Rocky Ford

Page 1 of 1

**RE: Rocky Ford**

Maguire, Jack

**Sent:** Wednesday, January 23, 2013 4:54 PM

**To:** Zupan, Alan-Jon

**Alan-Jon,**

**Thanks for the data. We have compared it to what we have. We need some more points and lines. Please. What we have leaves us struggling to make it fit.**

**Hope you are having fun,**

**Jack**

---

**From:** Zupan, Alan-Jon

**Sent:** Thursday, January 17, 2013 3:12 PM

**To:** Maguire, Jack

**Subject:** Rocky Ford

Jack:

These are the maps provided to Bobby Bowers and Will Roberts.

I have included an explanation of the sources I used to create the maps.

If you have any questions, please contact me.

Alan-Jon



Kim Murphy &lt;movingmountainskwm@gmail.com&gt;

---

**FW: SCBO Solicitations - District 5 of Lexington & Richland Counties**

1 message

**Aycock, Jimmy** <JAycock@mmo.sc.gov>

Wed, Oct 3, 2012 at 12:23 PM

To: "movingmountainskwm@gmail.com" &lt;movingmountainskwm@gmail.com&gt;

Kim,

See Mary Lynn's email.

Jimmy

---

**From:** Fowler, Mary**Sent:** Wednesday, October 03, 2012 11:37 AM**To:** Aycock, Jimmy**Subject:** RE: SCBO Solicitations - District 5 of Lexington & Richland Counties

Hey Jimmy, There is no database of ads that have appeared in SCBO. I have to open each issue in a given date range and do a word search. I have looked for each of the 5 projects Ms. Murphy is interested in. Rather than saying they were not advertised in SCBO, I say, "I have done a search and cannot find evidence of any of these 5 project appearing in SCBO."

~~Mary Lynn Fowler, Editor, SC Business Opportunities, 1201 Main Street, Suite 600, Columbia, S.C. 29201, (803) 737-0686,  
mlfowler@mmo.sc.gov~~

---

**From:** Aycock, Jimmy**Sent:** Wednesday, October 03, 2012 9:40 AM**To:** Fowler, Mary**Subject:** FW: SCBO Solicitations - District 5 of Lexington & Richland Counties

Mary Lynn,

I know you have already looked for some of these. But does this additional information help? She may have a couple of projects listed you have not looked for. See the bottom of her email. Her bid date is the bid opening date. She has the posting date (newspaper advertisement date) on a couple.

**From:** Kim Murphy [mailto:movingmountainskwm@gmail.com]**Sent:** Wednesday, October 03, 2012 12:31 AM

**To:** Aycock, Jimmy

**Subject:** SCBO Solicitations - District 5 of Lexington & Richland Counties

Jimmy – Can you please send me the SCBO posting for these projects? **Note:** Two projects have bid openings in the very near future – Oct. 4 and Oct 18. The three other projects are either under construction or have been dropped (geothermal well) after the bid opening.

I have contacted The State Newspaper to assist in determining the post date on the two projects where the date is unknown. Unfortunately, their person has been out from work due to an illness and is only working half days. She said it would be several days before she could help. I have attached documents that reference post and/or bid dates and other information, which may help you locate the advertisements.

Because one of the projects' bid is to be opened tomorrow, if there is any way that you could respond by the end of your day today, it would be greatly appreciated. Please give me a call, if you have any questions or need more information.

Thank you so much for your assistance in this.

Kim Murphy

803-446-6565

1. Project Name: Additions & Renovations to Dutch Fork High School

Post Date (The State): 9-2-12

Bid Date: 10-4-12

Attached: The State solicitation

2. Project Name: Additions & Renovations to Irmo High School

Post Date (The State): 9-16-12

Bid Date: 10-18-12

Attached: The State solicitation

3. Project Name: ? New CATE Center

Post Date: ?

Bid Date: 6-7-11

Attached: Memo from Keith McAlister to Supt. Steve Hefner stating the date bids were opened

4. Project Name: Phase 1 – Paving & Site Improvements for Irmo High School (according to Bid Tabulation)

3/27/2015

Gmail - FW: SCBO Solicitations - District 5 of Lexington & Richland Counties

Post Date: ?

Bid Date: 5-7-12

Attached: Bid Tabulation

5. Project Name: Geothermal Well Package for the CATE Center

Post Date (The State): 12-18-11

Bid Date: 1-5-12

Attached: The State solicitation

--

Kim Murphy 446-6565  
154 Old Laurel Lane  
Chapin, SC 29036

## Roberts, Will

---

**From:** Crepes, Dean  
**Sent:** Wednesday, February 20, 2013 12:08 PM  
**To:** Roberts, Will  
**Cc:** Maguire, Jack  
**Subject:** RE: County lines, Irmo and Chapin areas

This can get real ugly before it is over, but was hoping it would be easier.....thanks

Dean Crepes  
Lexington County  
Registration and Elections  
605 West Main St Ste 105  
Lexington, SC 29072  
Phone 785-8361  
Fax 785-8390

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**From:** Roberts, Will  
**Sent:** Wednesday, February 20, 2013 11:46 AM  
**To:** Crepes, Dean  
**Cc:** Maguire, Jack  
**Subject:** RE: County lines, Irmo and Chapin areas

Dean,

Our Geodetic staff has been in contact with Ralph Ford in Lexington County. He will serve as the representative for Lexington on the boundary issue. The plan is to have our staff research and reconstruct the boundary and get input from both Lexington and Richland counties. Once the survey has been done, it is up to the counties to make the changes. This is where things get interesting. Thanks to Home Rule and the way the laws are written, we do not have the authority to make the counties accept what we find or make changes. Down in Dorchester and Berkeley counties we had to settle a boundary issue and neither county acted on what we gave them. It was just a waste of time on our end. I plan on getting with Sid to discuss having legislation introduced to establish a county boundary commission that will look into these issues, but I don't know if it will go anywhere. The project is going to take a lot of time to do and I think we may have a hard time getting the issue finished by November because both counties are going to have to agree and there will be many parcels that will need to be split and tax money swapping between the counties.

Will

---

**From:** Crepes, Dean  
**Sent:** Wednesday, February 20, 2013 11:35 AM  
**To:** Roberts, Will  
**Cc:** Maguire, Jack  
**Subject:** County lines, Irmo and Chapin areas



From what I gather from the hearing Friday concerning the school 5 trustee, Richland and Lexington needs to get the correct county lines, as to settle the boundary concern, and also the voters, but more for correct county of residence.....

Our GIS is ready to update any boundaries, can you send the correct boundaries to both counties as to get all our databases updated.....as this November there are municipal elections in Irmo and Chapin.....

*Dean Crepes  
Lexington County  
Registration and Elections  
605 West Main St Ste 105  
Lexington, SC 29072  
Phone 785-8361  
Fax 785-8390*

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**Compton, Charles**

---

**From:** FORD, RALPH  
**Sent:** Thursday, July 03, 2014 3:56 PM  
**To:** Compton, Charles  
**Subject:** FW: County lines, Irmo and Chapin areas

**From:** Maguire, Jack  
**Sent:** Wednesday, February 20, 2013 2:14 PM  
**To:** Roberts, Will; Crepes, Dean  
**Cc:** FORD, RALPH  
**Subject:** RE: County lines, Irmo and Chapin areas

**Thanks Will and Dean,**

**Ralph has received a call from Alan-Jon asking whom to address. Ralph did say, call me. We are eager to get the file. We have citizens asking who are very concerned. We want to hear and see much more on this. of course when we get the file we will start to work it into our county boundary file.**

**Please ask Alan-Jon to keep us in the loop.**

**Jack**

**From:** Roberts, Will  
**Sent:** Wednesday, February 20, 2013 11:46 AM  
**To:** Crepes, Dean  
**Cc:** Maguire, Jack  
**Subject:** RE: County lines, Irmo and Chapin areas

Dean,

Our Geodetic staff has been in contact with Ralph Ford in Lexington County. He will serve as the representative for Lexington on the boundary issue. The plan is to have our staff research and reconstruct the boundary and get input from both Lexington and Richland counties. Once the survey has been done, it is up to the counties to make the changes. This is where things get interesting. Thanks to Home Rule and the way the laws are written, we do not have the authority to make the counties accept what we find or make changes. Down in Dorchester and Berkeley counties we had to settle a boundary issue and neither county acted on what we gave them. It was just a waste of time on our end. I plan on getting with Sid to discuss having legislation introduced to establish a county boundary commission that will look into these issues, but I don't know if it will go anywhere. The project is going to take a lot of time to do and I think we may have a hard time getting the issue finished by November because both counties are going to have to agree and there will be many parcels that will need to be split and tax money swapping between the counties.

Will



## **PUBLIC STATEMENT**

**JANUARY 14, 2013**

In late October, it came to my attention that Board Member Kim Murphy might not be, in fact, a resident of Richland County, as specifically required by Act No. 326 of 2002 of the South Carolina General Assembly.

Act No. 326 of 2002 addresses the composition of the Board of Trustees of School District Five of Lexington and Richland Counties, specifically providing that three of the Board Members shall be residents of Richland County and four of the Board Members shall be residents of Lexington County. Ms. Murphy is one of three representatives from Richland County, the other two being Robert Gantt (myself) and Edward White.

Based on the information I received, I made a formal inquiry of Bobby Bowers, Director of the Office of Research and Statistics of the South Carolina State Budget and Control Board, whose office has statewide responsibility for election district maps. A copy of my December 20, 2012, letter to Mr. Bowers is attached. I also informed other officers of the Board of my inquiry, along with legal counsel for the District.

On January 12, 2013, I received a formal response to my inquiry from Mr. Bowers. A copy of his response is attached.

Tonight, in Executive Session, I informed the entire Board of Mr. Bowers' response, along with the District Superintendent and legal counsel for the District. Tomorrow, I will send a letter to Ms. Murphy confirming tonight's discussion. I assume that Ms. Murphy will evaluate the information and, if Mr. Bowers' position is correct, will resign her position as a member of the Board, as she was apparently not qualified to represent Richland County at the time of her election.

If there is a dispute about her qualifications to serve, the District, through legal counsel, will make arrangements to refer the matter to an independent, impartial person with extensive judicial experience to publicly hear the facts and law and make a recommendation to the Board. Individual Board members shall make no further comments on this situation but I, as Board Chair, will keep the public informed as events develop.

The Board and District are focused on the well-being of students and moving the District forward, and we look forward to a prompt and efficient resolution of this issue.

Copies of my letter to Ms. Murphy will be made public tomorrow. Any further inquiries should be directed to Mark Bounds, the District's Public Information Officer. Thank you.

Robert Gantt, Board Chairman

[www.lex5.k12.sc.us](http://www.lex5.k12.sc.us)

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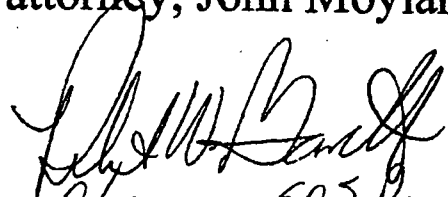
## **PUBLIC STATEMENT**

### **January 28, 2013**

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As promised, I plan to keep the public informed concerning Ms. Murphy's residency in question.

On Tuesday, January 15, 2013, following the January 14, 2013 Board Meeting in which substantial concerns were raised by Mr. Bobby Bowers' January 11, 2013 letter concerning the residency of Board Member Kim Murphy, I sent Ms. Murphy a letter requesting her position on the issues. Once the correct information was officially made known, the Board was compelled to follow the law. Richland County residency is required by the law that establishes the criteria to hold the office of School Board Trustee for the Richland County portion of School District 5. A copy of my letter to Ms. Murphy is attached. On Friday afternoon, January 18, 2013, attorneys for the District received a letter from Ms. Murphy's attorney, John Moylan

  
Charles, 505 Board of Trustees

of the Wyche Law Firm in Columbia. A copy of his letter is attached.

---

The boundary of Richland and Lexington counties was established by the General Assembly. Lexington County's GIS shows one boundary line, while Richland County's GIS shows another. Mrs. Murphy's residence is in the area of the two counties' overlapping boundaries as shown on their GIS maps. The line is objectively determinable through State authorities responsible for these lines. The South Carolina Budget and Control Board, Division of Research and Statistics is the agency charged with that responsibility. The School Board has no authority to determine the lines but does have the responsibility to ensure that residency requirements are met.

Many of the statements in Mr. Moylan's letter on behalf of Ms. Murphy -- for example, Ms. Murphy has a voter registration certificate for Richland County signed by Lillian McBride, and she has paid taxes as a resident of Richland County --

seem to be entirely correct, but they do not determine if the county boundary established by the General Assembly was improperly located by Richland County and then used for these two purposes.

On Tuesday, January 22, 2013, I sent the attached letter to recently retired SC Circuit Judge The Hon. Thomas Cooper, as outlined (and authorized) by my public statement at the Board Meeting on January 14. The Board has designated Judge Cooper to act as a hearing officer in this matter. Judge Cooper is an experienced, highly respected, and impartial member of the South Carolina judiciary who we have asked to determine the facts and law in this matter, rather than have the issues under any cloud of suspicion and rumor. It is my understanding that Judge Cooper will meet with the attorneys this week to determine how to proceed. Judge Cooper's proceedings, and certainly his legal and factual conclusions and recommendations to our Board, will be made

public. I will keep the public informed of any developments in this matter as it moves toward a desired timely conclusion.

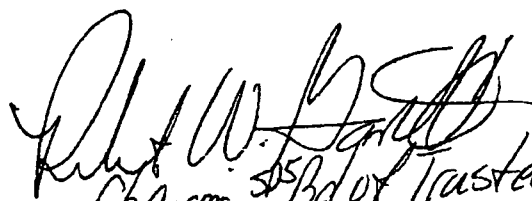
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Finally, I most sincerely regret Mrs. Murphy's statements in The State newspaper on Saturday, January 26, 2013, and her e-mail statements sent yesterday circulating in the community. Any suggestion that there is a conspiracy among board members in this matter is totally false. The apparent error in Richland County's placement of the true county line was confirmed by the Office of Research and Statistics using three sources, as stated in Mr. Bobby Bowers' letter of January 11, 2013. The School Board does not, and cannot, establish county lines or the residency qualifications for public offices.

As always, School District 5 will continue its efforts to provide our students, community, and citizens with a high-quality educational program. We certainly regret any distraction from

our mission and primary responsibility to our  
students.

---

  
Chairman, Bd of Trustees



Public Statement

*1/15*  
This evening at a Special-Called Board Meeting of the Lexington - Richland Five Board of Trustees, the Board considered the recommendation of the Honorable Judge Thomas Cooper and other legal and factual information concerning the residency of Board of Trustee member, Kim Murphy.

After careful consideration and deliberation the Board sustained (agreed) with the opinion of Judge Cooper which states there is clear and convincing evidence that Ms. Murphy's residence is in Lexington County. Therefore, her residence in Lexington County deprives her of the qualifications for office as a representative of Richland County on the Lexington - Richland Five School Board of Trustees. Based on these facts, the Board voted to remove Ms. Murphy from the Board of Trustees.

We thank Ms. Murphy for her service on the Board and wish her well in the future.

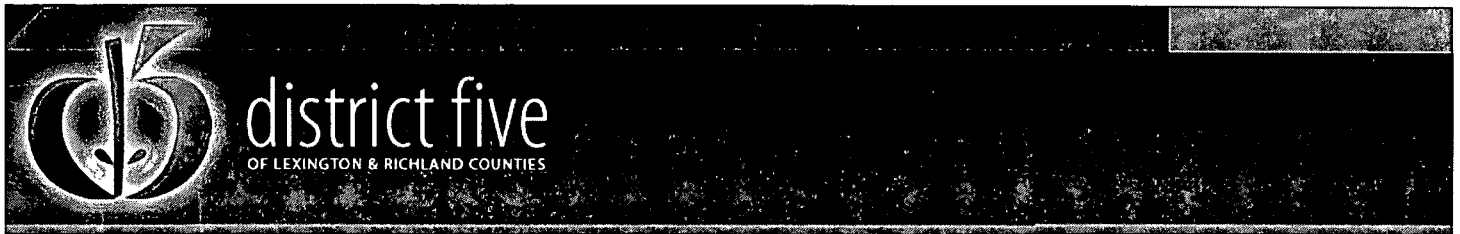
In previous communication, Ms. Murphy and others have attempted to shape this issue as a personal action toward Ms. Murphy. Nothing could be further from the truth. Our actions this evening center on the simple truth that she does not live in the county which she was elected to represent, a simple but essential requirement of the law. To allow Ms. Murphy to remain on the Board would violate state law and potentially invalidate future decisions made by the Board.

We sincerely hope that Ms. Murphy will honor this decision and "do the right thing" as she has stated previously in public meetings, regarding the law and residency requirements. We also hope there will be no further disruption or distraction for the Board, the school district or the taxpayers in School District 5 regarding this matter.

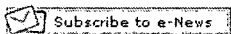
Over the next few days we will consult with legal counsel on the next steps for filling the now vacant Richland County seat on the Board of Trustees. In the meantime, our Board will continue to focus our efforts on providing the very best educational experience possible for all students in School District 5.

*Thank You*  
*[Signature]*

Attachment 5 is included with  
the minutes of the 3-19-13  
meeting, at the request of Board member  
Belmont Gantt  
pursuant to S.C. Code Ann. §30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
did not approve, disapprove, or otherwise



- ▶ Accountability Department
- ▶ Building Program Information
  - » Age of Schools in the District
  - » McKibben Demographic Report
  - » Program Master Schedule
  - » Scope of Each Proposed Project - Break Down
- ▶ Grants
- ▶ Office of Finance and Operations
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- ▶ Technology Department
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Departments » Building Program Information » Chapin High Renovations and Wetlands Issue » Murphy vs. DHEC and School District Five of Lexington & Richland Counties

#### **Murphy vs. DHEC and School District Five of Lexington & Richland Counties**

**Renovations to Chapin High School are currently at a stand-still due to a legal appeal, *Murphy vs. DHEC and School District Five of Lexington and Richland Counties*. Information on the legal appeal can be found below.**

#### **COST OF THE LEGAL APPEAL TO THE SCHOOL DISTRICT**

As of January, 2011, the estimated cost of the above mentioned lawsuit to Lexington-Richland Five is **\$12 million**.

#### **CONSTRUCTION DELAYED UNTIL LEGAL APPEAL IS SETTLED**

According to this letter from the Office of School Facilities, no construction at Chapin High can begin until the legal appeal is ruled upon.

#### **DEPOSITIONS RELATED TO LAWSUIT**

The depositions below were taken by the school district attorneys.

Deposition of Kim Murphy  
Deposition of Wayne Duncan  
Deposition of William Grant  
Second Deposition of William Grant  
Deposition of Art Guerry  
Deposition of Liesha Huffstetler  
Deposition of Diane McCartha  
Deposition of Cheryl Vaeth  
Deposition of Ed Yates

#### **SCHOOL BOARD RESPONDS TO MEDIATION OFFER**

After a special-called meeting on April 4, 2011, the Lexington-Richland Five School Board responded to a mediation offer from attorneys representing Kim Murphy.

The response was communicated in a letter from attorneys representing the school district expressing the board's pleasure that Murphy is willing to submit proposals to end the dispute and re-stated the district's desire to end the dispute and move forward with the important task of expanding and renovating Chapin High School. The letter and other information about this issue can be found here.

In the response, the district agreed that further discussions to seek a compromise solution, outside of a court setting, would be beneficial. The district asked that Murphy provide a written description of the specific modifications or additions she would like to see made to the project plans.

Once the board receives the specific list of modifications, it will set up a time for Ms. Murphy, and legal counsel for both parties, to meet with the superintendent to discuss and consider the suggested modifications that could resolve this dispute. The superintendent will then present viable options to the school board for their consideration.

The only stipulations are that Murphy incorporates into her proposal the district's primary objective of providing a safe, modern, renovated and expanded high school for the students of Chapin High School that eliminates the need for portable classrooms, allows room for future growth, and supports the school's efforts to provide the best education possible for its students.

Regarding the mediation offer, the district stated that mediation certainly has its merits but mediation is normally undertaken well before a trial or hearing of a matter. Testimony for the appeal has been completed, final arguments are being made and all that will remain is the judge's ruling. However, the district will continue to evaluate the appropriateness of this concept as matters progress.

#### **MURPHY REQUESTS EXTENSION TO ABOVE MEETING**

Attorneys representing Kim Murphy requested an extension to the above-mentioned meeting. The school board granted the extension. To see the full letter from the district's legal counsel, click here. Murphy's attorneys responded to the district with this letter on April 15, 2011.

#### **CHAPIN TOWN COUNCIL ADOPTS RESOLUTION CONDEMNING LEGAL DELAYS**

On April 7, 2011, the Chapin Town Council adopted a resolution urging "costly and unproductive litigation be ended immediately, and that the planned construction at Chapin High School be allowed to proceed." To read the full resolution, click [here](#).

#### **SCHOOL BOARD ADOPTS RESOLUTION CONDEMNING LAWSUIT**

The Board of Trustees adopted a second resolution that "disapproves of the lawsuit brought by Mrs. Kim Murphy, *Murphy vs. School District Five of Lexington and Richland Counties and DHEC*, which has cost the school district, as of February 28, 2011, in excess of \$1.57 million in professional fees and increased construction costs and \$4.5 million in increased bond interest cost over the life of the construction bonds (20 years), and is delaying the renovations to Chapin High School and denying students timely use of much needed facilities. The board also disapproves of the recent appeal filed by Mrs. Kim Murphy on January 20, 2011 requesting that DHEC deny a construction permit for the sewer system necessary to begin renovations to Chapin High School. The board requests that Mrs. Murphy abide by the vote of the majority of the Board of Trustees to proceed with the renovations at Chapin High School."

#### **SCHOOL BOARD ADOPTS RESOLUTION CONDEMNING LEGAL DELAYS**

On December 13, 2010 the school board voted 6-1 to adopt a resolution condemning the legal delays regarding renovations to Chapin High School. The resolution calls for the full board to abide by the majority vote of the board and move forward with the renovations.

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#### Petitioners Continue to Resort to False Information

It has been three years since the 2008 bond referendum was passed and unfortunately there is still a small group of individuals who fought the referendum and are still fighting the much-needed renovations, expansions and new construction approved by the voters of this community.

The latest effort of this group is to organize a petition drive asking for the school district to reconsider its building program and appoint a committee to study our needs. They know, and we know, that there is a limited window of time in which the district has to sell its bonds and begin construction...or authorization to fund the building program will expire.

Sadly, as a part of this petition drive, the group continues to try to build support for their effort by spreading false information.

They say it is unwise to build schools in this uncertain climate. That is not true. This is the best time to build when construction costs and interest rates are low. Taxpayers will get much more for their hard-earned dollars.

They say enrollment has decreased by 200 students over the past three years so there is no need for new facilities. That is not true. Growth has been flat, but we are already seeing a change in that trend; and even if it did continue, at that rate it would take 45 years to get all of our students out of portables. The district said from the beginning of the bond campaign that building needs are based less on accommodating future growth and more about the 3000 students in portables all across the school district as a result of unaddressed growth in the past. That number equates to nearly two high schools, or three middle schools or four elementary schools.

They say the district is only expanding Chapin High School to accommodate 1300 students. That is not true. If the district can ever get past the continued appeals blocking construction, the school will be renovated, modernized and expanded to an enrollment of 1700 students.

They say the reason the district is not moving forward with the Chapin High School project is to force the need for a new high school. That is not true. The project is being held up by numerous appeals and law suits by Kim Murphy costing taxpayers millions of dollars.

And finally, they say the district should delay its building program based on their petition of un-verified names. That would be unwise. The district's building program is based on the favorable vote of 27,242 registered voters and to do anything other than move forward would be irresponsible and not be in the best interest of our students, parents, faculties and staffs, business and community leaders and most of all...our taxpayers!

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School District Five of Lexington and Richland Counties 1020 Dutch Fork Rd. Irmo, SC 29063 (803) 476-8000

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Kim Murphy

Plaintiffs,

vs.

Richland-Lexington School District 5  
Board of Trustees, Robert Gantt, and  
Bobby Merle Bowers, in their individual  
capacities

Defendants.

IN THE COURT OF COMMON PLEAS  
OF THE FIFTH JUDICIAL CIRCUIT

Docket

No. 2014-CP-40-4666

**FIRST SUPPLEMENTAL  
REPORT OF  
RONNIE L. TYLER, PLS BIC**

My name is Ronnie L. Tyler, I am an adult over the age of eighteen and competent to make the statements contained herein. I am making the statements set forth herein based upon my own personal knowledge and/or belief.

I am a professional surveyor licensed to practice in the state of South Carolina and have been for more than 30 years.

I have been qualified and certified to serve as an expert witness in the fields of surveying, land surveying, and title abstraction in cases before the Courts of Common Pleas in the State of South Carolina on several previous occasions.

I offer this report as an expert witness licensed to practice land surveying in South Carolina.

I am attaching my curriculum vitae to this report as Appendix (1). The Appendices and exhibits incorporated by reference herein, or which I may later

incorporate by way of a supplemental report are made a part and parcel hereof, the same as if set out in the text of this report.

Land surveying includes the study and application of boundary and real estate laws. Surveyors establish and/or retrace the boundary lines and corners of the property being surveyed in accordance with appropriate boundary laws and principles governed by the set of facts and evidence found in the course of performing the research and survey.

In preparation for providing this report, I have made a review of the Transcript and Exhibits of the Hearing before The Honorable G. Thomas Cooper on Friday, February 15, 2013 as well as other documents, title and boundary history of the property that is the subject of this case.

I intend to supplement this report with a reference index of the items reviewed and/or referenced herein.

Based on my independent review and analysis of the hearing transcript, survey plats, boundary descriptions, aerial photographs, and other documents, facts and circumstances, as currently known to me, it is my opinion, within a reasonable degree of certainty that:

- The maps, prepared by the South Carolina Geodetic Survey division of the South Carolina Budget and Control Board's Division of Research and Statistics, presented by Bobby Bowers, Director of the South Carolina Budget and Control Board's Division of Research and Statistics and Sid Miller PLS of the South Carolina Geodetic Survey in the Hearing of February 15, 2013 before the Honorable G. Thomas Cooper, are compile maps, (JLC&A-K Murphy: 012080, 012082, 012084, 012086, 012101, 012103, 012120);

- The maps, by the South Carolina Geodetic Survey, (JLC&A-K Murphy: 012101, 012103, 012120), presented at the Hearing of February 15, 2013 before the Honorable G. Thomas Cooper are not plats of survey or maps of survey and do not report the accurate location of the existing Richland and Lexington County boundary by a Land Surveyor's boundary retracement survey of the Richland and Lexington County boundary;
- GPS was used, by the South Carolina Geodetic Survey to determine the coordinates of the intersection, of the center of an existing road and the center of Wateree Creek, as being the location of the point at Rock Ford, without doing any other surveying. There is nothing in the Code of Laws South Carolina 1976 (JLC&A-K Murphy: 012092, 012093, 012094) nor the plat of survey November 25, 1921 (JLC&A-K, Murphy 012090) that specifies, indicates, or shows any road crossing the creek at the point on the boundary called at Rocky Ford;
- The point called Rocky Ford shown as being the control point held for the placement of the corner of the Richland and Lexington County Boundary by the South Carolina Geodetic Survey on the maps presented at the Hearing of February 15, 2013 before the Honorable G. Thomas Cooper, (JLC&A-K Murphy: 012101, 012103, 012120), was not documented by any evidence of survey to be the point at Rocky Ford called in the Code of Laws South Carolina 1976, (JLC&A-K Murphy: 012092, 012093, 012094), or as being the point at Rocky Ford shown on the plat of survey November 25, 1921, (JLC&A-K, Murphy 012090);
- The Plat of Survey completed on November 25, 1921, by W. A. Counts and J. C. Wessington Surveyors, the said plat being filed in the office of the Secretary of

State, (JLC&A-K. Murphy 012090, 01003), and referenced in the Code of Laws South Carolina 1976, (JLC&A-K. Murphy: 012092, 012093, 012094), is of a survey made for the subdivision of 8900 Acres being proposed to be annexed from Lexington County to Richland County. This plat of survey does not report a survey of the Richland and Lexington County boundary, located to the southwest of the point at Rocky Ford, and therefore does not provide a survey of the Richland and Lexington County boundary crossing the Murphy's property;

- The Plat of Survey completed on November 25, 1921, by W. A. Counts and J. C. Wessinger Surveyors, (JLC&A-K. Murphy 012090, 01003), was the only plat of survey showing the Richland and Lexington County boundary, presented at the Hearing of February 15, 2013 before the Honorable G. Thomas Cooper, as having been used by the South Carolina Geodetic Survey in their location of the Richland and Lexington County boundary. While, this plat of survey clearly reports measurement from Broad River and measurements from the Newberry County boundary to the point at Rocky Ford, shown on the survey plat on the Richland and Lexington County boundary, no surveying was done to verify that the point shown as Rocky Ford on the maps, by South Carolina Geodetic Survey, (JLC&A-K. Murphy: 012101, 012103, 012120), was the same point reported on this survey plat, (JLC&A-K. Murphy 012090, 01003);
- The azimuths reported in the hearing as being for the boundaries from Rocky Ford are not the same bearings that are reported for these boundaries in the Code of Laws and is not the same bearing reported on the old plat of survey that created the Richland and Lexington County boundary north from the point at Rocky Ford.



- The South Carolina Geodetic Survey division of the South Carolina Budget and Control Board's Division of Research and Statistics had only the authority to assist counties in clarifying and determining the location of county boundaries. The SCGS findings were not binding on the counties as the SCGS did not have any authority to enforce the SCGS's locations of the county's boundaries until June 9, 2014, with the approval into law of the act to amend section 27-2-105, Code of Laws of South Carolina and only then by the procedures specified in that revised code.
- All Surveyors who practices surveying in South Carolina shall comply with the Standards of Practice provided in the State of South Carolina Code of Regulations Chapter 49, Article 4.
- The maps by the South Carolina Geodetic Survey, (JLC&A-K Murphy: 012101, 012103, 012120), presented at the Hearing of February 15, 2013 before the Honorable G. Thomas Cooper, are misleading in that there is not a statement on the maps listing the source of the data and there is not any statement on the maps that the maps do not represent a land survey.
- Section 27-2-105 amended June 9, 2014 provides the authority and procedures, including notice, that the SCGS must follow and requires that a certification for all or some portion of a county boundary, shall be on a plat of survey signed and sealed by a licensed South Carolina Professional Land Surveyor and approved by the Chief of the SCGS.
- The Richland County and Lexington County boundaries were created by numerous ground surveys and plats of survey made by different SC Land

Surveyors, which boundaries were confirmed in the Code of Laws for South Carolina in past years. The SCGS failed to provide sufficient research of plats of survey or documents to provide the necessary history of the Richland County and Lexington County boundaries that would be necessary for an accurate determination of the location of the Richland County and Lexington County boundaries.

I reached my opinion by detail review and analysis of the hearing transcript, survey plats, boundary descriptions, aerial photographs, history of the creation of the Richland County and Lexington County boundary, Code of Laws of South Carolina and other documents applying accepted real estate case laws and procedures and practices in surveying for retracement and surveying of boundary:

#### **Azimuths**

Bobby Bowers reported in his letter of January 11, 2013, (JLC&A-K. Murphy 012078), that the Richland and Lexington County boundary has a northwest-trending line segment from Rocky Ford with an azimuth of 343 degrees, and southwest-trending line segment from Rocky Ford, with an azimuth of 243 degrees. Sid Miller gave testimony as a witness in the hearing, (JLC&A-K. Murphy: 012038, 012039, 012040, 012041, 012042, 012043), confirming that the lines illustrated by the South Carolina Geodetic Survey on Exhibit 9, map, (JLC&A-K. Murphy 012101), and "On the orthophotography", (JLC&A-K. Murphy: 012009 012100), are the boundaries for Richland and Lexington County and that the line going up and west from Rocky Ford has an azimuth of 343

degrees, and that the line down and toward the southeast from Rocky Ford has an azimuth of 243 degrees and that these lines and azimuths are the same as in the statute. However, I find that an azimuth of 343 degrees = a bearing of S 17 degrees E whereas the statute, Code of Laws of South Carolina 1976, (JLC&A-K. Murphy: 012093, 012094), reports a bearing from the northwest to a point in Slice Creek, known as Rocky Ford of S 23 degrees E 142.50 chains, and the November 25, 1921 plat of survey, (JLC&A-K. Murphy 012090), reports the same line as being S 22 degrees E 142.50 chains, which plat is referenced in the Code of Laws of South Carolina 1976 as a part of the statute. This 1-degree difference of the bearing for the length of the line reported at a distance of 142.50 chains (being 9405 feet) would move the end point of the line 164.15 feet; I find that an azimuth of 243 degrees = a bearing N 63 degrees E, which also would be southwest from the point at Rock Ford, whereas the statute, Code of Laws of South Carolina 1976 (JLC&A-K. Murphy: 012093, 012094), reports a bearing from the southwest into a point on Rocky Ford on Wateree Creek as N 56 degrees 35 minutes E 3,920 feet; these difference in bearings were not reported or explained in the hearing of February 15, 2013 before the Honorable G. Thomas Cooper.

### **Bearing Magnetic**

While the bearings, in the Code of Law South Carolina 1976 for Richland County and Lexington County, are magnetic bearings they were not all measured at the same location or point in time and therefore are not directly related to the same magnetic force or conditions. Without knowing the location and time that a magnetic measurement was taken, correct declination cannot be applied to determine its relationship to True North.

So what is declination? A compass points along the line of magnetic force. The angle between the direction of magnetic force and the direction of geographic North Pole, being True North, is called the declination. In that the earth's magnetic field varies over time, the position of the north magnetic pole gradually changes. As a result of the change in the magnetic field, the magnetic declination at a given location also changes over time. The amount of change is not constant, but is subject to daily fluctuations more or less in a systematic pattern. Within any one-day fluctuations can be expected to be as much as 7 minutes, and during magnetic disturbances, magnetic storms, the variation may be more than 1 degree. Local attraction from other local ferrous metal can affect the needle of a compass when a magnetic bearing is measured. Magnetic ore deposits, plus items such as eyeglass frames, belt buckle, watch, survey equipment, rifles, side arms, knives, rusty barbed wire fences within 15 to 20 feet, new wire fence within 20 to 25 feet, automobile within 50 feet, railroad tracks within 75 feet, culverts or pipelines (26 to 36 in. diameter) within 100 feet and other ferrous metals can affect the needle of a compass. Combined with daily fluctuations of declination, potential magnetic storms and local magnetic attractions illustrate the potential inaccuracy of compass surveys. Most early land surveys in the United States were made using a compass. This is most likely the case with the November 25, 1921 Plat of Survey, (JLC&A-k. Murphy: 012090), that was presented by Sid Miller in the hearing of February 15, 2013 before the Honorable G. Thomas Cooper. Since the development of surveying equipment that is superior to a compass, many surveyors only take a magnetic reading on one line of a survey for a base direction of reference control. Other lines in these surveys are measured by angle surveying relating to the magnetic reading that was measured. This is most likely the case on the surveying

reported on the plat of survey of April 4, 1997 by Lucius D. Cobb, Sr. Surveyor, (JLC&A-K. Murphy: 012119), which plat was presented by Sid Miller in the hearing. Declination can be determined in several ways to compare the direction of a line to a time other than when the magnetic reading was measured, as long as the place and time of the measurement of the original magnetic bearing is known. It is very difficult to calculate local attraction errors in the measurement of a past magnetic bearing; therefore no declination can normally be made for local attraction. Today's surveyors know that the compass is not an instrument of the highest accuracy and that applying declination to a bearing provides only results that are an approximate direction of the magnetic bearing. Declination applied to a magnetic bearing of an old survey may help a surveyor to locate other evidence in the retracement of a boundary line. An adjusted magnetic bearing in and of itself alone is not normally considered accepted surveying procedure or sufficient evidence for the retracement of the location of a boundary line.

Declination has to be applied to a magnetic bearing measured on a line to plot that line on an orthophoto map. In the hearing of February 15, 2013 before the Honorable G. Thomas Cooper, no report was presented of any calculations of declination having been made by SCGS on the magnetic bearings in the Code of Laws South Carolina 1976; reported as being plotted on the orthophoto maps, (JLC&A-K Murphy: 012101, 012103, 012120), or to the April 4, 1997 Plat of Survey, (JLC&A-K. Murphy: 012119), by Lucius D. Cobb, Sr. Surveyor reported to be overlaid on the orthophoto map, (JLC&A-K Murphy: 012120). Additionally, no control point was reported as having been used to position this April 4, 1997 plat of survey, (JLC&A-K. Murphy: 012119), on the orthophoto map, ((JLC&A-K Murphy: 012120).

## **Compiled Maps**

The maps, prepared by the South Carolina Geodetic Survey division of the South Carolina Budget and Control Board's Division of Research and Statistics presented in the Hearing of February 15, 2013 before the Honorable G. Thomas Cooper, are compile maps, (JLC&K. Murphy: 012080, 012082, 012084, 012084, 012101, 012103, 012120). These maps are not plats of survey or maps of survey and do not report a land surveyor's boundary retracement survey of the Richland County and Lexington County boundaries. To clarify that they are compile maps and not plats of survey, by a land surveyor, a disclaimer and source of data should have been placed on the maps. SC Code of Regulations Chapter 40 Article 4 requires land surveyors to display a statement on drawings they create, such as compile maps, that the document does not represent a land survey. A boundary plat of survey or map of survey of real property used, for the purpose of depicting the result of a field survey, is required to show all essential data pertaining to the boundary and must be signed and sealed by the surveyor. Surveyors are required to report, on the plat of survey, all evidence used for determining the location of the boundary surveyed, to describe in detail, all existing property markers and to replace any missing corner markers. It is clear that the maps presented as having been prepared by the SCGS, (JLC&A-K Murphy: 012101, 012103, 012120), do not meet the requirements of a plat of survey.

SC Code of Regulations Chapter 40 Article 4

49-430 C. Definitions:

(17) Compiled Maps: A map drawn from previously recorded or unrecorded documents, photographic material or tax maps which represent the general configuration of the parcel where partial or no actual surveying has been performed by the land surveyor preparing the map.

(29) Plat: A Diagram drawn to scale showing all essential data pertaining to the boundaries and subdivisions of a tract of land, as determined by a survey and must be signed and sealed by the surveyor.

(31) Map of Survey, Plat of Survey, Survey for or other Similar Titles: Any drawing of a parcel or tract of real property used for the purpose of depicting the results of a field survey...

49-460. Survey Types and Requirements. A. General Property Surveys:

(p) The Land Surveyor shall retrace the boundaries of the property being surveyed and set or reset monuments or corners consistent with the class of survey and accepted practices of boundary retracement. All monuments found or placed must be described in detail on the survey plat or drawing, with data given to show their location upon the ground in relation to the boundaries lines...

(y) Maps prepared partially or entirely from reference or source data, such as compiled maps, do not represent land surveys as defined herein, and shall be clearly marked accordingly. Compiled maps must have a prominently displayed statement that the said document does not represent a land survey and is unsuitable for deeding of property or recordation.

Sid Miller stated in his testimony, at the Hearing of February 15, 2013 before the Honorable G. Thomas Cooper, (JLC&A-K. Murphy: 012037 Pg.50:11-21), "That's

generally the procedure that we – you know, this is not what you would call a traditional survey where you get on the ground and run traverse around. But it's generally accepted - the procedure we did with GPS is standard accepted GPS procedure for that – positioning that point. And then the research and the preliminary work we did on putting those two red lines up there would be generally accepted procedure for doing that kind of project.”

In my opinion, if the project was to determine the correct location of the previously surveyed record boundary of the Richland and Lexington County boundaries, the reported procedures failed to meet the minimum standard of care required of a surveyor. The research presented did not provide the necessary documents required for a surveyor to retrace the location of the previously surveyed boundaries. Placement of the location of County's boundaries, using only magnetic bearing from the Code of Laws, does not accurately locate the Richland and Lexington boundaries, as created by previous surveys, and is not accepted surveying boundary retracement procedure. All of the boundaries being reported on the orthophoto map, (JLC&A-K. Murphy: 012103), should coincide with each other as they are all supposed to be the same locations of the Richland and Lexington County boundaries. Instead none of the boundaries are shown to be in the same location. The Richland County GIS line is the only boundary accepted by the Counties and enforced under the County's Authority. The ends of the red lines, that were reported as being the boundaries of Richland and Lexington County from the Code of Laws of South Carolina delineated by the SCGS on the map, do not match with the Richland County GIS boundaries. Therefore with the location of the red lines as shown on the map there are gaps in the Richland County boundary. All gaps in the boundary



would have to be resolved, requiring continuing retracement of the next sections of the boundaries until there are no gaps in the boundary. The compile maps presented by SCGS shows that there are issues with the Richland and Lexington County boundaries in this section, but they are not sufficient to resolve or confirm any location of the Richland and Lexington County boundary.

### **Rocky Ford**

The County boundaries between Richland County and Lexington County were created in segments with transfer and annexation of sections of Lexington County made to Richland County. Ground surveys with plats of survey were made for each change in the boundary between Richland County and Lexington County. Several different surveyors made the surveys and plats of survey to create and locate each segment of the boundary. After each survey was completed, acts by the General Assembly of the State of South Carolina provided descriptions, from the plats of survey, confirming the boundary. The plat of survey titled "Map of Portion of Lexington County Containing 9.92 SQ.MI. Proposed Annex to Richland County" surveyed December 4, 1912 by T. C. Hamby, H. S. Haynsworth and Z. L Mobley, (JLC&A-K. Murphy; 010007, 010008, 010009), is the survey that created the point on the boundary at Rocky Ford. A note on the plat shows that the area on the map label "ABCD" indicates territory to be annexed". A point, labeled on the plat as point "C", is shown as a point in Wateree Creek that is located a little north of a road shown crossing the creek and label "Rocky Ford". The plat clearly shows that the entire road crossing the creek is located at a distance south of the point in the creek. The road is shown on the east side of the creek and on the west side of the

creek, with the road on the west side of the creek shown crossing over the boundary line coming N 56 degrees and 35 minutes E 3920 feet from a stake into the point labeled "C" in Wateree Creek. The south and west boundaries of the section being annexed to Richland County labeled as Point "A" to Point "B" to Point "C" reports bearing and distances for each line on the plat, surveyed December 4, 1912, and shows markers labeled as being located on each corner. The northeast boundaries, labeled Point "C" to Point "D" to Point "A" were previous county boundaries that were created as part of a 1910 plat of survey labeled "Map of Portion of Lexington County Containing 50.00 SQ.MI. Proposed Annex to Richland County", surveyed October 1910 by C. W. Wannamaker and F. W. Fredrick. The December 4, 1912 plat of survey by T. C. Hamby, H. S. Haynsworth and Z. L Mobley, (JLC&A-K. Murphy; 010007, 010008, 010009), shows a tie measurement, by bearing and distances at Point "A", into the boundary on the plat surveyed October 1910 by C. W. Wannamaker and F. W. Fredrick. The Plat, Surveyed October 1910 by C. W. Wannamaker and F. W. Fredrick reports curve measurements or bearings and distances along each line of the southwest boundary of the section being annexed to Richland County, starting from Saluda River to Wateree Creek. Markers are shown labeled at each corner on the boundaries. A control marker is shown at the point where the boundary crosses the railroad tracks near the Saluda River, and where the boundary ties into the town boundary of Irmo, and where the boundary crosses the railroad tracks near White Rock and in the center line of Gilbert Hollow Road and the intersection of Gilbert Hollow Road at Wateree Creek. A radius tie to the Lexington County Court House is shown for the curved boundary. With the two surveys having

been connected to each other with measurements and markers, the two plats provide considerable boundary evidence for a retracement survey to the point at Rocky Ford.

The plat of survey completed November 25, 1921 by W. A. Counts and J. C. Wessinger is referenced in the Code of Laws of South Carolina 1976 and reported in the Code of Laws, as being for all that certain piece of land containing 8,900 acres or 14 square miles, being transferred from Lexington County by act approved March 11, 1922 and added to Richland County. This 1921 plat of survey shows the most southern corner of the area being surveyed as a point in Slice Creek at Rocky Ford. However this plat only shows a dashed line to the west from the point at Rocky Ford that may indicate the Richland County boundary, but does not report any measurements or evidence connecting the point at Rocky Ford on this 1921 plat of survey to the point at Rocky Ford created on the plat surveyed December 4, 1912. Without connecting measurements or other evidence there is nothing to confirm that this point at Rock Ford on the 1921 plat of survey is the same point at Rocky Ford that was surveyed on the 1912 plat of survey. To confirm that there is not an overlap or gap in the boundary, the location of Rocky Ford on the 1921 plat would need to be surveyed by only the evidence shown on this 1921 plat of survey, independent of the 1912 plat of survey. Slice Creek, shown on the 1921 plat is shown as Wateree Creek on the 1912 and 1910 plats of survey. The 1921 plat of survey does not show any road crossing the creek at or near Rocky Ford and no road is reported as crossing the creek in the Code of Laws. The 1921 plat of survey provides measurements from Broad River along Wateree Creek to Slice Creek; also known as Wateree Creek, and along Slice Creek to the point at Rocky Ford, shown on the 1921 plat of survey. The 1921 plat of survey reports a measurement of 410.00 chains along Broad

River from Wateree Creek to the County Boundary for Newberry County; a measurement of S 41 degrees W 82.50 chains is shown along the southern boundary of Newberry County to a stake; a measurement of S 32 ½ degrees 140.65 chains is shown to a point in a creek that connect into Wateree Creek; a measurement of 42.24 chains is shown southeast along the creek to a stake at the intersection of the Newberry County and Lexington County boundary; a measurement of 71.5 chains is shown southeast along the creek to a point where a road crosses the creek, where the creek joins Wateree Creek; a measurement of 94.00 chains is shown along Wateree Creek to a point at a bend in the creek; a measure of S 22 degrees E 142.50 chains is shown to the point in Slice Creek at Rock Ford. Additional research on the Newberry County boundaries may provide additional evidence for retracement of the boundary. There are differences between the measurements called in the Code of Laws and the 1921 plat that is referenced in the Code of Laws. Case Law supports that a plat is more exact and precise than any description; that when maps or plats are referenced in the grant they are incorporated into the instrument, binds the grantor and his successors and are usually held to furnish the true description of the boundaries of land. The SCGS used the measurement of S 23 degrees E 142.50 chains for the boundary line into the point at Rocky Ford taken from the description in the Code of Laws; instead of the measurement of S 22 degrees E 142.50 chains that is shown on the 1921 plat of survey, even with the plat being included in the Code of Laws. This 1-degree difference of the bearing for the length of the line at a distance of 142.50 chains (9405 feet) would move the end point of the line 2.49 chains (164.15 feet). GPS was use, by the South Carolina Geodetic Survey, to determine the coordinates of the intersection of the center of an existing road and the center of the

Wateree Creek as being the location of the point at Rocky Ford; however none of the plats of survey that report the point at Rocky Ford shows the point as being the center of a road crossing Wateree Creek. The point location at the center of Wateree Creek at the center of the road is not a fixed monument, as can be seen on the photos, (JLC&A-K. Murphy: 012122, 012123, 012124) taken by SCGS. It would be unlikely that anyone could accurately duplicate the same point located by the SCGS, without using GPS and knowing the coordinates of the point located by SCGS. Reportedly, SCGS found other roads also crossing through Wateree Creek that SCGS did not report or provide any coordinates measured. The 1912 plat of survey shows a road crossing south of the point at Rocky Ford, not in the center of the road whereas the 1921 plat of survey does not show any road crossing Wateree Creek at or near the point at Rocky Ford nor any evidence that any road that previously crossed Wateree Creek still existed at the time of the 1921 plat of survey. No surveying was done by SCGS to support that the point they located with GPS for Rocky Ford is near the point at Rocky Ford that was reported on the 1912 plat of survey or the 1921 plat of survey. Further, no evidence or survey measurements has been provided to support that a road still exist today that crosses Wateree Creek near the point at Rocky Ford on the 1912 plat of survey or near the point at Rocky Ford on the 1921 plat of survey.

### **Boundary Retracement Surveys**

Surveyors are to reestablish the location of an existing boundary in the same location as the boundary of the original survey and not to create a new location of the boundary. Surveyors are to follow in the footsteps of the original surveyor, searching on

the ground for evidence of the place on the face of the earth that was surveyed and marked by the original surveyor. It is necessary for a surveyor to research the history of each boundary to discover when and how a boundary was created by survey; being aware that all the boundaries that may be shown on a plat of survey may not have been created at the time of that survey. Case Law supports that the location of boundary is a question of evidence. The relative weight of evidence "Normal order of calls" on survey boundary ranks (1) natural markers, (2) artificial marks, (3) adjacent boundaries and (4) course and distance. This rule is not absolute as special circumstances may cause change. The established corners and marked lines represent the survey as it was actually made and are the best evidence of the true location, while courses and distances are merely a description of the act done by the surveyor. In the location of the Richland County and Lexington County line reported by SCGS in the Hearing of February 15, 2013, before the Honorable G. Thomas Cooper, the control point located as being at Rocky Ford is not the point indicated on the plats of survey that created the point. SCGS did not show that the history of the boundaries was researched or that the surveys that created the boundaries was used for SCGS location of the existing boundaries. No surveying was reported as having been done by SCGS to try to follow in the footsteps of the original surveyors who created the boundaries. Course and distance were used as absolute instead of searching for other evidence marked by the surveyors. The two boundaries presented by SCGS were not shown to connect and tie into other segments of the boundaries of the County. As the two lines do not match up with other boundaries on the County's GIS Maps it will be necessary to adjust other segments of the county boundaries to eliminate gaps and overlaps in the County boundary.

## **County's Authority**

Richland County determined the location of the boundary for the county and issued taxes for the real property the county recognized as being located within the county, (JLC&A-K. Murphy: 012143). A property owner does not have the authority to determine in which county their property is located. If the owner of real property does not pay the real property taxes required by the county their property can be sold at tax sale by the county. If they then do not redeem their property that is sold at tax sale, within one year after the sale, the county can issue a tax deed to the successful bidder from the tax sale and the property owner can lose ownership of their property.

Surveyors are required to meet the requirement of zoning regulation, subdivision regulation, and regulations governing surveying and plating of real property that are issued by a county government in addition to the State of South Carolina Code of Regulations Chapter 49, Article 4 in their practice of surveying. The county line shown on the April 4, 1997 Plat of Survey, (JLC&A-K. Murphy: 012119, 008178), by Lucius D. Cobb, Sr. Surveyor as the "Approx County Line" is the same county line that was reported on the as "Scaled from Richland County TMS 00600 reported on the June 3, 1996 Plat of Survey, (JLC&A-K. Murphy: 008177), by Lucius D. Cobb, Sr. Surveyor. The plat of subdivision of April 4, 1997 Plat of Survey, (JLC&A-K. Murphy: 012119, 008178), by Lucius D. Cobb, Sr. Surveyor, was approved by and recorded in Lexington County and Richland County. Most county and town boundaries that are shown on a surveyor's plat of survey, are the location regulated by the county or town in which the property being surveyed is located.

Plat of survey for real property and deeds, recorded in the county records, that show the location of the county line should be researched and reviewed as part of a boundary retracement survey of the county line.

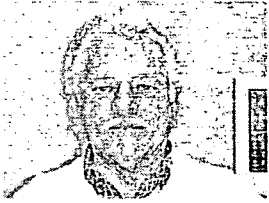
### **Comments and Conclusions**

In conclusion, based on my review of the facts, as currently known to me, it is my opinion, within a reasonable degree of certainty, that the location of the Richland County and Lexington County boundaries were not surveyed and correctly located by the SCGS on the orthophoto maps presented in the Hearing Before The Honorable G. Thomas Cooper, on Friday, February 15, 2013; that the Rocky Point located by SCGS is not the point on the Richland County and Lexington County boundary that is specified as being at Rocky Ford in the description for the County boundary stated in the Code of Laws of South Carolina 1976; and is not the point that was surveyed at Rocky Ford first created by the plat of survey December 4, 1912, (JLC&A-K. Murphy: 010007, 010008, 010009), and the point located by SCGS as Rocky Ford is also not the point surveyed at Rocky Ford on the November 25, 1921 plat of survey, (JLC&A-K. Murphy: 010003, 01004, 010006, 012090, 012091); and that a retracement survey is necessary, by a licensed South Carolina Professional Land Surveyor based on research of the complete history of the Richland County and Lexington County boundary, and being surveyed in accordance with Section 27-2-105 of the Code of Laws South Carolina 1976 as amended June 9, 2014, and Code of Regulations Chapter 49, Article 4 effective June 26, 2009, to correctly determine the location of the existing Richland County and Lexington County boundaries.

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Ronnie L. Tyler                      PLS SC 10293  
This 21 day of January, 2016





Details Matter

## Ronnie L. Tyler PLS BIC

Professional Land Surveyor  
Land Boundary Surveyor - Land Title Surveyor  
Forensic Surveyor - Court experienced  
Broker in Charge - Property Manager  
Post Office Box 291, Charleston, SC 29402-0291  
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### Ronnie Lester Tyler

Profession: Professional Land Surveyor - 30 years  
South Carolina # 10293  
PLS - 1985 - 2015 - 30 years  
LSIT - 1969 - 1985 - 16 years  
(Land Surveying experience - 46 years total)

Real Estate Broker - 21 years  
South Carolina # 29483  
2012 - 2015 Broker-in-Charge Arkn2 LLC - 3 year  
2004 - 2012 Broker Limerick Inc. Real Estate - 8 year  
1997-2004 Broker (License inactive status) - 7 years  
1994-1997 Broker-in-charge Terra Firma, Inc - 3 years  
Real Estate Salesman 1985-1994 - 9 years  
(Real estate experience - 30 years total)

Present Employment: Ronnie L Tyler  
Professional Land Surveyor  
Land surveying, real estate planning, zoning, development, FEMA  
floodplain management, boundary issues, forensic surveys, and real  
estate consulting;  
Specializing in boundary issues, title surveys and real estate issues.

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Ronnie Lester Tyler

Age: 69 years – Date of birth: September 18, 1946, Horry County, South Carolina, USA.

Education: Murray Vocational School 1962-1966  
Drafting - Included Basic Surveying, Architecture and Construction.  
Trident Technical College 1968 – 1970  
Civil Engineering Technology (Includes Land Surveying)  
The Citadel of Charleston  
1982 – Surveying – Col Thomas Dion  
Charleston Trident Association of Realtors  
1985 – 1<sup>st</sup> year Real Estate Salesman  
1986 – Permanent Real Estate Salesman  
1994 – Broker and Property Management  
Trident Technical College 2000 -2001  
Construction Estimating  
Residential Appraisal L-1  
- Market Data Analysis L-2  
Uniform Standards of Appraisal L-3  
International Residential Code for one and two-family dwellings  
Electricity I  
Searching Titles and Real Estate Law  
Instruction and Mentor  
J. Howard Yates, Sr. Esq. 1969 – 1985  
J. Howard Yates, Jr. Esq. 1986 -  
Title Searching Short Course – Constantine J. Manos Esq. 1986  
Professional Development Hours – Min. 16 class hours each year.  
Short Courses included: Title Research, Real Estate Property Law,  
Survey Law, Survey Standards, Title Boundaries, Technical survey  
courses, FEMA, and others

#### Experience in land surveying and real estate planning and development:

Consultant and surveyor for resolving survey and property disputes.

Consultant and surveyor for the development, planning and construction of residential developments, including single-family subdivisions, apartments, condominiums and mobile home parks.

Consultant and surveyor for the development, planning and construction of commercial and industrial developments, including industrial parks, commercial and office buildings and complexes, road and utility systems, docks and marinas, and cemeteries.

#### Experience in surveying includes:

FEMA surveys, tree surveys, topographic surveys, land boundary retracement surveys, title surveys, ALTA/ACSM surveys, closing or loan surveys, site surveys, easement surveys, construction surveys for buildings, roads and utilities, tidal boundary surveys, DHEC coastal critical lines and beach front surveys, wetlands, monitoring wells and environmental surveys.

#### Experience in court litigation matters as an expert witness includes land development cases and other litigation cases where measurements were of importance:

Consultant and surveyor involved in court litigation on real estate, boundaries and other matters.  
Court qualified in past litigation as an expert in the field of land surveying and title abstraction.  
Court appearances and or depositions involving real property survey matters.

September 2015

001811

Court appearances and/or depositions involving accident sites, automobile-train collisions and wrongful death claim.

Public Office: Charleston County Planning and Zoning Commission – 1990 - 1997  
Served seven years on Commission with two years as Chairman

Professional associations and societies:

Coastal Chapter of SCSPLS - Charleston, Berkeley & Dorchester - Charter member served on many committees; served as President, Vice President, Secretary/Treasurer and Director.

Lowcountry Chapter – Beaufort - Charter member, helped to organize chapter.

S.C. Society of Professional Land Surveyors (SCSPLS) - member, served on many committees, served as District Director, Vice President, President Elect, President and Past President, continuing to serve on the Past Presidents Council.

Surveying honors and awards:

1994 SC Surveyor of the Year for outstanding contributions to the surveying profession awarded by the SCSPLS.

State 1st place awards from the SCSPLS plat competitions (1985, 1988, 1990, 1991, 1996). Categories including Subdivision, Boundary, Closing Survey, and Miscellaneous Surveys

National 1st place award from the National Society of Professional Surveyors section of the American Congress on Surveying and Mapping plat competition (March, 1998) in the Boundary Survey category. (The first NSPS National 1<sup>st</sup> place to be received by a SCPLS.)

Military Service: 1966 US Marine Corp - Active Duty, Paris Island, SC  
1967 Active Duty Camp LeJeune, NC  
1967 - 1972 US Marine Corp - Reserves, Charleston, SC  
July 1972 US Marine Corp Honorable Discharge – Rank of Sergeant (E5)

Articles and seminars:

Written articles and taught seminars on surveying and real estate principles and law, including the following:

“What Every Attorney Should Know to Keep Him From Being Caught In the Middle” - 1986

“The Bare Necessities” Seminars for surveyor on standards and surveying laws governing surveying requirements in South Carolina - Plus copyright laws  
2003 - Co-authored and presented with Edward D. Barnhill, Jr. Attorney

Seminars for Real Estate: Land Surveyors, Paralegals, Attorneys, Realtors

Seminars for Surveyors-in-Training: NCEES Fundamentals of Land Surveying; Cadastral Law, Boundary Law, Business Laws and Land Development Principles

## Ronnie Lester Tyler

Member of SCSPLS Committee that assisted the Board of Professional Engineering and Surveying in rewriting the "South Carolina Minimum Standards for Surveying in South Carolina" that became Effective May 7, 1991

Presented seminars on South Carolina Minimum Standards for Surveyors.

### Employment history:

1965 – 1966, Draftsman and Marine Survey Assistant at Paulson Engineering  
1966 – 1967, US Marines Active Duty, Paris Island, SC and Camp LeJeune, NC  
1967 – 1969, Draftsman and Marine Survey Assistant at Paulson Engineering  
1969 – 1971, Engineering & Land Surveying Technician at Sigma Engineers  
Part-time as Land Survey Field Assistant under John Saboe, PE & RLS  
1971 – 1979, Manager of STS Engineering & Surveying, under John M. Saboe PE & RLS  
1979 – 1981, Land Survey Technician, apprentice under the direct supervision of several Professional Surveyors including: Joel Porcher PE & PLS; William Porcher, PLS; Warren P. Jenkins RLS; C. Roger Jennings, PLS; and James R. Bagley RLS  
1981 – 1985, Vice-President and Manager of Terra Firma, Inc. under James R. Bagley RLS  
1985 – 1997, President, Surveyor in Charge and Broker-in-Charge of Terra Firma, Inc.  
1997 – April, 1999, Surveyor Section Manager at Cornerstone Surveying & Engineering  
1999 - 2015, President Surveyor In Charge at Terra Firma, Inc.,  
2004 – 2012, Real Estate Broker and Property Manager at Limerick Inc. Real Estate  
2012 – Present, ARKN2, LLR; Broker-in-Charge, Property Manager  
2015 – Present, Ronnie L. Tyler Professional Surveyor

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

FIFTH

IN THE COURT OF COMMON PLEAS  
~~SEVENTH~~ JUDICIAL CIRCUIT  
CASE NO. ~~2015-CP-00263~~

2014-CP-40-4666

Kim Murphy,  
Plaintiff,

v.

Richland-Lexington School District 5 Board  
of Trustees, Robert Gantt, and Bobby Bowers,  
in their individual capacities

Defendant.

AFFIDAVIT OF RONNIE L. TYLER

PERSONALLY, appeared before me, Ronnie L. Tyler, who, being duly sworn, deposes  
and says:

1. That I have provided an expert opinion in the above captioned matter by way of written report and oral testimony.
2. By way of this affidavit I wish to supplement and clarify several points of discussion in my report and oral testimony.
3. I was questioned about my experience and/or certifications regarding geodetic surveying during my deposition. I would like to clarify that my education includes training in geodetic surveying. I am licensed as a Professional Land Surveyor in the State of South Carolina, thus I am authorized to provide geodetic surveying services.
4. I have extensive experience in retracement of title boundaries and retracement of boundaries of plats of survey. On some property surveys, I surveyed control from geodetic control monuments and the measurements on the survey were reported on the plat of survey as true horizontal ground measurements.

5. An example of geodetic control I surveyed would be for the numerous retracement surveys I made in 1998 on Thomas Island in Berkeley County, while I was employed by Cornerstone Surveying and Engineering. The plats of surveys were recorded in Berkeley County RMC and consisted of property for a proposed railroad project for the SC State Ports Authority.

6. In 2008, after my employment with Cornerstone, I also surveyed a geodetic control on the Boundary Survey and Site Survey Condominium Plan – Horizontal Property Regime on the Shem Creek Dry Stack Storage and Marina in Mount Pleasant, Charleston County.

7. By way of explanation, a geodetic survey is a survey of a large area of land in which the curvature of the earth is taken into account in the measurements. A network of control monuments has been established around the states that are surveyed on geodetic control. Datum on these control monuments can be obtained from the National Geodetic Survey. Surveyors using the control monuments and geodetic datum can survey geodetic control on properties they are surveying. Geodetic control is sometimes established on property surveys and measurements on the plat of survey are reported as true horizontal ground measurements.

8. This is the case on the report by SCGS labeled “On the orthophotography” Exhibit Dist 9, 2-15-13 (JLC&A-K. Murphy: 012099,012100) that was presented at the Hearing of February 15, 2013 before the Honorable G. Thomas Cooper. The report states that based on fieldwork in 1995, the coordinate for the point surveyed to be Rocky Ford is N1908571.158, E847532.742 (SC State Plane Coordinate, NAD 83-86). Although the Rocky Ford point is a geodetic survey point; the two lines tending northwest and southwest from the GPS surveyed Rocky Ford point are horizontal ground measurements and not geodetic survey lines.

9. I reviewed numerous documents and instruments in forming my opinion, and I discussed the same in my written opinion that I previously provided. In my review, I found that

the only geodetic surveying work done concerning the location of Mrs. Murphy's property occurred when Mr. Bowers' team tried to position the Rocky Ford point in 1995 by surveying the intersection of the center of the road crossing Wateree Creek and the center of the creek. The plats of surveys by the original surveyors, in 1910, 1912, 1921, that created the Richland and Lexington County boundaries and the measurements in the Code of Laws are all horizontal ground measurements and are not geodetic surveys. The plats of survey prepared by Lucius D. Cobb, Sr. PLS for the Murphy's property report horizontal ground measurements and do not report any geodetic surveying. In my opinion to accurately locate the county boundary, a person must follow in the footsteps of the original surveyors surveying the boundaries on the ground using the same methods of survey to discover evidence to document the location of the original boundaries.

10. During my deposition, I was shown two aerial maps said to be created by Mr. Zupan – one was sent to Richland and Lexington Counties previous to the hearing before Judge Cooper and another that was proffered as Hearing Exhibit 10 during the proceeding before Judge Cooper. Mr. Miller and Mr. Bowers testified during the hearing that the lines depicted in red on Exhibit 10 was the true Richland and Lexington county lines for the purposes of determining the location of Mrs. Murphy's residence. Mr. Miller and Mr. Bowers also testified during the hearing before Judge Cooper that the azimuths indicated in Mr. Bower's letter to Mr. Gantt, proffered as Hearing Exhibit 2, represent the true locations of the lines as depicted in red on Exhibit 10; however, I submit that the azimuths clearly do not correlate with the line's as depicted in red on Exhibit 10.

11. Mr. Bower's letter to Mr. Gantt, proffered as Hearing Exhibit 2, report that the northwest trending line segment has an azimuth of 343 degrees for a distance of 9405 feet and the southwest trending line segment has an azimuth of 243 degrees for a distance of 3920 feet. The azimuths on the map sent to the counties previous to the hearing before Judge Cooper graphically

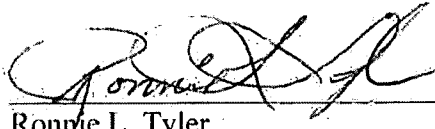
represent the azimuths as reported in Mr. Bower's letter to Mr. Gantt, Exhibit 2. The azimuths of the red lines on the map presented as hearing Exhibit 10 during the hearing before Judge Cooper graphically the northwest trending line segment has an azimuth of 337 degrees and graphically the southwest trending line segment has an azimuth of 237 degrees. This discrepancy supports that the location of the lines were changed.

12. After I visited the stake that is located on the Spott property, I compared the location of the physical stake with the Spott property plat, deed and other documentation. As a result of this research, it is my opinion that the stake is at the point shown on the Richland County GIS system as the southwest end corner of the county boundary that passes through the Murphy's property. As a surveyor, the stake on the Spott property is ground evidence that should be considered in the resurvey of the county boundary. It is the normal standard of care for a surveyor who is doing a retracement resurvey for an existing boundary to research and investigate ground evidence and markers on record surveys relating to the boundary being surveyed. In the location of the Richland and Lexington county boundaries that were presented on the maps in the hearing before Judge Cooper; Mr. Miller nor Mr. Bowers reported that any property surveys of record had been researched or considered.

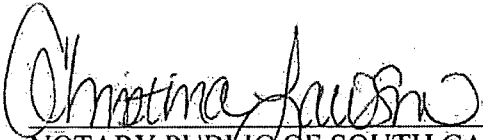
13. As stated in my written and oral opinion I believe when it concerned Mrs. Murphy's property, the standards and measurements used by Mr. Bowers' team did not meet the standard of care that is required of a surveyor, does not locate the true retracement of the point at Rocky Ford or the location of the original survey boundary for the Richland and Lexington county lines.

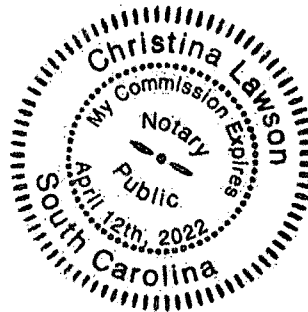


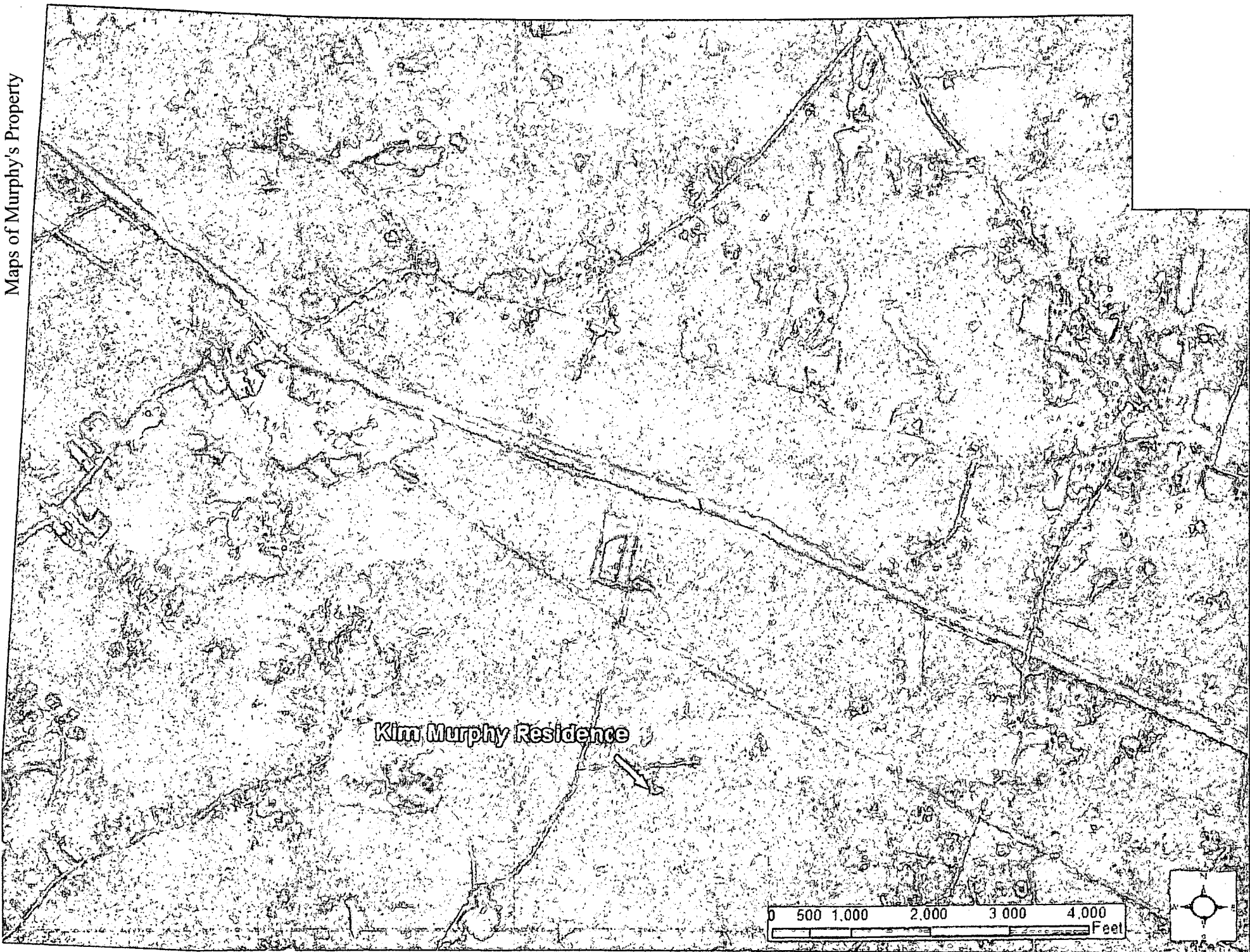
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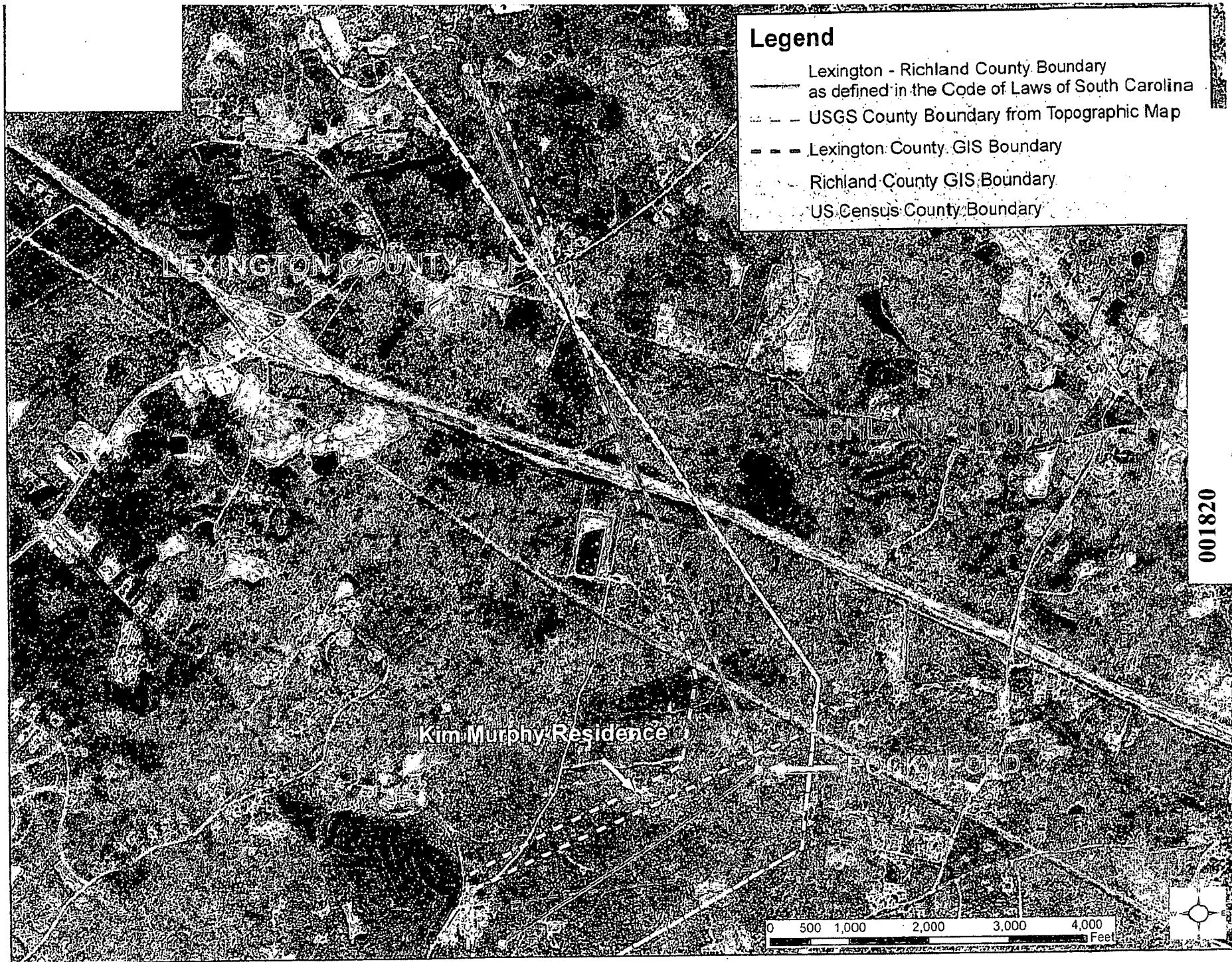
  
\_\_\_\_\_  
Ronnie L. Tyler

SWORN TO AND SUBSCRIBED  
By me this 23<sup>rd</sup> day of February, 2016.

 (L.S.)  
NOTARY PUBLIC OF SOUTH CAROLINA  
MY COMMISSION EXPIRES: 04/12/2022







**South Carolina General Assembly**  
120th Session, 2013-2014

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**A262, R282, S988**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Cromer

Document Path: l:\council\bill\bbm\9005htc14.docx

Companion/Similar bill(s): 4579

Introduced in the Senate on February 4, 2014

Introduced in the House on April 30, 2014

Last Amended on May 28, 2014

Passed by the General Assembly on June 3, 2014

Governor's Action: June 9, 2014, Signed

Summary: Geodetic survey

**HISTORY OF LEGISLATIVE ACTIONS**

| Date      | Body   | Action Description with journal page number                                                              |
|-----------|--------|----------------------------------------------------------------------------------------------------------|
| --        |        |                                                                                                          |
| 2/4/2014  | Senate | Introduced and read first time ( <a href="#">Senate Journal-page 9</a> )                                 |
| 2/4/2014  | Senate | Referred to Committee on <b>Judiciary</b><br>( <a href="#">Senate Journal-page 9</a> )                   |
| 2/11/2014 | Senate | Referred to Subcommittee: Hutto (ch), S.Martin,<br>Gregory,<br>Thurmond                                  |
| 4/16/2014 | Senate | Committee report: Favorable with amendment <b>Judiciary</b><br>( <a href="#">Senate Journal-page 7</a> ) |
| 4/17/2014 |        | Scrivener's error corrected                                                                              |
| 4/29/2014 | Senate | Committee Amendment Adopted ( <a href="#">Senate Journal-page 31</a> )                                   |
| 4/29/2014 | Senate | Read second time ( <a href="#">Senate Journal-page 31</a> )                                              |
| 4/29/2014 | Senate | Roll call Ayes-40 Nays-0 ( <a href="#">Senate Journal-page 31</a> )                                      |
| 4/30/2014 | Senate | Read third time and sent to House<br>( <a href="#">Senate Journal-page 38</a> )                          |
| 4/30/2014 | House  | Introduced and read first time ( <a href="#">House Journal-page 87</a> )                                 |
| 4/30/2014 | House  | Referred to Committee on <b>Judiciary</b><br>( <a href="#">House Journal-page 87</a> )                   |
| 4/30/2014 |        | Scrivener's error corrected                                                                              |
| 5/20/2014 | House  | Recalled from Committee on <b>Judiciary</b><br>( <a href="#">House Journal-page 69</a> )                 |
| 5/28/2014 | House  | Amended ( <a href="#">House Journal-page 25</a> )                                                        |
| 5/28/2014 | House  | Read second time ( <a href="#">House Journal-page 25</a> )                                               |
| 5/28/2014 | House  | Roll call Yeas-109 Nays-0 ( <a href="#">House Journal-page 26</a> )                                      |
| 5/29/2014 | House  | Read third time and returned to Senate with amendments<br>( <a href="#">House Journal-page 22</a> )      |
| 6/3/2014  | Senate | Concurred in House amendment and enrolled<br>( <a href="#">Senate Journal-page 60</a> )                  |
| 6/3/2014  | Senate | Roll call Ayes-39 Nays-0 ( <a href="#">Senate Journal-page 60</a> )                                      |

|           |                         |
|-----------|-------------------------|
| 6/5/2014  | Ratified R 282          |
| 6/9/2014  | Signed By Governor      |
| 6/13/2014 | Effective date 06/09/14 |
| 6/26/2014 | Act No. 262             |

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## VERSIONS OF THIS BILL

2/4/2014  
4/16/2014  
4/17/2014  
4/29/2014  
4/30/2014  
5/20/2014  
5/28/2014

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(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

(A262, R282, S988)

**AN ACT TO AMEND SECTION 27-2-105, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUTIES OF THE SOUTH CAROLINA GEODETIC SURVEY (SCGS) WITH RESPECT TO DETERMINING COUNTY BOUNDARIES, SO AS TO AUTHORIZE THE SCGS TO CLARIFY COUNTY BOUNDARIES AND MEDIATE BOUNDARY DISPUTES BETWEEN COUNTIES BY PROVIDING A PROCEDURE ALLOWING THE SCGS ADMINISTRATIVELY TO ADJUST COUNTY BOUNDARIES, TO PROVIDE THE PROCEDURES INCLUDING NOTICE THAT SCGS MUST FOLLOW IN MAKING SUCH ADJUSTMENTS, TO PROVIDE THAT AFFECTED PARTIES MAY FILE A REQUEST FOR A CONTESTED CASE ON THESE ADJUSTMENTS TO THE ADMINISTRATIVE LAW COURT, PROVIDE THE TIME WITHIN WHICH SUCH A REQUEST MUST BE FILED, AND PROVIDE FOR FURTHER APPEALS, TO PROVIDE THE METHOD OF DETERMINING THE EFFECTIVE DATE OF THESE ADMINISTRATIVE COUNTY BOUNDARY ADJUSTMENTS AND THE NOTICE REQUIREMENTS FOR THESE ADJUSTMENTS TO BE EFFECTIVE, AND TO PROVIDE THAT NOTHING CONTAINED IN THIS ADMINISTRATIVE PROCESS RESTRICTS THE AUTHORITY OF THE GENERAL ASSEMBLY BY LEGISLATIVE ENACTMENT TO ADJUST OR OTHERWISE CLARIFY COUNTY BOUNDARIES BY LEGISLATIVE ENACTMENT.**

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

**Findings**

**001822**

SECTION 1. (A) The General Assembly finds:

- (1) that exact and precise locations of boundaries of this state's political subdivisions are critical for the efficient provision of services, enforcement of property rights, and election of public officials;
- (2) that the passage of time and growth in society has led to confusion over statutory county descriptions and the locations of county boundary lines;
- (3) that technology now exists to cost-effectively provide definite and permanent markers of boundary lines;
- (4) that it is necessary for the effective and efficient operation of state government and its political subdivisions that county boundaries are clearly and accurately determined as expeditiously as possible; and
- (5) that the South Carolina Geodetic Survey is the appropriate instrument to vest with the necessary authority to resolve county boundary issues.

(B) The General Assembly further finds that it is appropriate statutorily to allow the South Carolina Geodetic Survey, with appropriate procedural safeguards, administratively to adjust or otherwise clarify disputed or unclear boundaries. However, in providing the statutory administrative process and procedural safeguards in the amendments to Section 27-2-105 of the 1976 Code as contained in this act, the General Assembly in no way restricts the plenary authority of the General Assembly by legislative enactment to adjust or otherwise clarify existing county boundaries.

**Clarification of county boundaries, role of South Carolina Geodetic Survey**

SECTION 2. Section 27-2-105 of the 1976 Code is amended to read:

"Section 27-2-105. (A)(1) Where county boundaries are ill-defined, unmarked, or poorly marked, the South Carolina Geodetic Survey on a cooperative basis shall assist counties in defining and monumenting the locations of county boundaries and positioning the monuments using geodetic surveys. The South Carolina Geodetic Survey (SCGS) shall seek to clarify the county boundaries as defined in Chapter 3, Title 4. The SCGS shall analyze archival and other evidence and perform field surveys geographically to position all county boundaries in accordance with statutory descriptions. Physical and descriptive points defining boundaries must be referenced using South Carolina State Plane Coordinates.

- (2) If there is a boundary dispute between two or more counties, the SCGS shall act as the mediator to resolve the dispute.
- (3) Upon reestablishing all, or some portion, of a county boundary, the SCGS shall certify its work and within thirty days of that certification:

- (a) provide copies to the administrator of each affected county;
- (b) provide written notification to affected parties;
- (c) provide notice and copies to the public through its official website and or other means it considers appropriate; and
- (d) notify as it determines appropriate, other affected state and federal agencies.

(4) For purposes of item (1), a certification for all or some portion of a county boundary means a plat signed and sealed by a licensed South Carolina Professional Land Surveyor and approved by the Chief of the SCGS.

(B)(1) An affected party disagreeing with a boundary certified by the SCGS may file a request for a contested case hearing with the South Carolina Administrative Law Court according to the court's rules of procedure. An affected party has sixty calendar days from the date of a written notice sent to the affected party to file an appeal with the Administrative Law Court.

(2) As used in this subsection an 'affected party' means:

- (a) the governing body of an affected county;
- (b) the governing body of a political subdivision of this State, including a school district, located in whole or in part in the certification zone;
- (c) an elected official, other than a statewide elected official, whose electoral district is located in whole or in part in the certification zone;
- (d) a property owner or an individual residing in the certification zone;
- (e) a business entity located in the certification zone; or
- (f) a nonresident individual who owns or leases real property situated in the certification zone.

(3) A 'certification zone' means the actual territory in which the boundary certification changes from one affected county to another.

(4) The decision of the Administrative Law Court may be appealed as provided in Section 1-23-610.

(5) The certified county boundary plat described in subsection (A)(4) of this section takes effect for all purposes on the date provided in item (6).

(6) When the certified boundary plat is no longer subject to appeal, the SCGS under cover of a letter signed by the Chief of the SCGS shall provide an appropriate revised

boundary map to the Secretary of State, the South Carolina Department of Archives, and the register of deeds in each affected county. The date of the SCGS director's cover letter is the date the revised boundaries take effect.

(7) When all portions of a county boundary are resolved, the SCGS shall prepare a unique boundary description for counties with boundaries affected by the operation of this section and forward that description in a form suitable for the General Assembly to amend county boundaries as described in Chapter 3, Title 4.

(C) Nothing in this section may be construed as limiting or in any way restricting the plenary authority of the General Assembly by legislative enactment to adjust or otherwise clarify existing county boundaries, however, these boundaries may have been established."

#### **Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

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This web page was last updated on August 8, 2014 at 9:36 AM