

20257

THE SOUTH CAROLINA COURT OF APPEALS

Danny Hozey and Terry Richey,

Appellants

v.

Abbeville County School Board,

Respondent

APPEAL FROM THE COURT OF COMMON PLEAS
GREENWOOD COUNTY

The Honorable Frank R. Addy, Jr.
Abbeville County
Case No: 2012-212023

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,

Plaintiffs,

v.

Abbeville County School Board,

Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

ORDER
TRUE COPY
ABBEVILLE COUNTY CLERK OF COURT

EMILY MCMAHAN
CLERK OF COURT

2012 MAR 5 AM 9 35

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

THIS MATTER ORIGINALLY CAME BEFORE THE COURT on January 10, 2012 on Defendant's Motion to Dismiss, or, alternatively, Motion for Summary Judgment. Plaintiffs were represented by C. Lance Sheek. Defendant was represented by Laura Hart and David Duff. The Court issued a form 4 order on February 24, 2012; this order shall constitute the final order. The Court finds as follows:

Plaintiffs, Danny Hozey and Terry Richey, filed this action as citizens and residents of Abbeville County against Abbeville County School Board (hereinafter "the Defendant"). Plaintiffs see an order from this Court overturning actions by the Defendant on the grounds that the Defendant allegedly acted "without following proper procedure or policy." Plaintiffs claim that because of these alleged procedural deficiencies, the vote by the Defendant in December 2007 to close Calhoun Falls High School should be declared null and void and rescinded. Plaintiffs also claim that the fees charged by the Abbeville County School District (hereinafter "the District") for students of Calhoun Falls Charter School to attend the Abbeville County Career Center, which is operated by the District, are unlawful, apparently because the decision to charge such fees also was made "in violation of proper policy and procedure." Plaintiffs request

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that this Court issue an order directing the Defendant to "place the Calhoun Falls High School in operation" and prohibiting the enforcement of actions by the Defendant which Plaintiffs allege were unlawful, specifically the charging of fees for the participation of the Charter School students in programs provided by the District.

In response, the Defendant filed a Motion to Dismiss or, Alternatively, for Summary Judgment; it subsequently filed an Amended Motion, in which it added a request for costs and attorney's fees pursuant to the S.C. Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10, and/or Rule 11, SCRPC. The Defendant seeks an order, pursuant to Rule 12(b)(6), dismissing the Complaint on the grounds of lack of standing or failure to state a cause of action. Alternatively, the Defendant requests that the Court grant summary judgment in its favor, pursuant to Rule 56, on the additional grounds of untimeliness under the Freedom of Information Act ("FOIA") statute of limitations, laches, and equitable estoppel.

The Court has carefully considered the testimony, exhibits, and arguments of the parties. For the reasons discussed below, the Court denies the Defendant's Motion to Dismiss, grants the Defendant's Motion for Summary Judgment on the grounds of timeliness and standing, and denies the Defendant's request for costs and attorneys' fees.

FACTUAL BACKGROUND

The Defendant voted to close, and did close, Calhoun Falls High School and now charges fees for students of Calhoun Falls Charter School who enroll in classes at Abbeville County Career Center. Plaintiffs allege that these actions were taken "without following proper procedure or policy," specifically referring to discussing items in executive session that were closed to the public and to failing to provide notice to the public of its meetings. Complaint at ¶ 9. Neither Plaintiff is the parent or custodian of a child enrolled in the Charter School or in the

schools of Abbeville County School District. However, Plaintiff Danny Hozey asserts that, until recently, he had *de facto* custody of children who potentially would have enrolled in Calhoun Falls High School had it not been closed.

In the Affidavits of Dr. Ivan Randolph, Superintendent of Abbeville County School District, which Defendant filed in support of its Motion, the Defendant established that it voted to close Calhoun Falls High School at a public meeting on December 14, 2007. The meeting followed the publishing of an agenda that included this topic. Since the December 14, 2007 public vote to close the school, the District has deeded the land and building formerly used by Calhoun Falls High School to the Town of Calhoun Falls. The Calhoun Falls Charter School opened for operations in August, 2008, in the building formerly used by Calhoun Falls High School. On August 29, 2008, the District and the Charter School entered into a Memorandum of Agreement whereby the Charter School agreed to pay the District certain fees for each Charter School student who enrolled in classes at the Abbeville County Career Center, operated by the District.

The Plaintiffs filed this action on September 21, 2011, and the Defendant accepted service on October 3, 2011, more than three years after the December 17, 2007, vote by the Defendant to close Calhoun Falls High School and more than two years after the Charter School agreed to pay fees for its students to attend the District's Career Center.

STANDARD OF REVIEW

Dismissal of a complaint under Rule 12(b)(6), SCRCP, is appropriate when, after considering all the facts alleged and the inferences reasonably drawn from them, it appears to the court that the plaintiff is not entitled to judgment. A court should dismiss if the complaint, viewed in the light most favorable to the plaintiff, does not state a valid claim for relief under

any theory of law. Rydde v. Morris, 381 S.C. 643, 675 S.E.2d 431 (2009); Doe v. Marion, 373 S.C. 390, 645 S.E.2d 245 (2007); Flateau v. Harrelson, 355 S.C. 197, 584 S.E.2d 413 (S.C. App. 2003).

If matters outside the pleadings are considered by the court, the motion is then treated as one for summary judgment, and the standard becomes that as set out in Rule 56(c). Summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Harris Teeter, Inc. v. Moore & Van Allen, PLLC, 390 S.C. 275, 701 S.E.2d 742 (2010); Gause v. Smithers, 384 S.C. 130, 681 S.E.2d 607 (S.C. App. 2009). "Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the conclusions and inferences to be drawn from the facts are undisputed." McClanahan v. Richland County Council, 350 S.C. 433, 437, 567 S.E.2d 240, 242 (2002). A party opposing a motion for summary judgment may not rest on the mere allegations of his pleadings, but must set forth specific facts showing that there is a genuine issue of material fact to be considered by a jury. Thomas v. Waters, 315 S.C. 534, 445 S.E.2d 659 (S.C. App. 1994). The court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party.

DISCUSSION

I. Plaintiffs' Complaint is sufficient to survive the Defendant's Motion to Dismiss.

Plaintiffs allege that the Board did not provide "proper notice to the community of issues to be heard by the School Board" and that it also failed to follow proper procedures in conducting their meetings and in discussing items in closed or executive sessions. Complaint ¶

9. Although Plaintiffs do not expressly allege that the South Carolina Freedom of Information Act ("FOIA"), found at S.C. Code Ann. §§ 30-4-10, et seq. (2007 and Supp. 2010), is the basis

of their action, it sounds as a claim under FOIA. Therefore, to the extent that Plaintiffs assert a legally cognizable claim, this Court concludes that the redress sought by Plaintiffs is based on the statutory process set out in FOIA. This is not to say that Plaintiffs' claim is otherwise proper. However, the Court is required to deny the Motion to Dismiss.

II. Plaintiffs' action is barred by the one-year statute of limitation in the Freedom of Information Act.

Lawsuits asserting FOIA violations must be filed in circuit court "no later than one year following the date on which the alleged violation occurs or one year after a public vote in public session, whichever comes later." S.C. Code Ann. § 30-4-100 (2007). To the extent that Plaintiffs' Complaint asserts claims under FOIA, the one-year statute of limitations contained within FOIA applies to this action.

The Defendant voted to close Calhoun Falls High School at a public meeting on December 14, 2007, a matter which is substantiated by the affidavit of Dr. Randolph, filed with the Defendant's motion. Dr. Randolph's affidavit also establishes that the Charter School entered into a contract with the District on August 28, 2009, in which it agreed to pay fees for each of its students who enrolled in classes at the Career Center. The Plaintiffs filed this action on September 21, 2011, and the Board accepted service on October 3, 2011, more than three years after the Board voted to close the High School and more than two years after the Charter School agreed to pay fees for its students to attend the Career Center. Plaintiffs' Complaint is, therefore, barred by the one-year limitations period set out in § 30-4-100.

"Statutes of limitation are . . . fundamental to our judicial system." Hooper v. Ebenezer Senior Services and Rehabilitation Center, 377 S.C. 217, 659 S.E.2d 213 (S.C. App. 2008), quoting Carolina Marine Handling, Inc. v. Lasch, 363 S.C. 169, 175-76, 609 S.E.2d 548, 552 (S.C. App. 2005). They give finality to litigation and promote a settled state of public affairs.

Hooper, 377 S.C. at 227, 659 S.E.2d at 218. They are not mere technicalities, but important to the administration of our judicial system. *Id.* In those cases where there is no question that the case was not commenced within the applicable limitations period, dismissal as a matter of law is appropriate. This is such a case.

III. The decision to close of Calhoun Falls High School was made by the Defendant, a legislative body, and this Court has no reason to substitute its judgment for that of the elected members of the Defendant.

The central act in question, namely, the closing of Calhoun Falls High School, is properly a legislative question, and this Court is hesitant to substitute its judgment for that of the school board. South Carolina law on this point is clear: discretionary decisions of legislative bodies should not be disturbed unless they are "arbitrary, unreasonable, in obvious abuse of discretion, or in excess of lawfully delegated power." Sloan v. Greenville County, 356 S.C. 531, 555, 590 S.E.2d 338, 351 (S.C. App. 2003) (quoting Smith v. Georgetown County Council, 292 S.C. 235, 238-39, 355 S.E.2d 864, 866 (Ct. App. 1987) (citing Bob Jones Univ. v. City of Greenville, 243 S.C. 351, 133 S.E.2d 843 (1963))). Courts have been and should remain "loath to substitute their judgment for that of elected representatives." *Id.*

The Defendant, Abbeville County School Board, is a legislative body whose members are publicly elected. The decision by the Defendant to close Calhoun Falls High School was a discretionary decision which should not be disturbed absent evidence that it was arbitrary, unreasonable, an obvious abuse of discretion, or in excess of its lawfully delegated power. Plaintiffs make no allegations and offer no evidence that the Defendant Board's vote to close the school was arbitrary, unreasonable, an obvious abuse of discretion, or in excess of its lawfully delegated power. This Court has been presented with no legally sufficient reason to substitute its



judgment for that of the Abbeville County School Board and, therefore, will not invalidate the vote of the duly elected members of the Board to close Calhoun Falls High School.

IV. Plaintiffs have no standing to challenge the charging of fees for Charter School students to participate in Abbeville County School District programs.

In order to have standing to proceed with a claim, Plaintiffs must have a personal stake in it or, in other words, be real parties in interest to the litigation about it. They must allege and establish that they have "a real, material, or substantial interest in the outcome" of the claim. Hill v. S. Carolina Dept. of Health & Envtl. Control, 389 S.C. 1, 22, 698 S.E.2d 612, 623 (2010); Sloan v. Friends of the Hunley, Inc., 369 S.C. 20, 28, 630 S.E.2d 474, 479 (2006). A nominal or technical interest in the issue is not sufficient. Charleston County Sch. Dist. v. Charleston County Election Comm'n, 336 S.C. 174, 519 S.E.2d 567 (1999). Instead, they must have sustained, or be in immediate danger of sustaining, prejudice from an executive or legislative action. Such imminent prejudice must be of a personal nature to the party laying claim to standing and not merely of general interest common to all members of the public. Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S. Carolina Dept. of Natural Res., 345 S.C. 594, 550 S.E.2d 287 (2001); Baird v. Charleston County, 333 S.C. 519, 511 S.E.2d 69 (1999) (citing Citizens for Lee County, Inc. v. Lee County, 308 S.C. 23, 416 S.E.2d 641 (1992)).

Neither Plaintiff is the parent or natural guardian of a child enrolled in Calhoun Falls Charter School or, for that matter, in a school operated by the District. Affidavit of Ivan Randolph, Ph.D. at ¶¶ 7 and 8. Neither Plaintiff pays any fees to the Defendant or to Abbeville County School District to enable a child to attend classes at the Abbeville County Career Center. Although they may be taxpayers of Abbeville County, they have no personal stake in the charging of fees for Charter School students, and, therefore, lack standing to proceed with that

claim. This claim should be dismissed due to Plaintiffs' failure to establish that they have standing to proceed with this claim.

V. Other grounds for summary judgment or dismissal are not necessary.

The Court finds it unnecessary to address the remaining grounds for dismissal or summary judgment raised by the Defendant.

VI. The Defendant's request for costs and fees is denied.

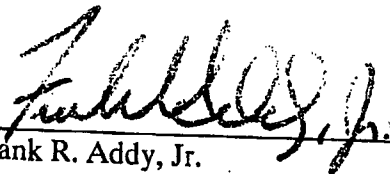
The Defendant requests that the Court award costs and attorney's fees to the Defendant, pursuant to the Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10, and/or Rule 11, SCRCP. The awarding of costs and fees is within the discretion of the Court, and the Court finds such relief is not warranted in this case because one Plaintiff arguably had potential standing at some point in the past. The Court, therefore, denies the Defendant's request for costs and attorneys fees.

ORDER

For the reasons set forth above, Defendant's Motion to Dismiss is denied, Defendant's Motion for Summary Judgment is granted, and Defendant's request for costs and fees is denied.

THEREFORE, IT IS ORDERED that judgment be entered for the Defendant on Plaintiffs' Complaint. Accordingly, this matter is hereby dismissed with prejudice.

IT IS SO ORDERED.


Frank R. Addy, Jr.
Circuit Court Judge

March 2, 2012
Greenwood, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2011-CP-01-242

DANNY HOZEY AND TERRY RICHEY

ABBEVILLE COUNTY SCHOOL BOARD

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for
Defendant

☐ Plaintiff

☐ Self-Represented Litigant

Disposition Type (Check One)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Upon a review of Plaintiff's motion for reconsideration and Defendant's response, the court finds Plaintiffs' motion for reconsideration should be denied.

Order Information

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

Complete if judgment requires payment of a sum of money or affects title to real or personal property		Complete if judgment requires payment of a sum of money or affects title to real or personal property	
JUDGMENT AGAINST PLAINTIFF:		JUDGMENT AGAINST DEFENDANT:	
Judgment Amount	\$ _____	Judgment Amount	\$ _____
Taxable Costs	\$ _____	Taxable Costs	\$ _____
Attorney's Fees	\$ _____	Attorney's Fees	\$ _____
Interest	\$ _____	Interest	\$ _____
Other:	\$ _____	Other:	\$ _____
Total Amount to be Enrolled:	\$ _____	Total Amount to be Enrolled:	\$ _____
If applicable, describe the property, including tax map information and address, referenced in the order.			

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interests or costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

00.009

[Signature]
Circuit Court Judge

2157
Judge Code

4/20/12
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class this
_____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:
C. Lance Sheek, Esq. Laura C. Hart, Esq.

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-CP-01-343

Danny Hozey, and Terry Richey,)
Plaintiff,)

vs.)

Abbeville County School Board,)
Defendant.)

SUMMONS

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2011 SEP 21 PM 1 24
EMILY Y MCMAHAN
CLERK OF COURT

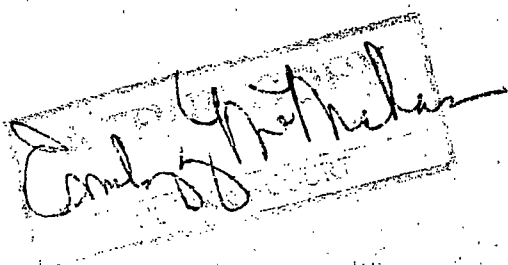
TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is attached hereto and hereby served upon you, and to serve a copy of your Answer on the subscriber, at his office, **314 Main Street Uppper, Greenwood, South Carolina, 29649**, within **THIRTY (30) DAYS** after service hereof, exclusive of the day of such service, and if you fail to so answer, judgment by default may be rendered against you for the relief demanded in the Complaint.

THE SHEEK LAW FIRM



C. Lance Sheek
Attorney for the Plaintiff
P.O. Box 49175
Greenwood, SC 29649
(864) 538-0047
(864) 538-0049 fax
sheeklaw@yahoo.com



STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-CP-01-340

Danny Hozey and, Terry Richey)
Plaintiff,)

vs.

Abbeville County School Board,
Defendant.

COMPLAINT

EMILY Y MCMAHAN
CLERK OF COURT

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STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

COMES NOW the Plaintiffs above named, complaining of the Defendant herein,
and would respectfully allege and show unto this Honorable Court as follows:

PARTIES AND JURISDICTION

1. That the Plaintiffs are citizens and residents of the County of Abbeville, State of South Carolina.
2. That the Defendant is a political subdivision of the County of Abbeville, State of South Carolina.
3. That the Defendant is comprised of duly elected officials that serve to operate the Abbeville County School District.
4. That this Court has jurisdiction over the parties and subject matter of this litigation.

FOR A FIRST CAUSE OF ACTION (Injunction)

5. That the Defendants have undertaken a policy of charging students from the Calhoun Falls Charter School fees to attend the Abbeville County Career Center.
6. That the fees charged to the students from the Calhoun Falls Charter School are excessive and far in excess of any fee charged to any other students.
7. That the fees above mentioned are arbitrary and malicious and serve no legitimate purpose and are prejudicial to students from the Calhoun Falls Charter School.

8. That the Defendants have, while acting in their official capacity, taken actions that resulted in the closing of the Calhoun Falls High School and reassigning students therefrom to other schools.

9. That the Defendants took said action without following proper procedure or policy in, among other particulars:

a. Failing to conduct school board meetings in accordance with proper policy and procedure, and;

b. In discussing items in "closed" or "executive" sessions without proper authority and in violation of proper procedure, and;

c. In failing to give proper notice to the community of issues to be heard by the School Board, and;

d. In other particulars to be made more definite and certain at the hearing in this matter.

10. That the actions of the Defendant described above have resulted in harm to the community and to the Plaintiffs.

11. That the Plaintiffs are informed and believe that this Court should issue an injunction prohibiting the Defendants from taking action in violation of proper policy and procedures and from enforcing any acts passed in violation of said policy and procedure and from charging students from the Calhoun Falls Charter School a fee to attend the Abbeville County Career Center.

**FOR A SECOND CAUSE OF ACTION
(Declaratory Relief)**

12. That the Plaintiffs are informed and believe that the actions of the Defendants as described above should be declared null and void.

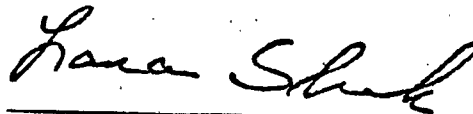
13. That the fees charged students from the Calhoun Falls Charter School be declared unlawful.

14. That the Plaintiffs are informed and believe that the actions of the Defendant in closing the Calhoun Falls High School should be rescinded.

WHEREFORE, having fully complained, the Plaintiffs are informed and believe that they should be granted relief as follows:

- a. That this Court issue its Injunction prohibiting the enforcement of any acts of the Defendants passed in violation of proper policy and procedure, and;
- b. That all acts of the Defendant passed in said violation be declared null and void, and;
- c. That the Defendant be directed to place the Calhoun Falls High School in operation, and;
- d. For such other and further relief as this Court may deem just and proper.

THE SHEEK LAW FIRM



C. Lance Sheek
Attorney for the Plaintiffs
P.O. Box 49175
Greenwood, SC 29649
(864) 538-0047
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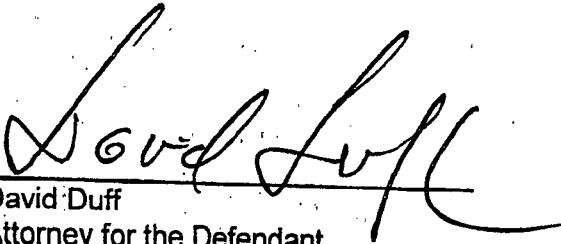
STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-CP-01-242

Danny Hozey and Terry Richey,)
Plaintiff,)
vs.)
Abbeville School Board,)
Defendant.)

ACCEPTANCE OF SERVICE

The undersigned legal counsel for the Defendant above named, hereby accepts service of the Summons and Complaint in this action on behalf of the Defendant.


David Duff
Attorney for the Defendant

Oct. 3, 2011

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,

Plaintiffs,

v.

Abbeville County School Board,

Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

**DEFENDANT'S AMENDED MOTION TO
DISMISS OR, IN THE ALTERNATIVE,
FOR SUMMARY JUDGMENT**

TO: C. LANCE SHEEK, ATTORNEY FOR PLAINTIFFS:

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 12(b)(6) or, in the alternative, Rule 56, SCRCF, Defendant Abbeville County School Board (hereinafter "the Board") will move before the presiding judge for the Eighth Judicial Circuit, on the tenth day after service hereof or as soon thereafter as counsel may be heard, for an Order dismissing the Complaint of the Plaintiffs or, alternatively, should the Court in considering this motion consider matters outside the pleadings, for summary judgment in favor of the Board. This motion is based on the grounds that it appears from the undisputed allegations in the pleadings that the Complaint fails to state facts sufficient to constitute any cause of action, that the Plaintiffs lack standing, that this action is time-barred, whether by laches or by the statute of limitations in the South Carolina Freedom of Information Act at S.C. Code Ann. § 30-4-100 (Supp. 2010) or both, and that to grant Plaintiffs' request to rescind the action of the Board at this late date would be inequitable.

The Complaint is vague but appears to allege a violation by the Board of the South Carolina Freedom of Information Act ("FOIA") with respect to the notice and conduct of a meeting in which the members of the Board voted to close Calhoun Falls High School in 2007. The Complaint also alleges that the Board wrongfully charges fees to students of the Calhoun

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,

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Abbeville County School Board,

Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

**AFFIDAVIT OF
IVAN RANDOLPH, Ph.D.**

SAMUEL IVAN RANDOLPH, JR., Ph.D., being first duly sworn, does depose
and say the following:

1. My name is Samuel Ivan Randolph, Jr. I am and have been employed by
the Abbeville County School District ("the District") as District Superintendent since 2005. As
such, I attend meetings of the Abbeville County School Board of Trustees ("the Board").

2. Following several weeks of public discussion, by the Board and others, of
whether the Board and the District should close Calhoun Falls High School, and following
publication of notice of its meeting to the public as required by the Freedom of Information Act,
the Board met in a public meeting on December 14, 2007, and voted to close Calhoun Falls High
School.

3. Following several weeks of public discussion and the publication of notice
of its meeting to the public as required by the Freedom of Information Act, the Board met in a
public meeting on March 25, 2008, and approved a resolution to transfer the land and building
then being used by Calhoun Falls High School to the Town of Calhoun Falls. In accordance with

this resolution and authority, the District transferred this real estate by deed on June 24, 2008, at a public meeting of the Board.

4. Calhoun Falls High School was closed at the end of the 2007-2008 school year, and students in its attendance area were rezoned to attend other schools operated by the Abbeville County School District.

5. Calhoun Falls Charter School received a charter to operate from the South Carolina Charter School District and began operations in the building and premises formerly occupied by Calhoun Falls High School in August 2008. Calhoun Falls Charter School continues to use the same building and premises for its school operations.

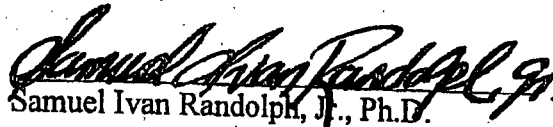
6. The District entered into a Memorandum of Agreement with the Calhoun Falls Charter School on August 29, 2008, whereby the Charter School agreed to pay a stated amount to the District for each Charter School student who participated in career and technology programs at the Abbeville County Career Center, which is operated by the Board and the District. This agreement did not require action by the Board, but the Board was informed of it in a public meeting on September 23, 2008. The fees for participation by Charter School students at Abbeville County Career Center are paid to the District by the Charter School, not by the students at the Charter School or their parents.

7. Danny Hozey is not the parent or guardian of a student enrolled in a school operated either by Abbeville County School District or by Calhoun Falls Charter School.

8. Terry Richey is not the parent or guardian of a student enrolled in a school operated either by Abbeville County School District or by Calhoun Falls Charter School.

FURTHER AFFIANT SAYETH NOT.

Respectfully submitted,


Samuel Ivan Randolph, Jr., Ph.D.

SWORN TO BEFORE ME THIS 19th
DAY OF October, 2011.


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: Feb. 22, 2018

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,

Plaintiffs,

v.

Abbeville County School Board,

Defendant.

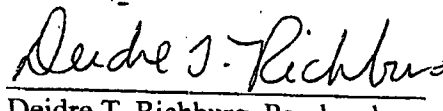
IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

**CERTIFICATE OF SERVICE
VIA U.S. MAIL**

The undersigned of Duff, White & Turner, L.L.C., hereby certifies that she has served the following counsel of record with the foregoing **DEFENDANT'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT** by mailing a of same, postage prepaid and return address clearly indicated, to the following on this 20th day of OCTOBER, 2011:

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STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,

Plaintiffs,

v.

Abbeville County School Board,

Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

**MEMORANDUM OF LAW IN
SUPPORT OF AMENDED MOTION
TO DISMISS OR, ALTERNATIVELY,
FOR SUMMARY JUDGMENT BY
DEFENDANT ABBEVILLE COUNTY
SCHOOL BOARD**

The Defendant, Abbeville County School Board (hereinafter "the Board"), has moved for an order dismissing this action under Rule 12(b)(6) or, alternatively, Rule 56, SCRCP. This motion is based on the grounds that it appears from the undisputed allegations in the pleadings that the Complaint fails to state a cause of action, the Plaintiffs lack standing, and this action is time-barred by the applicable statute of limitations in the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-100 or, alternatively, by laches. Moreover, for the Court to grant Plaintiffs' request to rescind the action of the Board at this late date would be inequitable.

FACTS

The Plaintiffs allege in the Complaint that the Board closed Calhoun Falls High School and now charges fees for students of Calhoun Falls Charter School who enroll in classes at Abbeville County Career Center.¹ Plaintiffs allege that these actions were taken "without following proper procedure or policy," specifically referring to discussing items in executive session that were closed to the public and to failing to provide notice to the public of its meetings. Complaint at ¶ 9. The Plaintiffs do not allege that they are the parents of children

¹ Calhoun Falls Charter School, which was chartered by the South Carolina Charter School District, occupies the building formerly occupied by Calhoun Falls High School. Affidavit of Ivan Randolph, Ph.D. at ¶ 5.

enrolled in schools operated by the Abbeville County School District ("the District") or in the Calhoun Falls Charter School ("the Charter School").²

In its Answer and in affidavits filed in support of the Motion to Dismiss or for Summary Judgment, the Board alleges, and it is undisputed as a matter of public record, that it voted to close Calhoun Falls High School at a public meeting on December 14, 2007. The District deeded the land and building formerly used by Calhoun Falls High School to the Town of Calhoun Falls by deed on June 24, 2008, also an undisputed matter of public record. The Charter School received its charter from the South Carolina Charter School District and opened for operations in August, 2008 in the building formerly used for Calhoun Falls High School, matters that are also undisputed. On August 28, 2009, the District and the Charter School entered into a Memorandum of Agreement whereby the Charter School agreed to pay the District certain fees for each Charter School student who enrolled in classes at the Abbeville County Career Center, which is operated by the District.

The Plaintiff filed this action with the Clerk of Court on September 21, 2011, and the Board accepted service on October 3, 2011, more than three years after the Board voted to close Calhoun Falls High School and more than two years after the Charter School agreed to pay fees for its students to attend the District's Career Center.

The Board now moves for dismissal on the grounds that the Plaintiffs lack standing and the Complaint fails to state facts sufficient to constitute a cause of action. The Board also moves, in the alternative, for summary judgment in its favor on the grounds that this action is barred by the one-year statute of limitations under the South Carolina Freedom of Information Act ("FOIA"), laches, and estoppel.

² In fact, neither Plaintiff is the parent or custodian of a child enrolled in the Charter School or in the schools of Abbeville County School District. Affidavit of Ivan Randolph, Ph.D. at ¶¶ 7 and 8.

STANDARD OF REVIEW

Dismissal of a complaint under Rule 12(b)(6), SCRCP, is appropriate when, after considering all the facts alleged and the inferences reasonably drawn from them, it appears to the court that the plaintiff is not entitled to judgment. The court should dismiss if the complaint, viewed in the light most favorable to the plaintiff, does not state a valid claim for relief under any theory of law. Rydde v. Morris, 381 S.C. 643, 675 S.E.2d 431 (2009); Doe v. Marion, 373 S.C. 390, 645 S.E.2d 245 (2007); Flateau v. Harrelson, 355 S.C. 197, 584 S.E.2d 413 (Ct. App. 2003).

Rule 12(b) also provides that if a court is presented with and considers matters outside the pleadings in ruling on a motion to dismiss, the motion is treated as one for summary judgment under Rule 56. However, presentation of matters outside the pleadings does not automatically convert a motion to dismiss into one for summary judgment.

[A]ffidavits and other evidence outside the pleadings may, in certain circumstances, be considered in support of a motion to dismiss based on lack of jurisdiction. For instance, when the allegations of a complaint are factually sufficient under Rule 8(a)(1), SCRCP, but do not affirmatively show subject matter jurisdiction, [a] motion to dismiss may be supported by, and the court may consider, affidavits or other evidence proving lack of jurisdiction.

Baird v. Charleston County, 333 S.C. 519, 529-30, 511 S.E.2d 69, 73-75 (1999). Under such circumstances, the standard of review remains that of a motion to dismiss.

Otherwise, if matters outside the pleadings are considered by the court and the motion to dismiss is then properly treated as one for summary judgment, the standard becomes as set out in Rule 56(c), SCRCP. Specifically, summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Harris Teeter, Inc. v. Moore & Van Allen, PLLC, 390 S.C. 275, 701 S.E.2d 742 (2010); Gause v. Smithers, 384 S.C. 130, 681 S.E.2d 607 (Ct. App. 2009). "Summary judgment is appropriate

when it is clear there is no genuine issue of material fact and the conclusions and inferences to be drawn from the facts are undisputed.” McClanahan v. Richland County Council, 350 S.C. 433, 437, 567 S.E.2d 240, 242 (2002). A party opposing a motion for summary judgment may not rest on the mere allegations of his pleadings, but must set forth specific facts showing that there is a genuine issue of material fact to be considered by a jury. Thomas v. Waters, 315 S.C. 534, 445 S.E.2d 659 (Ct.App. 1994). As with motions to dismiss, in considering whether to grant summary judgment, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party.

ARGUMENT

I. The Board’s Motion to Dismiss should be granted.

A. The allegations of the Complaint fail to state facts sufficient to constitute a cause of action.

Plaintiffs allege that the Board did not provide “proper notice to the community of issues to be heard by the School Board” and that it also failed to follow proper procedures in conducting their meetings and in discussing items in closed or executive sessions. Complaint ¶ 9. Plaintiffs do **not** allege that the Board acted arbitrarily or in excess of its duly authorized power in deciding to close Calhoun Falls High School, but nevertheless seek an order from this Court requiring the Board to re-open it. While the Complaint clearly conveys the sense that Plaintiffs disagree with the actions of the Board, it simply does not contain facts sufficient to constitute a cause of action and must be dismissed.

1. There is no common law cause of action for failure to follow particular notice and meeting procedures.

The South Carolina Freedom of Information Act (“FOIA”), found at S.C. Code Ann. §§ 30-4-10, et seq. (2007 and Supp. 2010), requires public entities to comply with

particular notice and disclosure requirements in conducting meetings and taking certain actions. However, Plaintiffs do not allege the FOIA as the basis for their action, perhaps because they are seeking to avoid the application of FOIA's one-year statute of limitations at S.C. Code Ann. § 30-40-100. There is no similar common law requirement that a public entity abide by any particular notice or disclosure requirements in conducting meetings or taking duly authorized actions. The exclusive remedy for failure by a public entity to comply with particular notice and meeting procedures is the statutory scheme set out in the FOIA. If Plaintiffs intended to allege a common law cause of action in their Complaint, it must fail for failure to state a cause of action upon which relief may be had.

Defendant has been unable to locate any South Carolina decision recognizing a common law right in citizens to have meetings or decisions of public bodies conducted or decided in a particular manner, such as with sufficient prior notice of the meeting or decision-making occurring in public. It was not until the original version of FOIA was enacted in 1976 that certain rights, and a statutory remedy for violation of those rights, was created regarding the holding of meetings of public bodies and the manner in which they make decisions. Indeed, the preamble to the FOIA states that it was enacted "so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings." S.C. Code Ann. 30-4-15 (2007) (emphasis added). Nor does South Carolina common law recognize a remedy for violation of such purported rights. As our State Supreme Court has long recognized, "[w]here a statute creates a new right and prescribes the remedy of enforcing it, the statutory remedy is exclusive." Daniel v. Conestee Mills, 183 S.C. 337, 191 S.E. 76, 79 (1937), citing Kennedy v. Reames, 15 S.C. 548 (1881); Bethea v. Allen, 101 S.C. 350, 85 S.E. 903 (1915).

It is apparent that Plaintiffs, in challenging the meetings and manner in which the Board determined to close Calhoun Falls High School, avoided citation to or reliance upon the FOIA because of the one-year limitation on any actions seeking to challenge the way in which meetings or decision-making of public bodies are conducted. See S.C. Code Ann. §30-40-100 (one-year statute of limitations). Plaintiffs, however, cannot circumvent the exclusive statutory remedy and its limitations by failing to mention it and instead assert a common law right and remedy which does not exist. This case is not unlike the circumstances of Flateau v. Harrelson, 355 S.C. 197, 584 S.E.2d 413 (Ct. App. 2003), cert. denied (2004), where plaintiff employees of the S.C. Commission for the Blind attempted to sue individual members of the Commission's Board in tort without relying upon the S.C. Tort Claims Act in order to avoid the Act's two-year statute of limitations. The Court of Appeals, after concluding that the Tort Claims Act, as the exclusive statutory remedy, governed plaintiffs' claims despite the fact that they were brought against state officials rather than the State agency, held that the action was time-barred under the two-year limitations period. Just as the Tort Claims Act was the exclusive remedy for plaintiffs in that case, the FOIA is the exclusive remedy for Plaintiffs in their claims against the Board. They cannot, and do not, state a cause of action in their Complaint based on a non-existent common law duty or remedy.

2. **The remedy for any violation of the Freedom of Information Act in this case is disclosure, which has clearly been accomplished, and not invalidation of the Board's vote.**

If Plaintiffs' claims that the Board failed to follow notice, meeting, and disclosure procedures are based not on common law but instead on the requirements in FOIA, they also must be dismissed for failure to state a cause of action upon which the relief sought may be had. The purpose of FOIA is "to allow citizens to be advised of the performance of public officials

and of the decisions that are reached in public activity and in the formulation of public policy. Cricket Cove Ventures, LLC v. Gilland, 390 S.C. 312, 328, 701 S.E.2d 39, 48 (2010). Typically, the remedy for FOIA violations is disclosure. Antley v. Shepherd, 340 S.C. 541, 532 S.E.2d 294 (Ct.App. 2000), aff'd as modified, 349 S.C. 600, 564 S.E.2d 116 (2002); S.C. Code Ann. 30-4-100 (remedy for FOIA violation is "injunctive relief to enforce the provisions of this chapter" requiring disclosure). In this case, the fact that the Board voted to close Calhoun Falls High School, as well as the reasons for its action, are clearly no secret. Likewise, the decision to charge fees to the Charter School for its students to attend the District's Career Center is public knowledge. Repeated disclosure would accomplish nothing.

Plaintiffs, however, seek an order invalidating the decision of the Board, made several years ago, to close Calhoun Falls High School. While FOIA allows a court to order any equitable remedy it deems appropriate given the facts of each case, such a remedy would clearly not be appropriate in this case. Plaintiffs do not allege that the Board's decision was unauthorized or improper in any way. No court has ever invalidated a public entity's decisions or actions solely on the basis of a FOIA defect, in the absence of other improprieties. See Op. Atty Gen., July 18, 2001 (available at 2001 WL 957743 (S.C.A.G.)) (stating that invalidating an entity's vote solely because of a violation of the FOIA would probably not succeed).

Moreover, South Carolina law is clear on this point: Discretionary decisions of legislative bodies, such as the decisions by the Board to close Calhoun Falls High School, should not be disturbed unless they are "arbitrary, unreasonable, in obvious abuse of discretion, or in excess of lawfully delegated power." Sloan v. Greenville County, 356 S.C. 531, 555, 590 S.E.2d 338, 351 (Ct. App. 2003) (quoting Smith v. Georgetown County Council, 292 S.C. 235, 238-39, 355 S.E.2d 864, 866 (Ct. App. 1987) (citing Bob Jones Univ. v. City of Greenville, 243 S.C. 351,

133 S.E.2d 843 (1963)). Courts have been and should remain "loath to substitute their judgment for that of elected representatives." Id. Plaintiffs make no allegations in their Complaint that the Board's vote to close the school was arbitrary, unreasonable, an obvious abuse of discretion, or in excess of its lawfully delegated power, thus failing to state facts sufficient to constitute a cause of action.

Plaintiffs do not agree with the decisions of the Board and apparently seek, through this lawsuit, to have them invalidated on technical FOIA grounds. Any FOIA violations, which are denied by the Board but assumed for the purposes of the Board's Motion to Dismiss, were not connected to the votes taken by the Board and cannot alone serve as a basis for invalidation of such votes. In addition, the Plaintiffs do not allege that the Board otherwise acted improperly or without authority in voting to close Calhoun Falls High School. Their Complaint, therefore, does not state facts sufficient to constitute a cause of action and should be dismissed.

B. Plaintiffs have no personal stake in whether the Board charges fees for Charter School students and, therefore, lack standing to assert that claim.

In order to have standing to proceed with this claim, Plaintiffs must have a personal stake in it or, in other words, be real parties in interest to the litigation about it. They must allege and establish that they have "a real, material, or substantial interest in the outcome" of the claim. Hill v. S. Carolina Dept. of Health & Envtl. Control, 389 S.C. 1, 22, 698 S.E.2d 612, 623 (2010); Sloan v. Friends of the Hunley, Inc., 369 S.C. 20, 28, 630 S.E.2d 474, 479 (2006). A nominal or technical interest in the issue is not sufficient. Charleston County Sch. Dist. v. Charleston County Election Comm'n, 336 S.C. 174, 519 S.E.2d 567 (1999). Instead, they must have sustained, or be in immediate danger of sustaining, prejudice from an executive or legislative action. Such imminent prejudice must be of a personal nature to the party laying claim to standing and not merely of general interest common to all members of the public. See

Pines Ass'n for Prot. of Wildlife, Inc. v. S. Carolina Dept. of Natural Res., 345 S.C. 594, 550 S.E.2d 287 (2001); Baird v. Charleston County, 333 S.C. 519, 511 S.E.2d 69 (1999) (citing Citizens for Lee County, Inc. v. Lee County, 308 S.C. 23, 416 S.E.2d 641 (1992)).

Plaintiffs fail to set forth facts in their Complaint establishing standing to complain about the charging of fees for particular students. In fact, neither Plaintiff is the parent or natural guardian of a child enrolled in Calhoun Falls Charter School or, for that matter, in a school operated by the District. Affidavit of Ivan Randolph, Ph.D. at ¶¶ 7 and 8.³ Although they may be taxpayers of Abbeville County, they have no personal stake in the charging of fees for Charter School students, and, therefore, lack standing to proceed with that claim. This claim should be dismissed due to Plaintiffs' failure to allege or establish that they have standing to proceed with this claim.

II. The Board's Motion for Summary Judgment should be granted.

A. This action is barred by the one-year statute of limitation in the Freedom of Information Act.

Plaintiffs' claims, while not expressly based on the FOIA requirements that public entities provide notice and disclosure of its actions, must be FOIA claims because there is no common law or other basis for such claims. See discussion supra at pages 4-6. Lawsuits asserting FOIA violations must be filed in circuit court "no later than one year following the date on which the alleged violation occurs or one year after a public vote in public session, whichever comes later." S.C. Code Ann. 30-4-100 (2007). Plaintiffs filed their Complaint on September 21, 2011, well beyond one year after the alleged violations of FOIA by the Board. This action is, therefore, barred by the statute of limitation contained within the FOIA.

³ Plaintiffs' Complaint fails to affirmatively allege that they have standing; the affidavit merely confirms their lack of standing. Under these circumstances, consideration of this affidavit, filed by the Board with its Motion to Dismiss, in connection with the threshold matter of standing does not convert the court's decision on this matter into one for summary judgment. See discussion supra at p. 3.

The Board voted to close Calhoun Falls High School at a public meeting on December 14, 2007, a matter which is not only undisputed as a matter of public record but also substantiated by the affidavit of Dr. Randolph, filed with the Board's motion. Dr. Randolph's affidavit also establishes that the Charter School entered into a contract with the District on August 28, 2009 in which it agreed to pay fees for each of its students who enrolled in classes at the Abbeville County Career Center, operated by the District. The Plaintiff filed this action with the Clerk of Court on September 21, 2011, and the Board accepted service on October 3, 2011, more than three years after the Board voted to close Calhoun Falls High School and more than two years after the Charter School agreed to pay fees for its students to attend the District's Career Center. Plaintiffs' Complaint is clearly barred by the one-year limitations period set out in S.C. Code Ann. § 30-4-100.

"Statutes of limitation are . . . fundamental to our judicial system." Hooper v. Ebenezer Senior Services and Rehabilitation Center, 377 S.C. 217, 659 S.E.2d 213 (Ct. App. 2008), quoting Carolina Marine Handling, Inc. v. Lasch, 363 S.C. 169, 175-76, 609 S.E.2d 548, 552 (Ct. App. 2005). They give finality to litigation and promote a settled state of public affairs. Hooper, 377 S.C. at 227, 659 S.E.2d at 218. They are not mere technicalities, but important to the administration of our judicial system. *Id.* In those cases where there is no question that the case was not commenced within the applicable limitations period, dismissal as a matter of law is appropriate. This is such a case.

B. This action is barred by the operation of the doctrine of laches.

The doctrine of laches bars this action because although Plaintiffs were aware of the Board's decisions and actions, they delayed an unreasonable time before asserting their alleged rights in this lawsuit. If the court now invalidates the Board's actions as the Plaintiffs

wish, the Board and the District would be prejudiced and damaged. The doctrine of laches does not permit such a result.

The doctrine of laches is well-established in South Carolina law. “[I]f a party, knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights.” Chambers of S. Carolina, Inc. v. County Council for Lee County, 315 S.C. 418, 421, 434 S.E.2d 279, 280 (1993), citing Rabon v. Mali, 289 S.C. 37, 344 S.E.2d 608 (1986) and Mack v. Edens, 306 S.C. 433, 412 S.E.2d 431 (Ct. App. 1991). “Laches is the neglect for an unreasonable and unexplained amount of time, under circumstances permitting diligence, to do what in law should have been done.” Mid-State Trust, II v. Wright, 474 S.E. 2d 421, 323 S.C. 303, 307 (1996). The court is vested with wide discretion in determining what is an unreasonable delay. Ham v. Flowers, 214 S.C. 212, 51 S.E.2d 753 (1949).

In this case, Plaintiffs waited an undue length of time – almost four years after the Board voted to close Calhoun Falls High School – before filing their lawsuit. In the meantime, the Board acted and changed its position; specifically, the Board closed Calhoun Falls High School, transferred the school’s students to other schools, and conveyed the Calhoun Falls High School building and real property to the Town of Calhoun Falls which proceeded to open another school (the Charter School) in the same space. Affidavit of Ivan Randolph, Ph.D. at ¶¶ 3, 4, and 5. The District subsequently entered into a contract with the Charter School in which the Charter School agreed to pay fees for the attendance of its students at the District’s Career Center. Plaintiffs disagreed with the Board’s actions, but slept on their rights to object to them. Clearly, Plaintiff’s delay “worked injury, prejudice, or disadvantage,” Privette v. Garrison, 235 S.C. 119,

110 S.E.2d 17 (1959), to the Board which proceeded to manage its schools as it believed appropriate. The doctrine of laches should be applied to bar their lawsuit.

C. This action is barred by the operation of the doctrine of equitable estoppel.

Plaintiffs' conduct in resting for years on their claimed right to sue the Board on the FOIA allegations falsely conveyed the impression that they had chosen not to seek invalidation of the Board's actions in court. The Board relied on that false impression and proceeded to close Calhoun Falls High School, transfer its building and real estate, and re-zone its students to other schools. Plaintiffs are, therefore, barred by the doctrine of equitable estoppel from seeking an order requiring the Board now to re-open Calhoun Falls High School.

The elements of equitable estoppel include conduct by the party being estopped which amounts to a false representation or which is calculated to convey a false impression; the intention that such conduct be acted upon by the other party; and knowledge, actual or constructive, of the real facts. The party asserting estoppel must show lack of knowledge, and the means of knowledge, of the true facts; reliance on the conduct of the party being estopped; and a prejudicial change in position in reliance on the conduct of the other party. Strickland v. Strickland, 375 S.C. 76, 650 S.E.2d 465 (2007); Boyd v. Bellsouth Tel. Tel. Co., Inc., 369 S.C. 410, 633 S.E.2d 136 (2006). "[O]ne who delays unreasonably could be said to be estopped from asserting a claim if another has relied on that delay to his detriment." Strickland, 650 S.E.2d at 471, citing 7 S.C. Jur. Estoppel and Waiver § 28.

Plaintiffs seek equitable relief, in the form of an order by this Court invalidating the Board's vote to close Calhoun Falls High School and ordering that the school be re-opened. Yet Plaintiffs have acted inequitably in delaying such action for years, during which time the Board, in reliance on the validity of its vote in 2007, changed its position by closing the school,

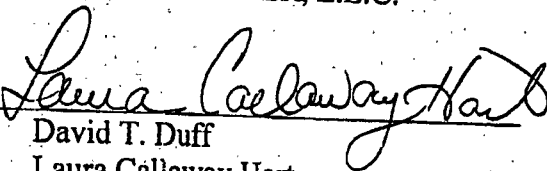
transferring its students to other schools, and deeding the building and land to a third party. To order an un-doing of those actions would obviously be unjustifiably prejudicial to the Board. Plaintiffs are clearly equitably estopped from the remedy they seek.

CONCLUSION

Plaintiffs have no legal or equitable grounds for their case. The Board, therefore, respectfully requests that this Court grant this motion and dismiss the case with prejudice, or alternatively, to grant summary judgment to the Board for the reasons stated above. The Board also respectfully seeks an award of costs and a reasonable attorney's fee according to law, including but not limited to the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10, and/or Rule 11, SCRPC.

Respectfully submitted,

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January 9, 2012
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STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-DR-01-242

Danny Hozey and Terry Richey,)
Plaintiffs,)

vs.)

Abbeville County School Board,)
Defendant.)

MEMORANDUM IN OPPOSITION
TO DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

FACTS

The Plaintiffs in this action are citizens and residents of the County of Abbeville and reside in the portion of Abbeville County that was formerly served by the Calhoun Falls High School. In 2007, the Abbeville County School Board voted to close the Calhoun Falls High School. The people of Calhoun Falls worked to open a charter school in the old Calhoun Falls High School location in order to continue to offer education for the children in their area. The property upon which the Calhoun Falls High School was formerly located was transferred to the Town of Calhoun Falls by Special Warranty Deed.¹ The conditions of this Special Warranty Deed specifically provided a Reverter Clause that directs that the Trustees of Abbeville County School District 60 will regain ownership of the property if the Town of Calhoun Falls ceased to use the property for educational purposes and that if the Trustees choose to exercise their right to reclaim this property they may do so without compensation. While the Defendants argues and

¹ It is interesting to note that the Defendant argued in support of their Motion to Dismiss that the Plaintiffs had failed to meet the applicable statute of limitations and that the Deed upon which they also argued that the Court could not provide relief was actually executed on February 23, 2011, less than one year prior to the filing of the Plaintiffs' Complaint.

asserted to the Court that "the Deed was signed" and that it couldn't be reversed, a review of the Deed shows otherwise.

The Plaintiffs brought the present action in September of 2011 alleging that the Defendant had acted outside the required parameters of law and was further charging fees to students from the Calhoun Falls Charter School to attend the Abbeville County Career Center that it was not charging other students. The Defendants assert that the Plaintiffs failed to file this action within the applicable statute of limitations, estoppel and laches. The Defendant's arguments, while several, basically boil down to a question of the timing of the lawsuit. Additionally, the Defendant assert that the Plaintiffs have brought a cause of action upon which no relief may be granted and that they lack standing.

ARGUMENTS

(Statute of Limitations)

It is conceded that an action predicated solely upon a violation of the FOIA requires that the action be brought within one year of the act upon which the claim rests or within one year of when the parties bringing the action knew, or reasonable should have known, of the acts upon which the action rests.² While the Defendant would argue that any action must be brought within one year of the FOIA violation, the "discovery rule" states that the statute is tolled until the Plaintiffs knew, or reasonable should have known, that the wrong had occurred. See Logan v. Cherokee Landscaping and Grading Co., 389 S.C. 611, 696 S.E.2d 879 (S.C.App.2010) citing Bayle v. S.C. Dept. of Transp., 344 S.C. 115, 542 S.E.2d 736 (Ct.App. 2001). In the present case, the actions of the

² The Plaintiffs have filed a Motion to Amend Complaint seeking to add a cause of action for violation of the FOIA and to add Tracy Lindler, a current Abbeville County School Board Member, as a Plaintiff due to information provided that clearly indicates that the School Board continues to act in violation of the FOIA. If granted, this motion makes moot the Defendant's arguments concerning the statute of limitations.

Defendant complained of are, by their very nature, secretive, hidden and intentionally kept from public scrutiny. As shown by the attached affidavit of the Plaintiffs, as well as the numerous correspondences attached thereto, from the Plaintiffs to the Defendant requesting information, the Defendant effectively hid the relevant information from the Plaintiffs until the time this action was brought. The Plaintiffs continued to communicate with the Defendant in the March, 2011 seeking information. The Plaintiff's allege that the Defendant utilized its right to "executive session" to conduct business outside of public scrutiny in violation of FOIA. However, by the very nature of the actions of the Defendant, this was not known to the Plaintiff at the time the acts occurred. Despite the claims of the Defendant, the Plaintiffs assert that they had no firm knowledge, and were thwarted by the Defendant in their attempts to gain such knowledge, until March, 2011 at the earliest. To allow the Defendant to intentionally hide information from the public and then hide behind the statute of limitations would effectively reward the Defendant for its violations of FOIA, the very thing the act was formed to prevent. At the very least, there exists a real argument over when the Plaintiffs knew, or should have known, that the wrong occurred. If there is an argument concerning the Plaintiffs' knew they had a cause of action, the question is one for the jury. Moriarty v. Garden Sanctuary Church of God, 341 S.C. 320, 543 S.E.2d 672 (2000)

(STANDING)

As noted previously, if the Plaintiffs' Motion to Amend Complaint is granted, the issue of standing becomes moot as any citizen of the State has standing to contest a violation of FOIA by a public body. See Cricket Grove Ventures, LLC v. Gilland, 390

S.C. 312, 701 S.E.2d 39 (S.C.App. 2010). However, even if the Plaintiffs proceed outside of the FOIA, they still have standing to contest the actions of the Defendant due to the facts that they are citizens and residents of the district formerly served by the Calhoun Falls High School. As such, they are directly and substantially effected by the actions of the Defendant in this matter. In Lujan v. Defenders of Wildlife, 504 U.S. 555, 112 S.Ct. 2130, (1992) the Supreme Court enunciated a three-part standing test:

First, the plaintiff must have suffered an "injury in fact" —an invasion of a legally protected interest which is (a) concrete and particularized, and (b) "actual and imminent, not 'conjectural' or 'hypothetical'." Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be "fairly...trace[able] to the challenged action of the defendant, and not...th[e] result [of] the independent action of some third party not before the court." Third, it must be "likely", as opposed to merely "speculative" that the injury will be "redressed by a favorable decision".

The Plaintiffs clearly meet this test. As homeowners in the district formerly served by the Calhoun Falls High School they clearly suffer an injury due to the fact that their community no longer offers public education as they formerly did. In fact, should a prospective buyer research education opportunities of the community, they will learn that they will be forced to pay special fees should their child choose to attend the charter school as well as the Abbeville County Career Center. It is well recognized that educational services are an important factor in determining home values. It should be further noted that the Plaintiff Danny Hozey, until recently, had custody of children that would, upon reaching age, attend Calhoun Falls High School had it not been closed. The second and third prongs of the test enumerated above are clearly met by the Plaintiffs as the threat is imminent and likely to be redressed by a favorable decision.

(Lack of Relief Available)

The Defendants argued that this Court lacked the ability to grant any relief should the Plaintiffs be successfully in their action. In support, the Defendants stated on numerous occasions that the property upon which the former Calhoun Falls High School stood had been deeded to the Town of Calhoun Falls and clearly intimated that such conveyance was irreversible. In fact, the Deed attached to this Memorandum shows that the Trustees of Abbeville County School District 60 retain an ownership interest in the property pursuant to their Reverter Clause. Should this Court rule in favor of the Plaintiffs the Calhoun Falls Charter School would effectively cease to exist and the property and facilities of the former Calhoun Falls High School would revert to the ownership of the Trustees of the Abbeville County School District 60.

(Discovery)

The Plaintiffs filed this action in September 2011 and served it October 3, 2011. The Defendant filed this Motion to Dismiss in November of 2011, well before the Plaintiff had a chance to conduct discovery. In Logan the Court spoke of the Plaintiff's opportunity to conduct discovery. While the ultimate decision in Logan was predicated upon other grounds, the dicta of the opinion clearly indicates that the parties should be afforded the opportunity to conduct reasonable discovery. The Plaintiffs in this action would request that they be granted an opportunity to conduct discovery prior to any decision on a Motion to Dismiss.

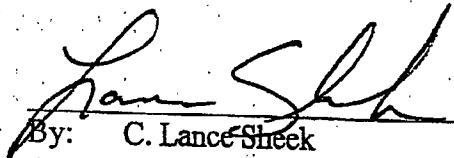
CONCLUSION

Plaintiffs assert that they should be granted the right to amend their Complaint to add an additional Plaintiff and to add a cause of action for violation of FOIA. If granted,

the Defendant's issues in this matter become moot. However, even if their motion is not granted, any Motion to Dismiss or Motion for Summary Judgment is premature as the Plaintiffs should be granted the right to conduct discovery.

Respectfully Submitted,

GEOLY, SHEEK, & MERRITT, LLC



By: C. Lance Sheek
Attorney for the Plaintiffs
1225 S. Main Street
Greenwood, SC 29646
(864) 223-3352
(864) 223-3400 fax

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-DR-01-242

Danny Hozey and Terry Richey,)
Plaintiffs,)

AFFIDAVIT OF TERRY RICHEY AND
DANNY HOZEY

vs.)

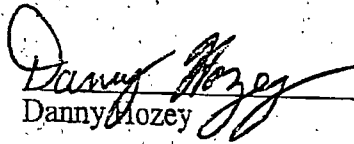
Abbeville County School Board,)
Defendant.)

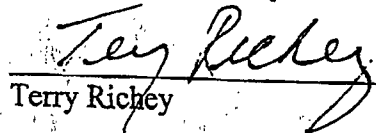
PERSONALLY APPEARED before me the undersigned, who being first duly sworn depose and state as follows:

Our names are Terry Richey and Danny Hozey and we are the Plaintiffs in this action. We are both citizens and residents of the Town of Calhoun Falls and live in the district formerly served by Calhoun Falls High School.

The Abbeville County School Board voted to close Calhoun Falls High School in 2007. While the decision was controversial, and we heard many rumors and hearsay statements, we were not aware of the manner in which this decision was reached at that time. In fact, we attempted numerous times to gather information regarding the school board's activities and information from their meetings. We have attached to our Affidavit copies of numerous correspondences to the Superintendant from Abbeville County School District 60 where we requested this information. As you can see, the board would never provide the information requested. We continued our requests until March of 2011 and then proceeded through our attorney in June of 2011. It was in 2011 that we learned of the actions of the school board in violation of FOIA. I believe that we have acted as expeditiously as possible and that we have brought this action within the

statute of limitations. You will see from the attached correspondences that the letter of Rachel Rooney, which was instrumental in this action, was only provided to us in 2011. Until that time it had never been made public to our knowledge. We ask the Court to allow us to proceed with our action, to allow us to amend our Complaint, and to conduct pre-trial discovery.


Danny Mozey


Terry Richey

Sworn and subscribed before me
This 12 day of February, 2011


Notary Public for South Carolina
My commission expires 1-24-16



Abbeville County School District
A Model of Excellence in Education
Ivan Randolph, Ph.D.
Superintendent

March 7, 2011

Mr. Danny H. Hozey
413 Tate St.
Calhoun Falls, S.C. 29628

Dear Mr. Hozey:

As I noted in my email to you of March 3, 2011, on March 2, 2011, Mr. Tracy Lindler sent me a copy of your email of February 25, 2011. I have since also been provided with two undated letters from you provided to Dr. Bill Crenshaw, one entitled PLEASE READ A LOUD, and one beginning with the designation Dear Sir which requests salary information. I then received an email from you on March 3, 2011 referencing a letter from Ms. Rachel Rooney and requesting information about student transfers.

With regard to the "Please Read Aloud" letter, this letter appears to be a request for an opportunity to present concerns to the Board of Trustees. Under Board Policy BEDH.- Public Participation at Meetings, anyone wishing to present information to the Board should meet with me to discuss the issue and the relief being sought from the Board. If the matter is not resolved and the individual does wish to be heard by the Board, the Superintendent will place the matter on the agenda of the next Board meeting, provided the next Board meeting is at least five days away. I have attached a copy of Policy BEDH. Please contact my office if you wish to set up a meeting with me. For your information, the next meeting of the Board is scheduled for March 22, 2011.

With regard to the letter requesting a list of jobs and salaries for all District staff working at or out of the District Office, I am happy to make that information available to you, within the parameters set forth in the Freedom of Information Act. Under FOIA, the salaries of those making over \$50,000 are to be disclosed. However, the salaries of those making less than \$50,000 are to be disclosed only in increments, as follows: \$4,000 increments for those making between \$30,000 and \$50,000; \$2,000 for certified employees making less than \$30,000, and for classified individuals making less than \$30,000, only the salary schedule is to be disclosed. If you wish to have this information compiled for you, there will be a reasonable fee charge for the staff time taken to compile the information. If you prefer, you may simply obtain a copy of the salary schedules for classified and certified staff, or any combination of these options. Please let me know how you wish to proceed and I will notify you of the approximate cost involved.

Administrative Offices

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Phone (864) 366-5427 Fax (864) 366-8531

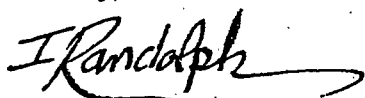
CC 042

With regard to your March 3 email, a copy of the letter from Ms. Rooney is attached. The other information you requested would have to be compiled by staff, and a reasonable fee would be charged. I approximate the time it would take to compile the information as 4 hours at \$50.54 per hour, for a total of \$202.16. If you wish to submit a deposit of \$101.08, I will then have the staff begin the compilation process.

With regard to the email of February 25 provided to me by Mr. Lindler, you have asked for a list of teachers for the 2007-08, 08-09, and 2010-11 school years. Please clarify if you are requesting names or simply the numbers of teachers, and this information will be provided. Depending upon the compilation requirements needed for the option you request, there also may be a reasonable fee charged. You also asked for copies of District budgets from the same years as mentioned with regard to the lists of teachers. The copies can be made available to you for copying costs of \$ 0.10 per page plus labor cost, for a total of approximately \$28.00. If you wish to submit a deposit of \$14.00, I will have the copies made and notify you when they are ready to be picked up or mailed to you, if you prefer.

I will await your further direction in these matters. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "I Randolph". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Ivan Randolph, Ph.D.

Enclosures: Policy BEDH
Rooney letter

C: Board members

*The LETTER FROM MS. ROONEY
THAT MR RHODES HANDED OUT
IN EXECUTIVE SESSION ON OCT. 28, 2008*

Rachel Rooney
115 S Main Street
Abbeville SC 29620

Abbeville School Board:

My name is Rachel Rooney, and for those of you who may not know me, I am the local Abbeville County State Farm Insurance Agent. I wanted to contact the board to discuss some disturbing events that I recently experienced, as well as to share some information that has been brought to my attention by community residents. Shortly after moving to Abbeville to open my Agency, I was approached by the local Superintendent, Dr. Ivan Randolph, about participating on a subcommittee for the school district office. This position, as it was first explained to me, consisted of my attending a few community meetings (to listen to some school information), and then for me to be available to answer questions for an Accreditation board that would be coming later in the year. Being a newcomer to Abbeville County, as well as a local business owner, I readily agreed, as I was eager to get involved in my new community. On top of wanting to be involved in my new community, I was more than willing to do my civic duty and be a part of any committee that could help keep our school accreditation and improve our children's' education, as I am a huge advocate and supporter of education.

The first meeting I participated in was exactly what I expected based on the explanation I had been given by Dr. Randolph of the subcommittee involvements. The meeting consisted of a roomful of community leaders and school employees, and Dr. Randolph showed us a Power Point presentation listing the statistics on the Abbeville School district, county statistics, etc.....The next meeting was more focused on information on the county schools itself (especially targeting the high schools): enrollment numbers,

graduation numbers, drop out statistics, college enrollment statistics from each school, etc...all information showed that Calhoun Falls was lagging behind in these numbers from the other schools in the area. Dr. Randolph also made the comment that he wanted to invite all of us to come tour the schools and talk to teachers/ principals, so that we could easily answer the board's questions.

After the meeting Dr. Randolph came up to me personally and told me he really wanted for me to pick a day to come ride with him, so that I could tour a few of the schools. He felt this would enable me to better answer the board's questions. I assumed he was asking me specifically since he knew I was new to the area, and would not be familiar with the local schools. I also assumed he was making sure other subcommittee members were signed up to go on tours too. During my tour of the schools he pointed out all of the differences between all of the schools compared to Calhoun Falls. I was also told that the School district and the community really wanted to combine Calhoun Falls High to Abbeville High to help the enrollment numbers, education for the students, drop out rates, college enrollment statistics. Dr. Randolph explained that no other county our size had three high schools and that this county could not continue to support three.

I was told that this consolidation is what the teachers and Principal wanted as well, but that the school board needed committee members to recommend this combining of the schools to the Accreditation board, so that the Accreditation board would make the recommendation to the school board to look into consolidating the schools. I was told that the School Board was already in favor of this recommendation—that this recommendation from the Accreditation board would just enable them to make the needed change.

I was again told that this consolidation is what the towns wanted, so that our children could have a better education, and the schools would have more money for: more teachers, more courses, more college prep advanced classes, and more technology to help foster

last meeting was the end of my involvement with the District office and the subcommittee.

Months later I was approached by a large number of my Calhoun Falls clients demanding to know why I had shut down their school. I was stunned to hear the information they provided me — they said my recommendation to the Accreditation Board was used by Dr. Randolph to the School Board to vote to shut down Calhoun Falls High school against the majority of Calhoun Falls citizens' vote. These clients showed me numbers that directly conflicted with the information I was shown in the District Power Point presentations, and handouts given by the District office on enrollment numbers, college applicants, SAT scores, courses offered, government funding, etc...

If at the beginning I had been told the truth that this decision was as controversial as it so obviously is — I would have never agreed to be part of this subcommittee. As a local business owner that represents all of Abbeville County I would have never agreed to be part of a controversial community decision. I was told that this is what the majority wanted, all information I was given and shown by the District supported that information, and I was told that my recommendation was not any final decision or held no weight — that it was just a formality so the Accreditation Board and School Board could do their jobs and look into the information and then make the decision that would best benefit the education for Abbeville county children! As a representative for the entire county I have to stay out of controversial issues, and I feel like I was singled out, because I was new to the community.

Why I want to address the board is to clear the air: if my decision influenced either of the boards I want it known that my decision was on the information I was provided by the District office, and now I have respected community leaders and residents coming to me showing me conflicting numbers and information and telling me the side of the committee they experienced, and that they were told something completely opposite than me, while going through the same subcommittee. As a business leader that represents all

of Abbeville County, I feel it is my community duty to represent and support all of my county - I do not have access to the numbers or information to see what is correct or not—only the District and board can do that, so my plea is that the board will reexamine the information, numbers, etc. that was provided by the District office to see who is telling the truth and what is accurate for the sake of our Children's education. I would also urge the board to hear the other subcommittee member's experience, since it was completely opposite from my experience, so that the board can try and figure out where the communication breakdown occurred. All members of a subcommittee or any committee, board, etc, concerning our county's education should receive accurate information, and the same information from the District office, so that all members can help support and make informed decisions on our Children's education and future! I do not have the inside information to know which side is correct or not, so I want to again make a plea to the board to thoroughly research this issue and hear both sides, so that the board and community can find out where the truth lies for the sake of our children's and community's futures! Thank you very much for your time and consideration. I would love to be able to come and speak with you all about these events, so that the air can be cleared and the truth can be found -since I am now finding myself, my name, and my business stuck in the middle of this controversial issue.

Sincerely,

Rachel N. Rooney

Rachel Rooney, Agent
Rachel Rooney State Farm Insurance Agency
115 S Main Street Abbeville SC 29620
864-366-5023 ofc
864-389-0880 cell
864-366-8525 fax
rachel@rachelrooney.net



Abbeville County School District

A Model of Excellence in Education

Ivan Randolph, Ph.D.

Superintendent

March 18, 2011

Mr. Danny H. Hozey
413 Tate St.
Calhoun Falls, S.C. 29628

Dear Mr. Hozey:

In response to your Freedom of Information Request sent to me by e-mail at 11:52 P.M. on March 13, 2011, you are requesting the following information:

1. the names of teachers and staff (including principals, assistant principals, and guidance counselors) who were employed by the district in 2007-2008 and 2008-2009 broken down by school;
2. the total number of contracts issued to the above during the same years;
3. the total number of contracts (including principals, assistant principals, and guidance counselors) issued for the 2009-2010 and 2010-2011 school years;
4. the number of people who work at or out of the District Office on Greenville Street, their job titles, and their salaries;
5. the number of students from the Calhoun Falls High School and John C. Calhoun Elementary School attendance zones who were allowed to transfer to other schools within the county from 2006 to the present (including students from the Nation/Lowndesville area that attended Diamond Hill Elementary); and
6. the percentage of students that were allowed to transfer from the Calhoun Falls High School and John C. Calhoun Elementary School attendance zones that were Caucasian.

With regard to your request for the names of teachers and staff and the numbers of contracts issued as referenced in items 1, 2, and 3 above, I approximate the time it would take to compile this information as 12 hours at \$22.77 per hour, for a total of \$273.24. If you wish to submit a deposit of \$136.62, I will then have the staff begin the compilation process.

With regard to your request for a list of jobs and salaries for all District staff working at or out of the District Office referenced in item 4 above, I am happy to make that information available to you, within the parameters set forth in the Freedom of Information Act. Under FOIA, the salaries of those making over \$50,000 are to be disclosed. However, the salaries of those making less than \$50,000 are to be disclosed only in increments, as follows: \$4,000 increments for those making between \$30,000 and \$50,000; \$2,000

Administrative Offices

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00 018

for certified employees making less than \$30,000, and for classified individuals making less than \$30,000, only the salary schedule is to be disclosed. Since you have requested that this information be compiled for you, I approximate the time it would take to compile the information as 4 hours at \$41.78 per hour, for a total of \$167.12. If you wish to submit a deposit of \$83.56, I will then have the staff begin the compilation process.

With regard to your request about transfers referenced in items 5 and 6 above, you requested the compilation of information on transfers allowed from the Calhoun Falls High School and John C. Calhoun Elementary attendance zones from 2006 until the present and the percentage of these that are Caucasian. I approximate the time it would take to compile this information as 4 hours at \$50.54 per hour, for a total of \$202.16. If you wish to submit a deposit of \$101.08, I will then have the staff begin the compilation process.

If you would like for us to proceed with the entire FOIA Request, the approximate cost for compiling all of the information is estimated at \$642.52. If you would like for us to compile all of the information requested, you may submit a deposit of \$321.26 and I will then have staff begin the compilation process.

As you requested, I have provided an itemized cost sheet showing the personnel, the hourly rate, the estimated time to complete the task, and an estimated charge for completion of each request. This cost will be adjusted up or down based on the actual time and cost incurred during the process. If any copying costs are incurred, you will be billed at a rate of \$0.10 per copy.

I will await your further direction in these matters. If you have any questions, please feel free to contact me.

Sincerely,



Ivan Randolph, Ph.D.
Superintendent
Abbeville County School District

Enclosure

c: Abbeville County Board of Trustees



Abbeville County School District
A Model of Excellence in Education
Ivan Randolph, Ph.D.
Superintendent

March 27, 2011

Mr. Danny Hozey
413 Tate St.
Calhoun Falls, SC 29628

Dear Mr. Hozey:

This letter is in response to your e-mail to me dated March 21, 2011. I am responding only to your comments or statements disputing or objecting to the cost estimate and requested down payment I provided you in my March 18 letter regarding your request dated March 13, 2011, under the Freedom of Information Act. I am not responding at this time to the accusations and insinuations you make against me in your March 21 e-mail. I will say, however, that I consider your statements to be an attack on my good name and professional reputation, which may constitute libel and slander.

In my initial response to your FOIA request (my letter to you dated March 18), I provided you with information supporting a cost estimate of \$642.52 to respond to your March 13 FOIA request. I asked for a deposit of one-half, or \$321.26, before directing the staff to begin the search and compilation process to respond to your FOIA request. You now take issue with our estimate, claiming that the estimate we have given you is not "minimal cost."

I have again reviewed your March 13 request and the basis for determining the \$642.52 estimate for the work required to respond to your request. I continue to believe that the estimated cost for search and compilation time is accurate. What you fail to understand is that the information you are seeking cannot simply be down-loaded from pre-existing electronic or hard-copy files, but rather must be retrieved from numerous electronic and actual files and presented in the form you are requesting. This process will take considerable time by both classified and certified personnel. The time consumed in this process takes away from other tasks needed to be performed by a staff which is already stretched in completing important day-to-day responsibilities in the operation of this District. I regret that you dispute the estimated cost to respond to your FOIA request; however, I believe that it is a fair, good-faith estimate. As I previously indicated, we will keep track of the actual time or other costs incurred, and I will make any appropriate adjustment to the estimate, including, if it be the case, refunding any part of your deposit. In short, we will not begin the work necessary to respond to your FOIA request unless and until you pay the deposit.

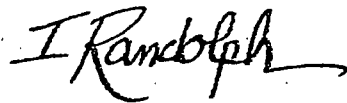
Administrative Offices

CC 050 400 Greenville Street - Abbeville, South Carolina 29620
Phone (864) 366-5427 Fax (864) 366-8531

Also in your March 21 e-mail, you request a copy of a letter written from the District's attorney to Ms. Rooney/Ketter. Please be advised that I have no knowledge or record of any such letter and, therefore, am unable to respond further to your request.

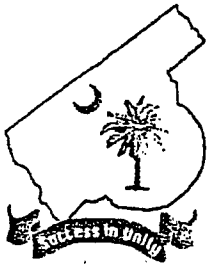
Please advise how you wish to proceed concerning your FOIA request. Thank you for your attention to this matter, and should you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "I Randolph". The signature is written in dark ink and is positioned above the typed name.

Ivan Randolph, Ph.D.
Superintendent
Abbeville County School District

c: Abbeville County Board of Trustees



Abbeville County School District
A Model of Excellence in Education
Ivan Randolph, Ph.D.
Superintendent

March 31, 2011

Mr. Danny H. Hozey
413 Tate Street
Calhoun Falls, SC 29628

RE: Freedom of Information Request

Dear Mr. Hozey:

Pursuant to the Freedom of Information Act (FOIA), I acknowledge receipt of your request sent to me from you via e-mail on March 29, 2011. I am enclosing the requested agenda from the August 30, 2010 Abbeville County School Board District Special Called School Board Meeting. No charge is being assessed for this information as it did not require additional staff time to compile the information.

In reference to your question about the Langley-Milligan property sale, contracts have been signed, a deposit has been received and we are waiting on a closing date from their attorney. The contract says that the closing should occur on or before April 30, 2011.

I have been advised by our attorney that FOIA is not a vehicle for posing general questions to which you want answers. FOIA is a means to request "public records" as defined by FOIA or information contained in public records which is considered public information. I have already offered several times to meet with you to provide and discuss, as appropriate, information that may not necessarily be found in public records. Thus far, you have declined my offers. Please understand that I may choose not, at least in the form of a reply letter, to respond to your general questions or requests for information or compose written responses to every inquiry. Also, there are some matters which, because of their sensitivity or confidentiality or for other reasons, cannot, in the best interests of the District, be disclosed; at least not at the time the request or inquiry is made. You continue on a very frequent basis to e-mail questions and make assertions. Except for those requests to which we are required under FOIA to provide responses, I must, in the interests of the District and a proper use of my time and energies as Superintendent, reserve my right to not answer your questions or respond to your claims or assertions about what you believe to be the case or what you understand to be true. You are not to interpret my decision to not answer or respond as agreement by me as to anything you claim or assert. Again, I am available at mutually convenient times to meet with you and discuss, as appropriate, your concerns or respond to your questions.

Sincerely,

Ivan Randolph, Ph.D.
Superintendent
Abbeville County School District

Enclosure

cc: Abbeville County Board of Trustees

Administrative Offices

00 032 400 Greenville Street - Abbeville, South Carolina 29620
Phone (864) 366-5427 Fax (864) 366-8531

No Examination of Title

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that TRUSTEES OF ABBEVILLE COUNTY SCHOOL DISTRICT NO. 60, in the State aforesaid, for and in consideration of FIVE DOLLARS (\$5.00), the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto said THE TOWN OF CALHOUN FALLS, its successors and assigns forever, the following described property, to-wit:

All that certain piece, parcel or tract of land lying, situate and being in the Town of Calhoun Falls, County of Abbeville, State of South Carolina, containing 38.50 acres and being more particularly described on a plat prepared by J. R. Smith, S.C. Reg. No. 15790 dated February 18, 2008 and recorded in the Office of the Clerk of Court for Abbeville County in Plat Book 70 at Page 20. According to said plat, said property is bounded now or formerly as follows: North and West by Abbeville County School; South by Edgefield Street; and East by Town of Calhoun Falls, and has such metes, bounds, courses and distances as shown on the aforementioned plat to which specific reference is made.

This being a portion of the property conveyed to Trustees of Abbeville County School District No. 60 by deed of S. F. Sherard dated March 19, 1956 and recorded in the Office of the Clerk of Court for Abbeville County in Deed Book 89 at Page 81.

REVERTER: This property shall revert to the Trustees of the Abbeville County School District No. 60 if the School District determines in its sole discretion that the Town has ceased to use the Property for municipal or educational purposes, or if the Town attempted to sell or lease the Property without the School District's written consent. The School District reserves the right to reclaim the property without any compensation being due to the Town as a result of the foregoing.

Grantee Address: P.O. Box 246 Calhoun Falls, SC 29628

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said Premises before mentioned unto said THE TOWN OF CALHOUN FALLS, its successors and assigns forever and the Grantor does hereby bind itself, its Successors and Assigns, to warrant and forever defend all and singular the said Premises unto the said, THE TOWN OF CALHOUN FALLS, its successors and assigns forever, against any claims which might arise during the term the Grantor owned the premises.

WITNESS my hand and seal this 23rd day of FEBRUARY, 2011.

Signed, Sealed and Delivered
in the presence of:

Sherwin L. Johnson

Julie M. Williams

Bill Crenshaw
Dr. Bill Crenshaw,
CHAIRPERSON
ABBEVILLE COUNTY SCHOOL
DISTRICT NO. 60
BOARD OF TRUSTEES

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

PROBATE

Personally appeared the undersigned witness and made oath that (s)he saw the within the named Grantor sign, seal and as the Grantor's act and deed deliver the within written deed and that (s)he, with the other witness subscribed above witnessed the execution thereof.

WORN to before me this 22nd day of FEBRUARY, 2011

Sherwin L. Johnson (SEAL)
Notary Public for South Carolina
My Commission Expires: 06/16/16

Auditor's Office
Abbeville, SC

I hereby certify that the within deed has
been this 24 day of Feb 2011
recorded in computer sequence # 1799
DM
Abbeville Co. Auditor

Julie M. Williams
FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

2011 FEB 24 PM 1:53

RECORDED-BOOK 287
OF 1st PAGE 13

EMILY Y MCMAHAN
CLERK OF COURT

CC 054

THIS DEED WAS DUPLY RECORDED IN THE
OFFICE OF THE ABBEVILLE COUNTY
ASSESSOR ON 2-23-2011
AT 1:50 PM
County Assessor Clayton

December 31. You will receive no tax
notice for this year, however as owner,
you are responsible for payment. For
further information contact the
county tax office.

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is located at 38.50 acres on Edgefield St.
bearing Abbeville County Tax Map Number 153-07-02-001
by Trustees of Abbeville County School District No. 60 was transferred
The Town of Calhoun Falls on 2-23-11 to _____

3. Check one of the following: The deed is

- (a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money=s worth.
- (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- (c) X _____ exempt from the deed recording fee because (See Information section of affidavit): #2

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

- (a) _____ The fee is computed on the consideration paid or to be paid in money or money=s worth in the amount of _____
- (b) _____ The fee is computed on the fair market value of the realty which is _____
- (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____

5. Check Yes _____ or No _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If A Yes, @ the amount of the outstanding balance of this lien or encumbrance is: _____

6. The deed recording fee is computed as follows:

- (a) Place the amount listed in item 4 above here: _____
- (b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)
- (c) Subtract Line 6(b) from Line 6(a) and place result here: _____

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording, fee due is: _____

8. As required by Code Section, 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney

9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

[Signature]
Responsible Person Connected with the Transaction

T. H. H. H.
Print or Type Name Here

SWORN to before me this 24th

day of February, 2011

Omela M. Price

Notary Public for SC

My Commission Expires: 9/29/15

INFORMATION

Except as provided in this paragraph, the term "value" means the consideration paid or to be paid in money or money's worth for the realty. Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, a value means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A family partnership is a partnership whose partners are all members of the same family. A family trust is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. A family means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A charitable entity means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
- (12) that constitute a corrective deed or a quit claim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quit claim deed.
- (13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed-pursuant to foreclosure proceedings.
- (14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
- (15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-DR-01-242

Danny Hozey and Terry Richey,)

Plaintiffs,)

vs.)

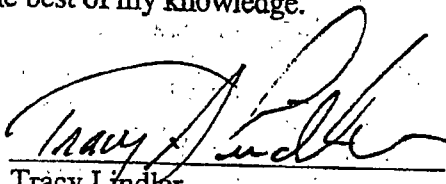
Abbeville County School Board,)

Defendant.)

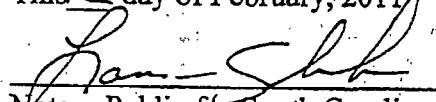
AFFIDAVIT OF TRACY LINDLER

PERSONALLY APPEARED before me the undersigned, who being first duly sworn deposes and states as follows:

My name is Tracy Lindler and I am a member of the Abbeville County School Board. I have knowledge of actions of the Abbeville County School Board that, upon my opinion, violate the South Carolina Freedom of Information Act. These actions continue to the present time. Attached to this affidavit is a copy of a correspondence I sent to the South Carolina Office of the Attorney General regarding these actions. My statements in the attached letter are true and accurate to the best of my knowledge.


Tracy Lindler

Sworn and subscribed before me
This 2 day of February, 2011


Notary Public for South Carolina
My commission expires 1-31-12

Re: Complaint Response

From: "Office of Attorney General user" <info@scattorneygeneral.com>
To: "Tracy Lindler" <Tracy.Lindler@acsd.k12.sc.us>
Date: Monday - February 6, 2012 9:41 AM
Subject: Re: Complaint Response
Attachments: 1 - Kenneth E Darr Jr Esquire.pdf; 2 - The Honorable Dwight A Loftis.pdf; 3 - Theodore B Guerard Esquire.pdf; Mime.822
Ms. Linder,

I have attached all of the relevant information that our office can find. I hope this is helpful.

Sincerely,

Len Williams
SC Attorney General's Office

>>> "Tracy Lindler" <Tracy.Lindler@acsd.k12.sc.us> 2/3/2012 7:33 AM >>>
Thank you for your prompt reply.

As an elected official, current **Abbeville County School Board Member**, I would like to obtain an official opinion on the questions I submitted. If your office requires additional information before they can process this request for an opinion please let me know. If I need to submit this request via a different avenue please let me know. The concerns are as follows.

Can the Abbeville County School Board Chairman call a meeting of the officers of the board without providing the reason as outlined in SECTION 30-4-80. Notice of meetings of public bodies of the South Carolina Freedom of Information Act?

Can the Abbeville County School District School Board Officers meet in any form in a closed meeting to the membership of the board with the superintendent and also closed to the public and be in compliance with the South Carolina Freedom of Information Act? Would such a meeting constitute a star irregular meetings such as secret or "star chamber" meetings which are not official and which all members do not have the opportunity to attend

Can the Abbeville County School District School Board Officers enter into a meeting as a committee in executive session without starting the meeting first in open session as outlined in the South Carolina Freedom of Information Act?

Full item submitted previously via web based submission form.

On January 23rd 2012 after the School Board Chairman called our regularly called board meeting to adjourn our chairman stated to the meeting hall that he needed to meet with the officers of the board. At this time, I also heard the chairman state that he needed Dr. Randolph, the superintendent of our district, to be at the meeting. No notice was given prior to this verbal call for a meeting by the

00 058

chairman nor was a reason stated to the board why the officers were meeting or why the officers were meeting with the superintendent.

I approached our chairman and asked him if it were OK since the meeting only consisted of 3 board members and if no others wanted to attend which would create a quorum that I would like to sit in and observe the meeting. Our chairman then stated he was sorry, but the meeting was closed to only the officers of the board and also closed to the public. Mr. Tim Rhodes, also a member of the board witnessed this exchange and request. The chairman asked the remaining public in the room to leave clearing the room for the closed meeting as myself and Mr. Rhodes departed. The meeting was held in the Abbeville County School District Board Room after the January 23rd 2012 regularly called School Board meeting. Note the school board attorney was not present.

My concerns are as follows:

Can the Abbeville County School Board Chairman call a meeting of the officers of the board without providing the reason as outlined in SECTION 30-4-80. Notice of meetings of public bodies. of the South Carolina Freedom of Information Act?

Can the Abbeville County School District School Board Officers meet in any form in a closed meeting to the membership of the board with the superintendent and also closed to the public and be in compliance with the South Carolina Freedom of Information Act? Would such a meeting constitute a star irregular meetings such as secret or "star chamber" meetings which are not official and which all members do not have the opportunity to attend

Can the Abbeville County School District School Board Officers enter into a meeting as a committee in executive session without starting the meeting first in open session as outlined in the South Carolina Freedom of Information Act?

Tracy A. Lindler
Board of Trustees
Abbeville County School District
864.418.9320
tlindler@acsd.k12.sc.us

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>>> "Office of Attorney General user" 02/02/12 1:29 PM >>>

Dear Ms. Lindler:

Your e-mail to the Attorney General's Office has been referred to Constituent Services for response.

Thank you for contacting the Attorney General's Office. South Carolina law prohibits this office from distributing legal advice and/or interpretations of laws to private citizens. Additionally, we do not have any jurisdiction over local governmental authorities. The primary purpose of this office is to represent the State of South Carolina, state agencies and public officials in a legal manner.

Since you have a complaint against your local officials, if you have not already done so, you may wish to contact the State Ethics Commission at (803) 253-4192 regarding this matter.

We appreciate your contacting this Office and regret we cannot provide any additional assistance.

Sincerely,

Constituent Services

--- Scanned by M+ Guardian Messaging Firewall ---

CC C80

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-DR-01-242

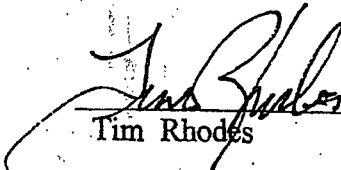
Danny Hozey and Terry Richey,)
Plaintiffs,)

AFFIDAVIT OF TIM RHODES vs.

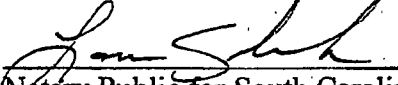
Abbeville County School Board,)
Defendant.)

PERSONALLY APPEARED before me the undersigned, who being first duly sworn deposes and states as follows:

My name is Tim Rhodes and I am a member of the Abbeville County School Board. I have knowledge of actions of the Abbeville County School Board that, upon my opinion, violate the South Carolina Freedom of Information Act. These actions continue to the present time. I hereby agree with Mr. Lindler and with the correspondence that he sent to the South Carolina Office of the Attorney General regarding these actions. My statements are true and accurate to the best of my knowledge.


Tim Rhodes

Sworn and subscribed before me
This 12 day of February, 2011


Notary Public for South Carolina
My commission expires 1-31-16

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-DR-01-242

Danny Hozey and Terry Richey,)

Plaintiffs,)

vs.)

Abbeville County School Board,)

Defendant.)

PROOF OF SERVICE

The undersigned hereby certifies that on the 12th day of February, 2012, he served upon the Defendant a copy of the Plaintiffs' Motion to Amend Complaint by placing the same in the U. S. mail, with the appropriate postage affixed thereto, addressed to the Defendant's attorneys of record, David T. Duff and Laura Calloway Hart, P.O. Box 1486, Columbia, South Carolina, 29202.

Respectfully Submitted,

GEOLY, SHEEK, & MERRITT, LLC



By: C. Lance Sheek
Attorney for the Plaintiffs
1225 S. Main Street
Greenwood, SC 29646
(864) 223-3352
(864) 223-3400 fax

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-DR-01-242

Danny Hozey and Terry Richey,)

Plaintiffs,)

vs.)

Abbeville County School Board,)

Defendant.)

MOTION TO AMEND COMPLAINT

**TO: DAVID T. DUFF AND LAURA CALLOWAY HART, ATTORNEYS FOR
THE DEFENDANT:**

PLEASE TAKE NOTICE that the Plaintiffs above named, by and through their undersigned attorney, will move before the presiding judge for the Court of Common Pleas, Eighth Judicial Circuit, Abbeville County, ten days after notice hereof, or as soon thereafter as parties may be heard, for an order allowing the Plaintiffs to amend their Complaint. This motion is made pursuant to the following facts:

1. Subsequent to the filing of the original complaint, the Plaintiffs have obtained information that the Defendant Abbeville County School Board continues to engage in activities prohibited by the Section 30-4-100, et seq, South Carolina Code of Laws (1976 as amended), commonly referred to as the South Carolina Freedom of Information Act (hereinafter "FOIA").

2. Tracy Lindler, a current member of the Abbeville County School Board, wishes to join this action as a Plaintiff and will provide direct evidence and testimony concerning ongoing violations of the FOIA by the Defendants including, but not limited to, the use of "executive session" to improperly conduct board business outside public

scrutiny and the conducting of discussions by the board of matters of public policy and procedure outside properly called and noticed board meetings.

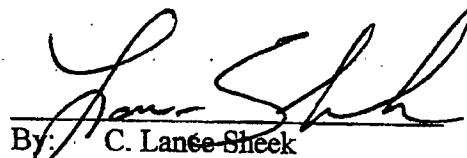
3. The Plaintiffs are informed and believe that this new evidence and testimony will show an ongoing course of conduct by the Abbeville County School Board in clear and intentional violation of the FOIA causing the constituents of such school board continued harm.

4. The Plaintiffs wish to seek injunctive and declaratory relief as directed by the FOIA for the actions of the Defendant.

Based upon these facts, the Plaintiffs respectfully move this Court to allow the Plaintiffs to amend their Complaint to add Tracy Lindler as a Plaintiff and to add a cause of action for Violation of the Freedom of Information Act and request injunctive and declaratory relief arising from such violations.

Respectfully Submitted,

GEOLY, SHEEK, & MERRITT, LLC



By: C. Lance Sheek
Attorney for the Plaintiffs
1225 S. Main Street
Greenwood, SC 29646
(864) 223-3352
(864) 223-3400 fax

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,

Plaintiffs,

v.

Abbeville County School Board,

Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

DEFENDANT'S REPLY MEMORANDUM
IN SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT

INTRODUCTION

Defendant filed its Motion to Dismiss or, in the alternative, for Summary Judgment on October 21, 2012, along with the Affidavit of Ivan Randolph, Ph.D. Defendant filed an Amended Motion on October 31, 2012, supported by the same affidavit filed on October 21. Defendant's motions were heard on January 10, 2012. Plaintiffs submitted no opposing affidavits prior to the hearing, but the Court granted their counsel permission to submit a memorandum in response to Defendant's Motion by February 10, 2012. On February 13, 2012, Plaintiffs submitted a Memorandum of Law in Opposition to Defendant's Motion for Summary Judgment, accompanied by three affidavits and multiple unsworn and unauthenticated documents. Defendants object to the consideration of the affidavits submitted by Plaintiffs and have moved to strike them on the grounds that they are untimely and insufficient to raise a genuine issue for trial. In the event Plaintiffs' affidavits are considered by the Court, Defendant requests the Court to also consider the Reply Affidavit of Dr. Ivan Randolph, submitted contemporaneously with this Reply Memorandum.

Plaintiffs focus their arguments in their Memorandum in Opposition on the application of the one-year statute of limitations under the Freedom of Information Act ("FOIA")

and their standing as plaintiffs. Defendant, therefore, limits this Reply to those arguments, and refers the Court to its arguments on other grounds and principles of law already addressed in its initial Memorandum of Law (hereinafter "Defendants' Initial Memorandum").

On the matters addressed by Plaintiffs in their written response, the pertinent facts remain undisputed:

1. Defendant voted in a public meeting to close Calhoun Falls High School in December 2007;
2. Defendant closed Calhoun Falls High School at the end of the 2007-2008 school year and it remains closed;
3. Students at the former Calhoun Falls High School were transferred to other schools at the end of the 2007-2008 school year;
4. Plaintiffs commenced this case more than one year after the deliberations and public vote by the Defendant to close Calhoun Falls High School;
5. Neither Plaintiff pays any fees to the Defendant or to Abbeville County School District to enable a child to attend classes at the Abbeville County Career Center.

The Defendant, therefore, is entitled to judgment as a matter of law because the FOIA is the exclusive remedy for the alleged wrongful acts connected to the closing of Calhoun Falls High School; the discovery rule does not apply to the FOIA statute of limitations, which bars the claims asserted by Plaintiffs; the doctrine of laches bars Plaintiffs' claims; and Plaintiffs lack standing to complain of the charging of fees to students who participate in classes at the Abbeville County Career Center. Prolonging the case to allow Plaintiffs the opportunity to engage in discovery, as they request, is not warranted in this case where the Defendant is clearly entitled to summary judgment.

ARGUMENT

1. **Plaintiffs have not and cannot assert a cause of action outside FOIA to contest the actions of Defendant related to the closing of Calhoun Falls High School.**

Plaintiffs argued at the hearing on Defendant's Motion for Summary Judgment that they were not asserting claims for violations of FOIA.¹ They seem to have abandoned this argument because their Memorandum in Opposition refers only to claims of FOIA violations; they assert no other variety of wrongdoing. The first section of their Memorandum in Opposition argues that their claims are not barred by the FOIA statute of limitations, not because FOIA does not apply to their claims, but because the "discovery rule" applies to FOIA claims, giving them additional time within which to sue. In addition, they repeatedly describe Plaintiffs' Complaint in terms of the Defendant "hiding information" from them. In fact, Plaintiffs summarize their argument in this way: "To allow the Defendant to intentionally hide information from the public and then hide behind the statute of limitations would effectively reward the Defendant for its violations of FOIA, the very thing the act was formed to prevent." Moreover, as argued in Defendant's Initial Memorandum, Plaintiffs' exclusive remedy for the alleged actions by the Defendant in their meeting and voting procedures is under FOIA. See Defendant's Initial Memorandum at pp 4-6; see also Flateau v. Harrelson, 355 S.C. 197, 584 S.E.2d 413 (Ct. App. 2003), cert. denied (2004). Whether Plaintiffs choose to characterize their Complaint as a FOIA action is immaterial; it is clearly a FOIA action and subject to the one-year FOIA statute of limitations.

2. **The discovery rule does not apply to the FOIA statute of limitations so as to allow Plaintiffs more than one year to sue after the deliberations and public vote to close Calhoun Falls High School.**

The FOIA statute of limitation is clearly expressed at S.C. Code Ann. 30-4-100 (2007):

¹ This oral argument was advanced despite the allegations in the Complaint that the wrongdoing by Defendant consisted of not providing "proper notice to the community of issues to be heard by the School Board" and failing to follow proper procedures in conducting their meetings and in discussing items in closed or executive sessions. Complaint ¶ 9. These are classic allegations of FOIA violations.

Any citizen of the State may apply to the circuit court for either or both a declaratory judgment and injunctive relief to enforce the provisions of this chapter in appropriate cases as long as such application is made no later than one year following the date on which the alleged violation occurs or one year after a public vote in public session, whichever comes later.

The statute is unambiguous: Plaintiffs must file suit no later than one year from when the alleged FOIA violation occurred OR one year after a public vote in public session. The pertinent facts are likewise not in dispute: Plaintiffs filed their suit more than one year after the deliberations on the closing of Calhoun Falls High School during which the alleged FOIA violations occurred and more than one year after the public vote in public session to close the school.

In an effort to avoid the application of the one-year statute in FOIA, Plaintiffs cited to two Tort Claims Act cases in which the discovery rule was applied. However, the discovery rule is expressly included in the statute of limitations applicable to Tort Claims Act cases, S.C. Code Ann. ¶ 15-78-110; it is not included in the FOIA statute of limitations and is simply not applicable to this or any other FOIA cases.

Even if the discovery rule applied to this case, the record clearly establishes that three to four years prior to commencing their lawsuit, Plaintiffs knew or should have known of the issues on which they base their Complaint. Plaintiffs allege FOIA violations occurring in connection with the deliberations leading to the closing of Calhoun Falls High School and the actual vote to close the school, and they seek an Order requiring the re-opening of the school because of those alleged violations. The deliberations and the vote are memorialized in the public agenda and minutes of the public meetings. They occurred in 2007, almost four years before Plaintiffs commenced this lawsuit. Following the vote, the school was actually closed at the end of the 2007-2008 school year, over three years before Plaintiffs commenced their lawsuit. See Affidavit of Ivan Randolph, Ph.D. in Reply to Plaintiffs' Memorandum in

Opposition to Defendant's Motion for Summary Judgment, and exhibits attached thereto. Plaintiffs cannot credibly claim they were unaware of the public agenda notices, the public discussions, the public vote, and the closing of the school well before the one-year FOIA statute of limitations expired. Even the application of the discovery rule to this case would not save it.

Plaintiffs also complain about other unspecified FOIA violations which they assert continue, presumably thereby extending the statute of limitations. However, the alleged FOIA violations that support their Complaint and prayer for relief are those that occurred in 2007 and resulted in the vote to close Calhoun Falls High School. Allegations that the Defendant violated FOIA at other times in connection with other discussions and votes are irrelevant to the matter before the Court. "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247, 106 S.Ct. 2505, 2510, 91 L.Ed.2d 202 (1986).

In an effort to suggest more recent or continuing FOIA violations, Plaintiffs filed several affidavits and documents with their Memorandum in Opposition to Defendant's Motion for Summary Judgment. Defendant objects to the use or consideration of these affidavits and documents as untimely and improper and has filed a Motion to Strike them from the record; Defendant hereby incorporates the arguments set forth in its Memorandum of Law in Support of its Motion to Strike. Defendant submits that this Court should disregard the affidavits and documents submitted by Plaintiffs as improper, irrelevant, and insufficient, and enter an Order granting summary judgment to the Defendant on the grounds that the Complaint is barred by the passage of time.

3. The doctrine of laches bars Plaintiffs' claims.

Plaintiffs assert in their Memorandum in Opposition that the property and facilities of the now-closed Calhoun Falls High School would revert to the Defendant if Plaintiffs prevail in this case. They also claim that Defendant "clearly intimated" that the transfer of school property was "irreversible." Whether these assertions are true or false is immaterial and does nothing to defeat Defendant's arguments.

Defendant introduced evidence of the transfer of the Calhoun Falls High School property transfer² to support its argument that the doctrine of laches bars Plaintiffs' claims. See Defendant's Memorandum in Support of Summary Judgment at pp 10-12. While the Defendant changed its position by closing the school and dispersing the school's students and staff to other schools where they have been for over three years, Plaintiffs unreasonably delayed in asserting their claims. Neither Plaintiffs' assertion in their written response that the property and facilities of the now-closed Calhoun Falls High School would revert to the Defendant if Plaintiffs prevail in this case, nor the further assertion that Defendant "clearly intimated" that the transfer of school property was "irreversible," are pertinent to the matter before the Court or relevant to Defendant's motion. The fact remains that Calhoun Falls High School was closed in 2008 and remains closed, with its students and staff dispersed to other schools. Laches now bars Plaintiffs' claims and the remedy they seek.

4. Plaintiffs do not have standing to complain of the charging of fees to students.

Defendant argues that Plaintiffs have no standing to sue on the claim that the Defendant improperly charged fees for charter school students to attend the Abbeville County Career Center. The basis of this argument is that Plaintiffs have no children enrolled in the

² Defendant transferred possession of the school property to the Town of Calhoun Falls in April 2008, and since that time, the Town has allowed a charter school to use the property. The Town subsequently requested the Defendant to deliver another deed for the same property to it, which the Defendant did. See Affidavit of Ivan Randolph, Ph.D. dated February 20, 2012 at ¶¶ 13 and 14. The Town has been in possession of the property since April 2008.

Calhoun Falls Charter School and do not pay fees for any students to attend the Abbeville County Career Center. They, therefore, have no personal stake in this issue and consequently, have no standing to raise it in a lawsuit. See cases cited in Defendant's Memorandum in Support of Summary Judgment at pp 8-9.

In their Memorandum in Opposition to Defendant's Motion for Summary Judgment, Plaintiffs did not dispute that they have no children enrolled in Calhoun Falls Charter School and that they pay no fees for any students who attend or take classes at the Abbeville County Career Center. They merely argue that they have standing as taxpayers to complain about the charging of student fees to others. This is not sufficient to establish a personal stake in the controversy on the charging of student fees.

Taxpayers have standing to assert FOIA violations, and Defendant did not contest Plaintiffs' standing to assert their claims relating to the alleged FOIA violations in connection with the deliberations and vote on the closing of Calhoun Falls High School. However, taxpayers do not have standing to contest in court, and courts do not have authority to review, every decision made on the operations of local schools. See Sloan v. Greenville County, 356 S.C. 531, 555, 590 S.E.2d 338, 351 (Ct. App. 2003) (discretionary decisions of elected bodies should not be disturbed unless arbitrary, unreasonable, in obvious abuse of discretion or in excess of lawfully delegated power, and courts are cautioned to be "loath to substitute their judgment for that of elected representatives"). The charging of fees to persons other than Plaintiffs is not a question that can be addressed in this case.

- 5. Defendant should not be required to engage in fruitless and expensive discovery when there is no dispute of material fact and Defendant's entitlement to summary judgment is clear.**

Plaintiffs ask the Court to allow them additional time for discovery. However, as argued supra and in Defendant's Initial Memorandum, Plaintiffs do not offer any argument or

evidence to dispute the facts supporting judgment as a matter of law in favor of the Defendant. Summary judgment is intended to put an end to cases, and the time and expense they consume, in just such circumstances, or in other words, when the evidence presented "is so one-sided that one party must prevail as a matter of law." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252, 106 S.Ct. 2505, 2512, 91 L.Ed.2d 202 (1986).

Plaintiffs' argument to allow discovery before dismissing the case would serve only to prolong an inevitable conclusion: their lawsuit is barred by the passage of time and the doctrine of laches, they have no standing to object to the charging of fees to other persons, and this Court cannot require the Defendant to re-open a school that has been closed for almost four years on the thin, irrelevant allegations asserted by the Plaintiffs. If summary judgment is not granted to the Defendant, the Defendant will be forced to expend substantial time and funds, which it can ill afford, particularly in these times of budgetary shortfalls. Defendant respectfully requests that the Court grant its Motion to Dismiss or for Summary Judgment, thus relieving it of the need to engage in expensive and time-consuming discovery that would, in the end, be fruitless.

Respectfully Submitted:

DUFF, WHITE & TURNER, L.L.C.

By: Laura Callaway Hart

David T. Duff (SC Bar # 1768)

Laura Callaway Hart (SC Bar # 2766)

P.O. Box 1486

Columbia, SC 29202

Telephone: (803) 790-0603

Facsimile: (803) 790-0605

Attorneys for Defendant Abbeville County School Board

February 20, 2012
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,

Plaintiffs,

v.

Abbeville County School Board,

Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

**AFFIDAVIT OF
IVAN RANDOLPH, Ph.D.
IN REPLY TO PLAINTIFFS'
MEMORANDUM IN OPPOSITION
TO DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

SAMUEL IVAN RANDOLPH, JR., Ph.D., being first duly sworn, does depose
and say the following:

1. My name is Samuel Ivan Randolph, Jr. I am and have been employed by the Abbeville County School District ("the District") as District Superintendent since 2005. As such, I attend meetings of the Abbeville County School Board of Trustees ("the Board"). I have personal knowledge of the matters referred to in this affidavit. I make this affidavit in reply to Plaintiffs' Memorandum in Opposition to Defendant's Motion for Summary Judgment. It supplements the information provided in my Affidavit dated October 19, 2011 and filed with the Court on October 21, 2011.

2. Attached hereto as Exhibit A is a true and correct copy of the Agenda of a special called meeting of the Abbeville County School Board of Trustees on December 14, 2007. This agenda was provided to several newspapers in the area prior to the meeting. This agenda was also posted on the bulletin board in the Abbeville County School District office which is open to the public. The agenda items included "Discussion of Status of Calhoun Falls High

School," "Possible Recommendation from Superintendent," and "The Board of Trustees may take any action deemed necessary and appropriate as a result of this discussion."

3. Attached hereto as Exhibit B is a true and correct copy of the Minutes of Special Meeting of the Abbeville County School District Board of Trustees on December 14, 2007. The matters described in the minutes occurred and were discussed in a meeting open to the public, including the discussion of closing Calhoun Falls High School and the vote to close Calhoun Falls High School.

4. Attached hereto as Exhibit C is a true and correct copy of the Agenda of a regular meeting of the Abbeville County School Board of Trustees on January 22, 2008. This agenda was provided to several newspapers in the area prior to the meeting. This agenda was also posted on the bulletin board in the Abbeville County School District office which is open to the public. The agenda items included several issues relating to Calhoun Falls High School, including its transition status, the absorption of Calhoun Falls High School students into other high schools in the School District, and the consideration of a "Letter of Appeal dated December 22, 2007 in reference to the actions of the Abbeville County School Board's decision to close Calhoun Falls High School at the end of the 2007-2008 school year (Action)." It also included, as an agenda item, public input from the Executive Director of the South Carolina Association of Public Charter Schools and from Mayor Johnny Waller of the Town of Calhoun Falls.

5. Attached hereto as Exhibit D is a true and correct copy of the Minutes of Regular Meeting of the Abbeville County School District Board of Trustees on January 22, 2008. The matters described in the minutes occurred and were discussed in a meeting open to the public, including further discussion of the closing of Calhoun Falls High School and transitioning its students to other schools; discussion by several persons, including the Mayor of

Calhoun Falls, of converting Calhoun Falls High School to a charter school; and further discussion of the December 14, 2007 vote to close Calhoun Falls High School.

6. Attached hereto as Exhibit E is a true and correct copy of the Agenda of a special called meeting of the Abbeville County School Board of Trustees on January 29, 2008. This agenda was provided to several newspapers in the area prior to the meeting. This agenda was also posted on the bulletin board in the Abbeville County School District office which is open to the public. The agenda items included "Discussion in reference to Calhoun High School Facility," "Possible Executive Session," and "The Board of Trustees may take any action deemed necessary and appropriate as a result of this discussion."

7. Attached hereto as Exhibit F is a true and correct copy of the Minutes of Special Meeting of the Abbeville County School District Board of Trustees on January 29, 2008. The matters described in the minutes occurred and were discussed in a meeting open to the public, including the motion to deed the Calhoun Falls High School property to the Town of Calhoun Falls, subject to a reverter and other conditions; discussion on the motion; and a vote in favor of the motion to deed the property to the Town of Calhoun Falls.

8. Attached hereto as Exhibit G is a true and correct copy of the Agenda of a regular meeting of the Abbeville County School Board of Trustees on February 26, 2008. This agenda was provided to several newspapers in the area prior to the meeting. This agenda was also posted on the bulletin board in the Abbeville County School District office which is open to the public. The agenda items included "Consideration of approval of the separation of school property to be deeded to the town of Calhoun Falls (Action)" and "Update on Calhoun Falls High School Transition."

9. Attached hereto as Exhibit H is a true and correct copy of the Minutes of Regular Meeting of the Abbeville County School District Board of Trustees on February 26, 2008. The matters described in the minutes occurred and were discussed in a meeting open to the public, including a discussion about the plans of the Calhoun Falls charter school planning committee to open a charter school in the Calhoun Falls High School facility.

10. Attached hereto as Exhibit I is a true and correct copy of the Agenda of a regular meeting of the Abbeville County School Board of Trustees on March 25, 2008. This agenda was provided to several newspapers in the area prior to the meeting. This agenda was also posted on the bulletin board in the Abbeville County School District office which is open to the public. The agenda items included "Consideration of approval of resolution to deed Calhoun Falls High School property to the Town of Calhoun Falls (Action)."

11. Attached hereto as Exhibit J is a true and correct copy of the Minutes of Regular Meeting of the Abbeville County School District Board of Trustees on March 25, 2008. The matters described in the minutes occurred and were discussed in a meeting open to the public, including the motion for approval of a resolution to deed the Calhoun Falls High School property to the Town of Calhoun Falls; discussion on the motion; and a vote unanimously in favor of the motion for approval of the resolution to deed the property to the Town of Calhoun Falls.

12. Attached hereto as Exhibit K is a true and correct copy of the Agenda of a regular meeting of the Abbeville County School Board of Trustees on June 24, 2008. This agenda was provided to several newspapers in the area prior to the meeting. This agenda was also posted on the bulletin board in the Abbeville County School District office which is open to

the public. The agenda items included "Finalization of transfer of Calhoun Falls High School Property to Town of Calhoun Falls."

13. Attached hereto as Exhibit L is a true and correct copy of the Minutes of Regular Meeting of the Abbeville County School District Board of Trustees on June 24, 2008. The matters described in the minutes occurred and were discussed in a meeting open to the public. The following describes the transfer of property rights at Calhoun Falls High School to the Town of Calhoun Falls:

Dr. Randolph said: Mayor Waller [of the Town of Calhoun Falls] and his attorney, Randall R. Williams, prepared a "Quitclaim Deed" for the property at Calhoun Falls High School. This "Quitclaim Deed" has been sent to our attorney, Dave Duff. Mr. Duff has reviewed said deed and indicated to me that things are in proper order. This evening we are prepared to exchange keys and give the documents to the Mayor at this time.

Dr. Randolph turned the keys and deed over to Mayor Waller.

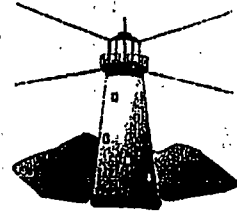
14. In 2011, the Town of Calhoun Falls requested that the Trustees of Abbeville County School District sign and deliver a Special Warranty Deed for the same property that it had previously been given the right to possess and use for the Calhoun Falls Charter School. Calhoun Falls Charter School has occupied and used the property since the summer of 2008.

15. Attached hereto as Exhibit M is a true and correct copy of the Agenda of a regular meeting of the Abbeville County School Board of Trustees on September 23, 2008. This agenda was provided to several newspapers in the area prior to the meeting. This agenda was also posted on the bulletin board in the Abbeville County School District office which is open to the public. The agenda items included "Memorandum of Agreement Between Calhoun Falls Charter School and Abbeville County School District."

Exhibit A

ABBEVILLE COUNTY SCHOOL DISTRICT

**ADMINISTRATIVE OFFICES
400 GREENVILLE STREET
ABBEVILLE, SOUTH CAROLINA 29620
PHONE (864) 366-5427 FAX (864) 366-8531**



A special called meeting of the Abbeville County School Board of Trustees will be held Friday, December 14, 2007 at 7:00 p.m. at 400 Greenville Street, Abbeville, South Carolina.

December 14, 2007
7:00 p.m.

Agenda

1. Call to Order
2. Discussion of Status of Calhoun Falls High School
3. Possible Recommendation from Superintendent
4. The Board of Trustees may take any action deemed necessary and appropriate as a result of this discussion.
5. Adjourn

Exhibit B

Minutes of Special Meeting
Abbeville County School District Board of Trustees
December 14, 2007
7:00 p.m.
Greenville Street Building
Abbeville, South Carolina

In accordance with the Code of Laws 1976, Section 30-4-80 (d) as amended, *The Press and Banner*, *The Index Journal*, *The Anderson Independent*, and *The Greenville News* were notified of the time and place and were given an agenda of the meeting.

Trustees Present: Mr. Mark Burton, Dr. Allen Kolb, Mr. Buster Taylor, Mr. James B. Tisdale, Jr., Mr. Tim Rhodes, Mr. Samuel Bell, Ms. Corinna O'Bannon, Dr. Bill Crenshaw

Trustees Absent: Mr. Joseph Reynolds

Administrative Personnel Present: Dr. Ivan Randolph, Ms. Kathy Stevenson, Ms. Earlene Milford, Mr. Wayne Stevenson, Ms. Sherri Smith, Ms. Jean Smith, Ms. Shelley Chrisley, Mr. Sam Jones, Mr. Matt Kimsey, Ms. Joyce Cunningham, Ms. Brenda Chadwick, Mr. Sherwin Johnson, Mr. David Nixon, Dr. Steve Glenn, Mr. Steve Garrett, Mr. Charles Costner, Mr. Barry Jacks, Mr. Tommy Hollingsworth

Mr. Taylor called the meeting to order at 7:00 p.m. and led the pledge of allegiance. Mr. Taylor said he would like to amend the agenda by adding as the number two item comments from the board. **Ms. O'Bannon made a motion to amend the agenda as recommended which was seconded by Mr. Tisdale and carried unanimously.** Mr. Taylor said the purpose of this meeting is to discuss the status of Calhoun Falls High School. He continued this is to clear up some of the questions the board has and he called this meeting because the board members may need more information to educate themselves on this subject.

Mr. Taylor said at this time we will take questions pertaining to budget, status, and things of this nature. He said he didn't know exactly what the board would ask but he had some board members say they still had some questions that they wanted to ask and that's what we're here for.

Mr. Burton said Calhoun Falls is a Title I school which is federal money and then asked the amount of Title I money per pupil at Calhoun Falls High School and is it on the paper he has. Dr. Randolph responded the school gets \$230 per Title I student. Mr. Taylor asked if Title I funds included only students in grades 9-12. Dr. Randolph said monies come for all Title I eligible students in the school.

Dr. Crenshaw asked for a count concerning the number of students in grades 9-12 that are going to other schools from the Calhoun Falls High School attendance area. Dr. Randolph responded that we have twenty nine students going to other schools from the Calhoun Falls area in grades 9-12. Dr. Crenshaw asked if they had gone through the paperwork process and Dr. Randolph said some had and some had not. Dr. Crenshaw asked if there were more students out there and Dr. Randolph said that was a possibility but not to his knowledge.

Mr. Taylor said he had a list of fifty three names outside the attendance area. Dr. Randolph said the question was asked for students in grades 9-12 and we have twenty nine in grades 9-12, eighteen in grades 7-8, two in grade 6 and thirteen overlap at Diamond Hill Elementary School. Mr. Taylor said he had fifty three names and addresses that say they live in that attendance area and going to other schools. Dr. Randolph said Mr. Johnson had pulled these figures from his list and he had crossed checked the names. Mr. Johnson said there are thirteen students in an area claimed by both Calhoun Falls High School and Diamond Hill Elementary School. Mr. Taylor asked how this was possible. Mr. Johnson explained in board policy, grade structure for Diamond Hill is grades K-7 and the grade structure for Calhoun Falls High School is grades 7-12 so both have 7th grades. Mr. Taylor asked how this affects the numbers at Calhoun Falls High School and the middle school. Dr. Randolph responded that if these numbers were back in the schools, it would lower the per pupil numbers but we have to look at what's actually there because that's how it's determined by the state. He said we have a transfer friendly policy of which he explained the guidelines.

Mr. Taylor said in the situation with busing; I know we don't show seventeen kids transferring; if we have this many kids going out of area and when I look at this list, it's only a handful that we have transfer papers on. He continued also in our transfer policy, even if they transfer, they have to adhere to the rules and the rule is you furnish your own transportation and we are busing around twenty six kids out of area which is not by the rule. Dr. Randolph responded that if this is occurring, it should not be and will be rectified and said he and Mr. Johnson had already spoken about that and the number we have is not twenty six. Mr. Taylor said he had to go on what he has and it was from reliable sources and if this is not allowed, we could get our kids back to where they are supposed to be.

Ms. O'Bannon said if a parent does not want a child to go to a school, we will not force them. She continued that what we're discussing tonight is based on what we've got and we don't know that we can get these students back to Calhoun Falls High School. Ms. O'Bannon said she agreed about the numbers but that's a big "if".

Dr. Kolb said if he understands our policy, even in the high schools, they are suppose to request for a transfer, the out of district school will accept, and they will provide their own transportation. And, he continued, if they go through those steps, the district policy will allow them to go to any high school they would like to attend. Dr. Kolb said obviously there are a number of students that apparently have not gone through the steps of the policy that are going to another school and had they asked we assume they would have been allowed to do so.

Mr. Taylor said the policy is not to take away from another school to shut it down and this is the way things are beginning to go. He continued the policy shouldn't be to the point where one school suffers because of transfers and the policy has certain criteria they are suppose to meet. Mr. Taylor said some of the excuses for changing schools is the atmosphere and you ask what is wrong with it and they say they've never been in the school. That, he continued, is not a real good cause for a transfer and the policy is really being abused.

Mr. Rhodes read a portion of the policy which said: the following transfer requests will receive priority consideration: Lack of course offerings; Childcare availability; Parental hardship Medical/psychological; superintendent or his/her designees will confer with student and parent. And I agree, Mr. Rhodes said, that we are not following our policy.

Mr. Taylor said he didn't know how everybody else feels, but if he were a principal sitting in a school looking at numbers, he would follow the transfer policy. He continued he'd let that transfer person appeal to the board, chair, or superintendent for a transfer.

Dr. Kolb said in reference to the statement Mr. Rhodes made that says "the following will receive priority consideration" I don't read that as saying those are the only reasons for transfers. He continued if there is a case in an elementary school and if a student is transferring into a class and this is going to increase that ratio and you have to hire another position because of the lower grade, if you had two students wanting to go into this grade, I would interpret this policy as saying a priority would be given to the one with the hardship or one of those things listed. But, Dr. Kolb said, if there is available space, our policy doesn't exclude anyone from transferring but it does say they will provide their own transportation.

Mr. Bell asked, on the student that transferred, did they go directly by the policy. Dr. Randolph answered that some did and some did not. Mr. Bell said of the ones that did not, would they be eligible to go back to Calhoun Falls. Dr. Randolph said they have not filled out the paperwork and we would have to contact the parents and see what the circumstances are and these vary from situation to situation.

Mr. Taylor said he thinks the policy is being abused and it's disturbing when we see this many people that have not gone through the proper procedures.

Ms. O'Bannon responded that as it stands now, this is board policy and if parents have not filled out papers, they should have but, she continued, I think this is something we should look at in a future board meeting.

Mr. Taylor said one thing we need to deal with is transportation.

Dr. Crenshaw asked Dr. Randolph if we could get all the students that had transferred to other schools back into the Calhoun Falls area, do we have the figures to show the difference in the per pupil expenditures. Dr. Randolph responded that it would improve the ratio but would not change the declining enrollment for the entire county. Dr.

Crenshaw said he is only eyeballing it, but if these figures are added back in, he doesn't see a big material effect there.

Dr. Kolb said for this to be valid, you would have to know how long these students had been attending out of their area and if they've been out of the area for five years, it would be invalid to put them back in.

Dr. Crenshaw said if we look at the best case scenario right now, if all these students go back to Calhoun Falls, would this substantially effect the pupil expenditures overall to decree that we would feel this was not a problem at all, and my guess is that it would not but I haven't crunched those numbers and I don't see the gap closing enough to make the problem go away but this is just a snapshot.

Mr. Taylor asked if there were anymore comments from the trustees.

Mr. Tisdale said some of the community folks said a deal or decision was made when Diamond Hill Elementary School was built so that when the kids reached the eighth grade, they could attend any school they wanted to attend. Mr. Taylor responded that he was on the board when this school was built and there were lines drawn and the high school line never changed. He said there was no backroom agreement that you could go anywhere you wanted to if you go to Diamond Hill Elementary; the attendance lines are still the same attendance lines and the school was not built to shut down another school.

Dr. Kolb said that goes back to the attendance policy because when the school was built and moved closer to Calhoun Falls and Antreville, the kids would have gone to John C. Calhoun Elementary and the thought was that those kids, when they finished Diamond Hill, would go back to Calhoun Falls High School and the other kids would go to Dixie. Dr. Kolb continued that he didn't know but wondered if those kids on the list were Diamond Hill students and maybe chose to go to Dixie. He said they could have gone through the policy but obviously did not.

Mr. Burton said it doesn't matter which high school these kids go to, the district still is not going to get any more money and am I correct on that? Dr. Randolph responded that is correct and the money is divided once we get the money.

Mr. Tisdale said he understands we're not going to get anymore money and asked what would happen if we leave things as they are.

Dr. Randolph responded that we would have a hard time making payroll because we are spending more money than we have coming in. He said there are thirteen school systems our size in South Carolina and of those thirteen systems, we're the only system with more than one high school and a copy of this was in your materials and you can see what they have done.

Mr. Rhodes asked if the other systems are as spread out geographically as our county.

Dr. Randolph responded it's 3,000 to 4,000 students and I can't speak of the geographical location of these counties, but they're Dillon, Clarendon, Florence, Lexington, Laurens 56, Fairfield, Abbeville, Spartanburg, Marion and Orangeburg.

Mr. Rhodes said if you look at us geographically, we are spread out all over a wide area and a lot of that is rural area where you don't have access to cities and that's why we have three high schools because of transportation problems, distance, and how long it will take a child to get to a school thirty miles away from his house. He asked am I correct in that? Dr. Randolph responded that he did not know how large these systems are. Several of the trustees commented on the size and geographical locations of several other schools in South Carolina.

Mr. Rhodes said he wanted to comment on other Title I schools in South Carolina and he presented facts and numbers of cost per student in other counties in South Carolina. He then answered several questions from other trustees. Mr. Rhodes continued that Calhoun Falls High School ranks right in there with other Title I high schools in South Carolina as far as what it costs per student. He gave facts concerning rank and cost per student from other non Title I South Carolina schools.

Dr. Crenshaw said what is interesting is if the cost per student is what is spent per student and if they're spending \$21,000, they're spending money we don't have; if we could get as much as \$21,000 per student, we could flourish. Dr. Randolph said we get \$2,476 per student.

Mr. Tisdale said we only get so much money from the state, but how much local money do we get? Dr. Randolph asked Ms. Chrisely and she said we do not know how much it will be per student but we send the information to Columbia and they come up with the bottom line numbers.

Mr. Taylor asked what was received last year per student. Ms. Chrisley said last year we received \$2,367 and the 08-09 projection is \$2,578 with a possibility of changing.

Dr. Kolb asked how do we get the \$7,000 to \$10,000 per student cost and where does the money come from. Dr. Randolph responded that it comes from the local government, and the state government and the Title I schools get \$230 per student.

Mr. Burton asked the number of teachers at Calhoun Falls and Mr. Rhodes said twenty three counting the middle school teachers.

Dr. Kolb said when we report a student/teacher ratio, basically we are dividing the total number of teachers and the total number of students. Dr. Randolph said this is correct. Dr. Kolb said if we were to add these twenty three students back, this would basically raise the student/teacher ratio by one.

Mr. Taylor said but the calculation would not be on the 160 students; you would have to use the calculation after adding the middle school students and then divide it by the twenty three teachers and that comes out to be 10 to 1.

Dr. Kolb asked if there are some middle school teachers that teach only middle school.

Mr. Rhodes replied yes but you have thirteen teachers at Calhoun Falls High School that also teach high school and middle school students but they're being counted only at the high school. Dr. Randolph said all projections are done the same way for all calculations.

Mr. Taylor said he did not want to confuse everyone but there are forty six kids in the seventh grade at Calhoun Falls and that number is being used to project next year's eighth grade classes if we maintain. But, he continued, we are not taking into account that there are thirty six seventh graders at Diamond Hill and not all of the thirty six live in the Dixie High attendance area. Mr. Taylor said half of them live in the Dixie area and half of them live in the Calhoun Falls area so if we're going to project numbers for the eighth grade next year we've got to assume those kids are going to go where they are suppose to go; so this number may be sixty that we may have to project for next years eighth grade class.

Dr. Randolph said this is not a projection; it is active enrollment as to how many students are in today and if you look at Calhoun Falls High School, as of December 12th, there are thirty nine kids and when these graduate there will be thirty two coming in the ninth grade next year and that's already in the pipeline. He said you're looking at forty six and there's no projections going on and all it is telling you is how many students are in that school right now; we've got thirty nine graduating and thirty two going from eight grade to ninth grade next year.

Mr. Taylor asked Dr. Randolph if he was doing a budget for next year, would he use the number forty six. Dr. Randolph said for the budget he would use the total number of students. Mr. Taylor said he was talking of that particular school (Calhoun Falls). Dr. Randolph said he would have to check with Mr. Johnson and check the attendance line to see which school the children were assigned to but right now the students are actually forty six located at Calhoun Falls High School and thirty six at Diamond Hill and we won't know how many are coming over until next year.

Dr. Kolb said the sixth grade at John C would actually give thirty two students to seventh grade next year and Dr. Randolph said that was correct.

Mr. Taylor said the point he was trying to make was if we look at long range, two years from now, what is the ninth grade going to look like at Calhoun Falls and looking at the numbers we're looking at tonight, we should say some of the kids at Diamond Hill should go back to that school.

Ms. O'Bannon said she didn't know if projecting was something we needed to be doing.

Mr. Taylor said we have to look at numbers and trend because we can't just open the door.

Mr. Tisdale said these thirty six students could request a transfer and that's a problem unless we change the policy to say that no students in the district could transfer. He

continued we don't know how many are in the Dixie area and how many are in the Calhoun Falls area and how many will transfer either way.

Dr. Kolb said regardless of where they go, it means no difference in the amount of money we get from the state.

Mr. Rhodes asked if the money we are getting from the state is the problem.

Dr. Randolph said we have three problems to approach us at the same time. The first problem, he continued, to deal with is equity; equity in course offerings, equity in programs, equity in providing students the opportunity they need to have a successful experience in high school so they can attend the college or university of their choice. He said the next issue was brought by the results of the Southern Association Review Team that gave us our report and a second area brought to our attention by the Southern Association deals with a declining student enrollment. Dr. Randolph said we lost over two hundred and fifty students the last few years in correlation to the mills closing down in different areas. He said the third area we have to deal with is the budget situation and Act 388 was passed this year; before Act 388 was passed, our schools were funded by three sources- sales tax, property tax, and local tax. But, he continued, when Act 388 was approved, we no longer use property tax on homeowners as part of the way to fund our schools; the state in return adding one cent to sales tax. Dr. Randolph said the sales tax numbers are not coming in as projected; we have been told to expect approximately \$84 million shortfall in public school monies for the 08-09 school year. He said Ms. Chrisley called and verified that number on Monday. Any decision this board makes, Dr. Randolph continued, must deal with all three of these areas to rectify the problem.

Dr. Kolb asked prior to the last few years in Act 388, was there more flexibility on the local level if you turned up with the budget shortfall? Dr. Randolph said we did have more flexibility with local county council since we could petition them. Dr. Kolb said then we they could add on mileage to property taxes and it would go up. Dr. Randolph said that is correct but we've been hamstrung now because we can't ask for any additional mileage on property tax because we can't get the funds anymore and the only place we can go now as far as a mileage increase is to the business owners.

Mr. Rhodes said I know we keep bringing up the thing about declining enrollment, but I went to the US Department of Education for information and over five years our numbers went from 3,734 to 3400 and I'm going to compare two schools. He continued that in 1987, Abbeville High School had 682 students, enrollment declined, and in 2006 there were 582 students at Abbeville High. He said as you compare that to Calhoun Falls High School, in 1987 there were 293 students, in 1996 there were 370 students, and the US Dept. of Education says in 2006 Calhoun Falls High School has 269 students in grades seven through twelve. Mr. Rhodes continued that from 1987 until 2006, Calhoun Falls High School has only lost thirty three students and I know it's a district wide problem but it's not only Calhoun Falls High School, it is district wide. He said he did not get Dixie's numbers because his emails and phone calls are not comparing Dixie High School with Calhoun Falls, only Abbeville High School with Calhoun Falls and I have these, he said, if anyone would like to see them.

Dr. Kolb asked so what do we do about it?

Mr. Taylor said he didn't have a magic wand but if he did he would do something about it.

Ms. O'Bannon said that she hopes everyone here knows that no matter what happens, no decision made by the superintendent or board has been easy. She continued that most of us, except Dr. Kolb and Dr. Randolph, went to school in this county and we all have the best interest of our county. Ms. O'Bannon said the bottom line we have to look at tonight is that we've got to do what's best for every single student, be it the kids at Diamond Hill, be it the kids at Calhoun Falls, be it the kids at Cherokee Trail, we've got to look and make the best decision for all of them and when that junior in high school wants to go to Harvard, Princeton or Yale, they can do that. And, she continued, they will not be turned down because they did not have the course offerings the county could not give; so I hope everyone realizes this is a decision based on what's best for everyone.

Dr. Crenshaw said he had a visit with a brother-in-law from Georgia and the word "blame storms" was discussed. He said he had talked at length with a former teacher from Calhoun Falls and was stressed to hear that she thought we thought that Calhoun Falls was doing a bad job. Dr. Crenshaw said never in any discussions with the Board or Dr. Randolph had anyone said anyone that worked in that part of the school district had done a bad job. He said the problems we're facing in Calhoun Falls have nothing to do with the personnel; I have not heard one word from anybody that says Calhoun Falls is doing anything but a great job! Another aspect of the blame, Dr. Crenshaw said, is the ten people sitting here at the table tonight and any of them can be blamed; two of them, can't; the two that are right there; Dr. Randolph, I'm afraid has taken more than his share and his share should be none because he doesn't make the decision. He said Dr. Randolph has done the job we wanted him to do when we hired him; we want him to be aggressive, proactive and look down the road and anticipate problems before they get here; we want to hear the hard truth whether we like it or not so he's done his job in presenting us with facts as he sees them with research and understanding. Dr. Crenshaw continued the decision is with the people you elect and we're the ones to make the decision so if you want to blame somebody or burn somebody in efergy, whichever way it goes, shoot us instead of Dr. Randolph and we as a board, have a debt of gratitude for the hard work he has done and let us know what we face. Dr. Crenshaw said we have to take the data he has given us and his interpretation of the data and weigh it and we make the decision; he's just the messenger and he's not the one pulling that final trigger so you may give me a call.

Mr. Rhodes said he would like to read following statement: (typed from document as presented)

First of all, I would like to thank all of the board members, district staff, and teachers for all the help with this recommendation and possible solution. I have just a few notes and numbers I feel the board and staff, as well as the public, should know before we make any kind of decision for our children.

The first number or numbers are teacher to student ratio: The numbers given to the SACS team, as well as the public are at least a little misleading. Everyone was given the numbers 1 to 7.71 this is based on 162 students and 21 teachers. But the real numbers are this, based on the fact that CFHS actually has 23 teachers, 13 of which teach both high school and middle school students (only 2 teachers are considered middle school only). This would make our number of students 238, which includes 76 middle school students, which will give you a 1 to 10.58 ratio. Everyone keeps saying we have to make it more equitable; well this will put us right with Dixie at 1 to 11, not 1 to 14 as given in the presentation. Granted the ratio is still not the same at all three school, but it is hard to compare 2 1-A school to a 2-A school which the numbers for it should be greater due to its size. If you look at a teacher to administration ratio for the district, it is a 1:7; we have 1 adm. pos. to every 7 teachers in the district; this is all schools.

Second, I would like to look at the cost per student numbers. The presentation shows that it cost \$10,176 per child at CFHS. The cost includes Title I and Title 5 funding from the state and federal government. Right now CFHS is the only Title I and Title 5 high school in the district. If we as a board or administration decide to close said school, we will lose both of these funds. Mr. Blacksly, and Mr. Smith both from the Office of The State Superintendent Jim Rex, said these funds will not follow any student from CFHS to another school in the district. This would be a loss of 112,000 dollars to the district, the day the door closes on said school. They also said that in addition to these funds that the district would also lose funds allotted for CFHS for additional supplies due to the low income base in the area.

Third, I would like to look at the curriculum, it is said that CFHS does not offer certain classes that are offered at DHS and AHS. The problem with this is that CFHS also offers classes that either DHS or AHS does not offer. Some of those classes are AP Calculus, Biology II, Art II and Desktop Publishing. CFHS offers at this time these classes, Physics, Entrepreneurship, Teacher Cadet, Forestry, Wildlife, Ornamental Horticulture, Environmental & Natural Resources, Hospitality, & Tourism, Culinary Arts, and Career Education. Plus, these courses are already scheduled in for next year. Ap Calculus, Ap World History, Ap English, Ap Art, Art II, Biology II and Applied Biology. It has also been said that the virtual classes do not offer the same education that a in class course does. However, the virtual classes are offered by the State Education department and are also used in most of your colleges. Someone was quoted as saying they are at least just minimal use. I for one know of at least 5 or 6 people in our area that have gotten Master Degrees, and or BA Degrees by doing a virtual or computer classes. I would challenge that person to tell the State Department of Education or these colleges that these classes are no more than minimal. CFHS is offering Physics now with the virtual class, in which AHS was to do the same thing but backed out at the first day of school to do Biology II instead. A side note on the classes offered and students at CFHS. Someone said in an email or letter that CFHS does have any Life Scholarships. I for one know that they were 3 eligible from the 2007 graduating class, and that they are at least 4 if not 5 eligible in this year's class, (one of which is my daughter).

14 students total of \$436,900

Last year \$275,000

10 students are eligible for life scholarships

8 FFA scholarships

Fourth I would like to look at extracurricular activities and athletics. This year CFHS has around 86% of its student body involved in some type of extracurricular activities. This school offers football varsity/JV baseball varsity/JV basketball boys and girls varsity/JV, as well as girls and boys 7th and 8th grade Basketball, Softball, varsity/JV, volleyball varsity/JV Boy and Girls Track varsity/JV, and Golf. They also offer Band, Cheerleading, FFA, Beta Club, Teacher Cadet, Mentors, Upward Bound, Yearbook and GATE (for those who don't know, this is Gifted and Talented Education). We also have teachers and students involved in Relay for Life, as well as FCA. (I have the actual number of people involved in each activity if someone would like to see them.)

As a side note to athletics, this past football season CFHS was to play Columbia High School at CF. I was helping the football team with devotions before most of the home games and then would help Coach Fouch during the games. This time all he needed me to do was meet the visiting team and show them where to park and make sure they had everything they needed. I was talking with their head coach while the team got all of their equipment off of the buses. He asked several questions about the area, school and team. One thing he said was that it seemed we had a lot of kids playing football. I told him yes, but some also played JV. He asked how many are dressing out this year. I told him I believe that it is 30 players. He paused for a while and then said, 30, we are a middle sized 2A school and we are only dressing out 36 to 38 kids. After telling him the number of students in our school, he committed that we should be commended for have that type of turnout for sports and that other people should know, and do what ever it is that we are doing because it seems to be working great here.

Finally, as a parent as well as a board member, do we have a plan? What about transportation for students? Will some of the kids that live at the far end of the county have to get up at 4 a.m. just to get on a bus and ride for 2 to 2.5 hrs. to school? What about those parents that have students in both JCCE and CFHS, if the schools closes and we send a child to AHS or DHS, what are the parents suppose to about get that child to and from each school? Have we considered the cost of buses and the time that buses will be on the road everyday, maintenance, drivers and safety? No one can tell me that it will help the children of the county by putting a child on a bus at 5 in the morning and then that child not getting off the bus until 6 in the evening. That would put a child spending around 12 or 13 hrs at school, how many of us even want to work 12 hr days. After that child gets home he or she will still have homework or projects they have got to work on but this is good for our children. What if that child is involved in extracurricular activities, how do we plan on getting that child home after practice? This will be an extra cost to the district. If we plan on doing it for one than we will have to do it for all sports and other after school programs, that means boys and girls sports as well, my understanding is they do not practice at the same time, what will we do about this? Do we as a district have a plan to go into affect as we close the school? Do we have a plan for all 23 teachers at CFHS and where they might go? What are we to do with middle school students? Why close a school they has a brand new (not even 2 yr old) addition? Why close a school that meet AYP, HSAP, and has improved every year on its Exit Exam? Last year HSAP was 87.2% of first attempts, 97.7% on all attempts. Has anyone considered what the US Land people think about this decision, and what is their input to the district? Last and not at all the least, if someone can prove or show me the plan or plans to make this a more efficient way to run our district, and ensure me that every child will be safe, and get the education they deserve, I possibly could have backed such a plan,

but not just to close a school because it would look good on paper or be a quick fix. The SACS report says that we need to develop a plan of action, not take action. We as a school board and district need to advise a plan that is efficient for all, and that keeps all of our school operating as they are now, but more efficient. The community of CF is asking that we give them time, see how the project grows, the outlook is great, lots are being sold and houses are going up. I feel that we as a board should look at all the facts and then make a sound decision. (end of document being read)

Mr. Rhodes then said that we can not come in here in a month's time and say we're going to close this school just because we might not have the money to do it. He said we've got to make the decisions that will affect everybody, not just our school but the entire district.

Mr. Tisdale said whatever the decision we make, we have to consider all the children all over the county and I've talked with parents all over the county, and I told them if I have to make a decision, it will be what's in the best interest of all the children

Mr. Bell said he was for the best interest of all the children.

Mr. Burton said whatever decision is made, we need to have the best interest of all the children in the county in mind.

Dr. Kolb said he had been the board for fifteen plus years and this was the hardest board meeting to come to tonight. He continued he had never seen this many people at a meeting and its obvious there is a lot of concern in the community about this. He said he had gotten a lot of well thought out segments from people saying please don't close the schools for these reasons and a goodly number of people saying let's come together, let's do what's best for all kids and let's try to pool and work together. Dr. Kolb said whatever we do, I hope as a Board and administration, that however we dissolve this issue, we will continue to have the working relationship we've had and I hope in the community we can draw together in a way we haven't in the past. He said that one of the comments he got in regards to closing the school and the thing about tradition that would be destroyed really struck home with him. Dr. Kolb said: I graduated high school in 1971 and Abbeville County had a mandated integration consolidation in 1971; as for the county I went to school, in the eleventh grade I attended Edmunds High School where my sister had graduated from, my mother had graduated from, our school colors were purple and white, we had our alma mater, our football team won the state 4A championship beating Gaffney, I played on the Carolina field (not football, in the band), my wife was a cheerleader; my senior year we consolidated with the former black high school; our school name, our school ring, our school colors, our alma mater; all those things were changed and I wish I could say it was a smooth year but it wasn't; there was a lot of tension between the former almost all white school and the black school as we pulled together; it was a rough year and there was a lot of suspicion and mistrust but gradually people got to working together and I was in the first graduating class of Sumter High School which is one of the larger high schools in the state. So I know when you start talking about closing a school or losing your traditions, I know first hand what that's like; but I survived this. In 1991 before Mr. Taylor and I got on the board, there was a referendum county wide to try to consolidate the three high schools into one school and that was soundly defeated. Mr. Taylor then came on the board and I came on shortly after

that and we, on the board, took that as a sign that this county was committed to keeping and maintaining three high schools; most of the decade of the nineties, we did that; we had the ability to draw multiple taxes and occasionally we had to go before county council and get a mileage increase because we needed the money for operations; in '98 or so we had another referendum to do additions on the three high schools; the Calhoun Falls middle school had a wing added, Abbeville High School had a wing added, and Dixie, the newest overall facility, had a band room maybe and some other additions done. Somewhere around that time, we had the ability to vote on property tax relief and that unfortunately passed; I voted against that because property tax was one thing the local government entity had some control over in terms of being able to raise revenues. Dr. Randolph mentioned Act 388 that brought in the one cent sales tax and further limited our ability to raise money; and we've talked a lot here tonight about numbers and teacher/student ratios and about declining enrollment; we've talked about kids going to one school and need to be going someplace else. You know we can put everybody in the school they need to go to and that's not going to bring one extra dime of money into the district; the bottom line is sooner or later we're going to have to make some hard choices about making our district more efficient; Mr. Rhodes has mentioned some of the outstanding students at Calhoun Falls and I think back over the years of some of the students that have appeared before this board and particularly in terms of the FFA program at Calhoun Falls and some of the superlative young men and women that have gone through that program and gone on to take state and national offices; we're not saying anything about the quality of teachers, not about the quality of students but it is about the quantity of the money. With Dr. Randolph, we've talked about budgeting and looking ahead and I haven't hear any recommendations made; I have just heard facts laid out, information provided to the district by the State Department of Education; all of those numbers were derived by using the same methods for each of our schools; basically whatever we do, the fact remains we are continuously losing kids; we're the only district between three and four thousand students who is trying to run more than one high school because we made that commitment back in 1991 but now we're hamstrung because we don't have the resources to get the revenue like we did back then. I too would echo what Dr. Crenshaw said which was if there's one person in this room not to blame for us being here tonight, it is Dr. Randolph; Dr. Randolph is an exceptional leader and this county is very fortunate to have a person of his caliber here. And also when we hired him, Dr. Randolph was one of the finalist for North Carolina Superintendent of the Year a year or so before he came to us so if there's blame to be had, as Dr. Crenshaw said, it is Dr. Crenshaw's; so call him.

Mr. Taylor said he had several letters he wanted to read. The first letter was from US Land and read as follows:

It has been come to our attention that the school board is considering closing the local high school. As you know, we now have lots of purchases in our new development. When this project is completed, we will have over two thousand new home built in Calhoun Falls. The home owners will require a high school and furthermore the existing homeowners purchased their homes based on having a high school. In addition, most homes have a value of two hundred forty thousand dollars of positive taxes for the county. All of our homes will be over that price therefore producing a large source of tax revenue for the city and county. Tax payers of South Carolina and our investors have

spent over twenty million dollars to create this project. It is not ethical now to reduce the services that this investment was proceeded on. We would ask that you explain to your local school board the actual necessity of keeping Calhoun Falls High School open.

Signed Stephen Rosenberg, President CEO, US Land Investments

Mr. Taylor then read the second letter which was as follows:

I am writing you in reference to the possibility of closing Calhoun Falls High School. I want you and the board to know that this decision could devastate the town of Calhoun Falls. As you know, our town is economically depressed with the closing of various industries and the possible closing of our school could be the last straw for our community. In talking with perspective industries and developers, one of the most important concerns is that we have a local high school. As Mayor and Town Council, we ask the board to look at other alternatives rather than closing our school. The town is willing to do whatever we can to make this possible. In a letter you received from one of our developers stated that over two thousand homes will be built in Calhoun Falls but without a school, this would slow the process. The housing and lot sales would dramatically increase the tax base for both the county and the town. We have been partners with the school district for years and have cooperated on many adventures monetarily; use of our property, equipment and man power to help cut costs for the school district and are open to other areas available. The town citizens are asking seriously to not close our school but to look at other alternatives. As you've seen from our meeting at the civic center, the citizens are serious about keeping our school open. We appreciate your help and support of the above matter.

Signed: Mayor Johnny Waller

Mr. Taylor said: Folks, I don't have a crystal ball; I can't look into the future and when I look at this development, I can't tell you there's gonna be one hundred families moving into Calhoun Falls and they're going to have children in school. And I also can't tell you we will have two or three hundred families move into Calhoun Falls that will be retired people and will not have children in school. But I will tell you this much; I guarantee you if we have these houses built, they are going to pay taxes. Sometimes you have to invest in places like schools at a loss. You look at the tax base these people could bring to our county. Let's forget Calhoun Falls, o.k? This will be county money and if we've got people that are going to come in and say we thought we were going to have a school for our kids to go to and I say I don't know if there'll be a school or not and that's gonna be a factor, can this county afford to roll the dice and lose the possibility of this money coming into our county. We're not talking two or three thousands of dollars; we're talking millions of dollars. Our county right now is worth fifty seven million dollars; that's what a mil of taxes generates in this county and I may be off a little bit but I'm real close. If you add these homes, you increase the value of this county. People may say you're not gonna get that tax money for the city but what will that tax money do for the other things in this county? We've got land fields; we've got businesses that need this sort of income coming in. I'm not willing to take a chance of losing what we could gain. You don't cut your nose off to spite your face. It's just not worth the gamble. We need things in this county; our EMS system, our fire department; we're not talking about low dollars, but big bucks. One other thing; we look at this \$7,000 per student and \$10,000 per student, this board can make that student/teacher ratio change and can make that dollar figure change. And I know it's not going to change the bottom line on the budget but it can make it

change. Right now the biggest complaint I've got right now is not that our budget is running low but the biggest complaint I've got is we're spending \$10,000 over here and \$7,000 over here. That's the biggest complaint I've got! But with one motion and one vote from this board, you can take this piece of paper, take this number fifty three, and I feel sure this is a good number, put these kids back over there, then the student/teacher ratio is going to change and be more equitable as far as per student. The people at Calhoun Falls do not deserve to be called the bad guy; we're the problem for all the budget woes; everybody is pointing at Calhoun Falls saying you are the reason we're where we're at; the people of Calhoun Falls don't deserve that. I look at the attendance line and that little area over there is small. Other counties when they have this problem, what do they do? They try to keep the numbers as equal as possible, but we're not doing it. Calhoun Falls gets a bad rap. Everything that happens in the county is from over that way...that's not the problem, we're not the problem. I've lived the first nineteen years of my life in Abbeville, I went to school in Abbeville, I loved it; I've got friends here that I went to school with and think the world of; all of them. The people over there don't deserve this. For forty years it's been my home; I came from Abbeville and went to Calhoun Falls. You couldn't ask for a better place. If you don't think it's a good place, go over there; fine people, lovely children. Don't let Calhoun Falls be the bad guy in this right here. I can't support knowing this board is not doing what they can do to get these numbers right just because of the policy that could be changed. When we first started this process my mind was wide open then I get to seeing things like that that we get the blame for and it shouldn't be.

Dr. Kolb said: You said even if we change the policy and shift the lines, it still doesn't do anything different to the bottom line.

Mr. Taylor said: I said that. But these people sitting right here from Calhoun Falls and the people from Abbeville and all the people all over the county I've talked to, the only thing, the bottom line is, we'll say \$10,000 verses \$7,000; it shouldn't be; I'll tell you what we can do. We can pass the policy right now and let everybody go where they want to go. If you cross those attendance lines, charge tuition. How about that, but that's not on the agenda tonight.

Mr. Rhodes said: Mr. Chairman is it not the SACS recommendation that we only have to develop a plan right now? That we do not have to jump up and do anything now?

Mr. Taylor said: SACS says we have eighteen months for a plan and five years to implement it, is that correct?

Dr. Kolb asked if the superintendent had any clarification or information.

Dr. Randolph said: The information we provided the board is correct information. I think the folks looked at the data and put their best spin on it to help the situation. What we've done is used what the state report card says. We also pulled data straight from Columbia from SASCI (all schools use this system) and we then take this information and generate the figures we've used. Yes, we have had a decline in student enrollment in the county; we've lost 268 students in the last six years and a large portion of those kids have come

from Calhoun Falls as far as the percentage decrease. The point that's being debated over and over again is how much money we're spending per child and at Calhoun Falls it's \$10,176, Abbeville High School it's \$7,433 and at Dixie it's \$7,100. No, these are not figures I came up with; this is hard data from the state. The situation we're dealing with again is three issues that we must deal with simultaneously; we must deal first with equity issues as far as course offerings, equity quality of programs, enrollment, budget issues; we have to look at balances we can control and balances we can't control. The board asked me to investigate and come up with a recommendation and I'm prepared to give a recommendation.

Mr. Taylor said: One thing I want the board to know. Those comments I made, I really want to board to think about them. I grew up here as a child in Abbeville and remember when I played ball as a child. Let's say when I was twelve years old, we'd go to the drive-in in Greenwood; If you snatched me away when I was twelve years old and brought me back today, I could go around Abbeville, the whole county and not get lost one bit. But with Greenwood County, I wouldn't recognize it. I remember when it was a two lane and wasn't many businesses. But what happened? They started getting developed and Abbeville County was still setting still. The only thing we have now is where Hardee's is and that's where we played baseball. Basically Abbeville County is exactly like it was fifty years ago. Now we have a chance over there with the lake and I know it's slow but it can be positive, not just for Calhoun Falls but for the whole county. These folks right here are looking at us and they've already invested a pile of money and I don't have the answer but there's one other thing you've got to keep in mind, how's it gonna affect that area over there?

He then said the superintendent now has a recommendation.

Dr. Randolph said: The administration recommends the closing of Calhoun Falls High School at the end of the 07-08 school year. The students will be absorbed into Abbeville High School, Dixie High School, and Wright Middle School depending on the attendance area; sixth grade students will be moved from John C. Calhoun Elementary School to Wright Middle School or Dixie High School depending on their attendance area.

Mr. Taylor said it was his responsibility as chairman to ask for any comments or concerns from the board. Hearing none, Mr. Taylor asked if there were a motion. **Ms. O'Bannon made a motion to accept the recommendation from the superintendent to close Calhoun Falls High School. The motion was seconded by Dr. Kolb.**

Mr. Rhodes said: At the beginning of this when the SACS report came out and Dr. Randolph presented this to the board as a whole, it was all about Calhoun Falls High School closing; you did not mention anything about moving sixth grade from John C. Calhoun Elementary School and at the time when this was brought up, you said the middle school students, probably, more than likely, would be moved back to John C. Calhoun Elementary School; in your recommendation right there, you just said we would take more students away from Calhoun Falls by moving students from John C. Calhoun Elementary School to Wright Middle School or Diamond Hill Elementary; that was not part of what your presentation was in the beginning.

Dr. Randolph responded: Mr. Rhodes, the board charged me with the responsibility.....

Mr. Rhodes said: I know we did but you did not mention anything about....

Dr. Randolph said: The board charged me with the responsibility to figure out a way to solve this dilemma. I've done that with the best interest of all the students in this county.

Mr. Taylor said: There will be no more comments.

Dr. Kolb said: If this is voted on and was to pass, if somewhere down the road there would be other community resources, is this an issue that could be revisited? I'm assuming you're making this on the best information you have at this time.

Dr. Randolph responded: That is correct; if the information were to change, the position would change and based on the information I have right now, I've got to make a decision that's based on the economic situation and what's best for the students.

Dr. Crenshaw said: If we vote tonight, I will vote in favor of the superintendent's recommendation. It is the disparity in the money spent in the high schools; it is the deciding factor and the fact that we don't see any way out of that; what this amounts to is for a student to be educated at Calhoun Falls High School right now, it costs the school district for that student thirty six percent more than it does to educate that student at Abbeville High and thirty nine percent more than it does to educate a student at Dixie; the reason for that is there's an infrastructure and of course personnel necessity that you have to have no matter what the size the student population is and because the pupil population has declined to such an extent that it costs to educate a student at Calhoun Falls almost forty percent more than Dixie, we have to ask ourselves is that the best way we're spending our funds? I'm a believer in local schools; I think local schools are much better than consolidated schools but at some point we are hemorrhaging money that could be spent county wide instead of at a school that is declining in enrollment; I wish it weren't; I would hope things could turn around but I don't see how we can justify spending an average of 37% more per student to educate them at Calhoun Falls High School than the other high schools and I wish that wasn't the way it was.

Mr. Rhodes said: I still say we are jumping on a boat before we have a plan in effect and according to the SACS report and what we have been told, we're doing something without making a plan and it's not in the best interest of our children; and I'm not talking about children just in Calhoun Falls, I am talking about children county wide because I can tell you right now there are kids in our area that live up at the McCormick line that are going to be spending twelve and fourteen hour days at school that are not in any extracurricular activities. I ask that we develop a plan, not react on a situation.

Mr. Taylor said: I have a couple of comments to make before I call for a question. If I call for question and we take a vote here tonight, please don't have any comments and don't get loud on me, o.k? Because I've got some comments I've got to make afterwards. And I've still got some things and business that I've got to talk about before we take a vote; and I'm not going to ask for a show of hands but have roll call.

Mr. Tisdale said: I vote in favor of closing Calhoun Falls High School

Dr. Crenshaw said: Mr. Chairman, have you said the discussion is ended?

Mr. Taylor asked: Any further discussion?

Dr. Crenshaw said: I think you just asked for roll call.

Mr. Taylor said: That's what I just asked for.

Dr. Crenshaw said: Well, technically I'm following the rules of order and I did not hear that; my apologies.

Mr. Bell said: I vote in favor

Mr. Burton said: I vote in favor

Dr. Kolb said: I vote in favor

Ms. O'Bannon said: I vote in favor

Dr. Crenshaw said: I vote aye

Mr. Rhodes said: I vote no

Mr. Taylor said: Before the chair votes, I have some comments to make. I feel I have been railroaded; I feel the people in Calhoun Falls have been railroaded; I don't think that part of the county ever gets what it deserves; I think this is wrong, wrong, wrong; I don't care what you think of me, it's wrong. And I pray that this right here doesn't spoil like everything else that tried to come into this county if it's spoiled by this right here. I really believe we had a chance; I want you to remember this, o.k.? Now, I don't believe I can be effective as chairman of this school board and I really don't care to serve on it anymore so as of right now, with my vote of no, I will see you, goodbye.

Mr. Rhodes: Mr. Tisdale, before I leave, I resign as well.

At 8:50 p.m. Mr. Tisdale, Vice-chairman, asked for a motion to adjourn the meeting. Dr. Crenshaw made a motion to adjourn which was seconded by Ms. O'Bannon and carried unanimously.

Respectfully submitted,

Earlene S. Milford

Earlene S. Milford

Exhibit C

Abbeville County School District
Administration Building
400 Greenville Street
Abbeville, South Carolina 29620

The regular meeting of the Abbeville County School District Board of Trustees will be held on Tuesday, January 22, 2008 at 7:00 p.m., at the Administration Building on 400 Greenville Street in Abbeville, South Carolina.

January 22, 2008
Agenda

1. Call to Order – Mr. Buster Taylor
2. Pledge of Allegiance – Mr. Buster Taylor
3. Approve Agenda – Mr. Buster Taylor
4. Sign Claims
5. Approve Minutes – Mr. Buster Taylor
6. Gold Star Highlights – Mr. Buster Taylor
 - A. Recognition of School Board Appreciation Month – Ms. Kathy Stevenson, Ms. Kathy Bernard, and ACEA
 - B. Recognition of Lt. Governor's Essay Winners – Ms. Kathy Stevenson and Ms. Jean Smith
 - C. Recognition of 2007 National Board Certified Teachers – Ms. Kathy Stevenson
7. Audit Report – Mr. Kevin Madden with Greene, Finney, & Horton, LLP.
8. Financial Update – Ms. Shelley Chrisley
9. Public Input
 - Dr. David A. Church, Executive Director, South Carolina Association of Public Charter School
 - Mayor Johnny Waller
10. Administrative Section – Dr. Ivan Randolph
 - A. Mr. Sam Jones – Maintenance/Construction Update
 - B. Ms. Sherri Smith – Curriculum Update
 - SAT Score Trends
 - Advanced Placement (AP) Course Update
 - C. Mr. Sherwin Johnson – Consideration of the approval of the attendance lines for the absorption of Calhoun Falls High School into Abbeville High School, Dixie High School and Wright Middle School (Action)
 - D. Ms. Kathy Stevenson – Consideration of the First Reading of the following Policies: (Action)
 - JCA-E – Abbeville County School District Attendance Areas
 - GDF – Support Staff Hiring
 - GCF – Professional Staff Hiring
 - GCFB – Hiring of Administrative Staff
 - GBEB – Staff Conduct

E. Dr. Randolph

- Update of the transition status of Calhoun Falls High School
- Consideration of the request for the final reading and approval of the 2008-2009 School Calendar (Action)
- Consideration of the request of the 6th and 7th grade students at Diamond Hill Elementary School for an educational field trip to Atlanta, Georgia on March 26-27, 2008 (Action)
- Consideration of the request from The Dixie High School Booster Club to construct a 12 ft. X 20 ft. ticket booth (Action)
- Consideration of the Letter of Appeal dated December 22, 2007 in reference to the actions of the Abbeville County School Board's decision to close Calhoun Falls High School at the end of the 2007-2008 school year (Action)

11. Miscellaneous from the Board

12. Executive Session

A. Personnel Elections/Resignations/Retirements

B. Expulsions

C. Attorney/Client Matters

13. Return to Open Session

14. The Board may take any action deemed appropriate and necessary in light of the executive session.

15. Adjourn

Exhibit D

Minutes of Regular Meeting
Abbeville County School District Board of Trustees
January 22, 2008
7:00 p.m.
Greenville Street Building
Abbeville, South Carolina

In accordance with the Code of Laws 1976, Section 30-4-80 (d) as amended, *The Press and Banner*, *The Index Journal*, *The Anderson Independent*, and *The Greenville News* were notified of the time and place and were given an agenda of the meeting.

Trustees Present: Mr. Mark Burton, Dr. Allen Kolb, Mr. Buster Taylor, Mr. James B. Tisdale, Jr., Mr. Tim Rhodes, Mr. Samuel Bell, Ms. Corinna O'Bannon, Dr. Bill Crenshaw, Mr. Joseph Reynolds

Administrative Personnel Present: Dr. Ivan Randolph, Ms. Kathy Stevenson, Mr. Wayne Stevenson, Ms. Sherri Smith, Ms. Jean Smith, Ms. Shelley Chrisley, Mr. Sam Jones, Mr. Matt Kimsey, Ms. Joyce Cunningham, Ms. Brenda Chadwick, Mr. Sherwin Johnson, Dr. Steve Glenn, Mr. Steve Garrett, Mr. Charles Costner, Mr. Barry Jacks, Mr. Todd Ramey, Ms. Kathy Bernard

1. Call to Order – Mr. Buster Taylor
Mr. Taylor called the meeting to order at 7:00 p.m.
2. Pledge of Allegiance
Mr. Taylor led the pledge of allegiance.
3. Approve Agenda
Mr. Tisdale made a motion to approve the agenda which was seconded by Dr. Kolb and carried unanimously.
4. Sign Claims
Claims were signed
5. Approve Minutes
Ms. O'Bannon made a motion to approve the November 27, 2007 minutes which was seconded by Mr. Rhodes and carried unanimously. Dr. Kolb made a motion to approve the December 14, 2007 minutes which was seconded by Ms. O'Bannon. The motion carried with a vote of seven (O'Bannon, Crenshaw, Reynolds, Kolb, Burton, Tisdale, Bell) to two (Taylor, Rhodes).
6. Gold Star Highlights

A. Recognition of School Board Appreciation Month

Ms. Stevenson said on behalf of Ms. Joyce Cunningham, Ms. Kathy Bernard, ACEA, and some very talented and creative young people and teachers here tonight, she would like to recognize and pay tribute to Abbeville County School Board of Trustees for their hard work and dedication. Each trustee was then presented gifts in honor of School Board Appreciation Month.

B. Recognition of Lt. Governor's Essay Winners

Mr. Taylor and Ms. Stevenson congratulated and presented certificates to the following winners: Andrea Poore, Fifth Grade winner, Cherokee Trail Elementary School; Kolby Taylor, Fifth Grade winner, Diamond Hill Elementary School; David Bush, Eighth Grade winner, Dixie High School, Aaron Wyatt, Eighth Grade winner, Wright Middle School

The following winners were not present: Jacob Schultz, Fifth Grade winner, Long Cane Elementary School; Darryn-Austin Dye, Fifth Grade winner, Westwood Elementary School; Jessie Sanders, Eighth Grade winner, Calhoun Falls High School; Jacob Schultz, District Winner, Long Cane Elementary; Jessica Sanders, District Winner, Calhoun Falls High School

C. Recognition of 2007 National Board Certified Teachers

Mr. Taylor recognized and presented certificates to the following 2007 National Certified Teachers: Chris Guire, Abbeville High School; Beverly Spivey, Dixie High; Linda Rudisell, Westwood Elementary School

The following teachers were not present: Travis Scott, Long Cane Elementary School; Brenda Jackson, Wright Middle School

7. Audit Report

Mr. Taylor introduced Mr. Kevin Madden, Greene, Finney, & Horton, LLP. Mr. Madden said: I have given each of you a financial statement FYE 6/30/07, management letter and audit handout. I am going to touch only on the highlights and anyone should feel free to stop me anytime and ask questions. Mr. Madden then discussed the following and answered several questions from the trustees:

Understanding of Audits

- The financial statements are the responsibility of the school district.
- Our responsibility is to express an opinion.
- Reasonable assurance, not absolute assurance.
- Materiality
- Independence.

Unqualified Opinion

- The balances and amounts in the financial statements are materially correct.
- This is the best opinion the school district can receive.

The fund balance of the General Fund decreased \$147K to \$2.5 million

- Approximately 11% of operating expenditures
- We recommend 1-2 months (8% to 17%) worth of expenditures for the school district

Major reasons to maintain an adequate fund balance

- Cash flow through second half of calendar year since property taxes are collected early in calendar year (eliminates dependency on tax anticipation notes- TAN)
- Significant emergencies and unanticipated events
- Significant nonrecurring planned expenditures
- To cover potential shortfalls from the state as a result of the change in property taxes (ACT 388) as residential property taxes from operations has been eliminated and replaced by the state with a 1 cent sales tax increase.

A healthy fund balance can also save the school district money through lower interest rates when bonds are issued.

General Fund revenues, including net transfers from other funds, increased \$0.3 million (1%) compared to the prior year to \$22.0 million.

- State revenues increased approx. \$0.3M due to increased base student Cost.
- Transfers from other funds (primarily EIA) decreased approximately \$43k
- Slight increases in other revenues

General Fund expenditures decreased \$0.1 million (0.5%) to \$22.2 million

- More salary and benefit expenditures were allowed to be charged to special revenue programs
- Partially offset by increases in wages and benefits – which was partly attributable to state minimum salary schedule and state mandated benefits increases

Budget to Actual for General Fund

- General Fund actual revenues were approximately \$317,000 less than The revised budget as local tax revenue was approximately \$598,000 lower than expected. This was partially offset by higher investment earnings, federal sources, and state sources than budgeted
- General Fund expenditures were approximately \$215,000 lower than the revised budgeted as more expenditures were allowed to be charged to special revenue programs than expected.
- Difference between actual and revised budgeted revenues and expenditures was less than 1.5%

Debt Service (County Auditor set debt service millage)

- Debt service had an increase in fund balance of \$71k, as property tax Revenues exceeded principal and interest payments (primarily due to an increase in debt service millage)
- These funds are managed and assessed by the County and the funds are Restricted solely for debt service
- Fund balance at June 2007 was \$622k

Food Service

- Food service had a decrease in net assets of \$.1 million (expenses of \$1.8 million exceeded revenues of \$1.7 million) primarily due to high expenses.
- Net Assets at June 30, 2007 were \$128k in total, with \$37k

unrestricted. Based on the trend in food service, we would expect to see the General Fund to start having to transfer funds to food service in the future.

Areas of Concern

- Impact of Act 388 going forward
- Decrease in the General Fund balance
- Zero Capital Projects fund balance
- Continued losses in Food Service will further strain the General Fund

New auditing standards will be applicable for the school district for the current and future years:

- SAS #112 requires auditors to report to management and the Board Deficiencies noted during the audit.
- SAS 104 – 111 places a renewed emphasis on internal controls:
 - ~ Management must review, assess, document, etc. its significant internal controls, policies and procedures
 - ~ We will require your independent auditors to properly understand and assess your internal controls (i.e. we will need to test significant controls to see if they are designed and operating properly)
- SAS #114 will require more direct communication between the independent auditor and the Board of Trustees before, during and after the audit.
- SAS 112 Finding
- Management Letter Comments:

The school district continues to show improvement in internal controls but there is still areas that can be strengthened.

Pupil activity funds are not consistently following the school district's policies and procedures.

The school district should develop a formal documented fraud risk management program.

Mr. Madden concluded by saying if anyone had questions later on, first of all Shelley should be asked and if she does not have the answers, just give him a call.

8. Financial Update

Ms. Chrisley said she wanted to say a few things about the audit and was very pleased to get an unqualified opinion which was the best we could receive. She then thanked Mr. Madden for his patience during her first audit. Ms. Chrisley said there were a few issues surrounding pupil activity as well as fraud risk management and we may be able to work a workshop in with the budget workshop. She continued that she and Dr. Randolph were going to work with the schools on their pupil activity funds. Ms. Chrisley asked if there were any questions concerning the financial update that was included in the board packets. There were none. Mr. Madden then thanked Shelley for the good job she had done and all of her hard work.

9. Public Input

- Dr. David A. Church, Executive Director, South Carolina Association of Public Charter Schools

Dr. Church thanked Dr. Randolph and the trustees for inviting him to make this presentation. He said the focus here is not withstanding the board's reconsideration of the original decision to close Calhoun Falls High School but he is here to explain what the law says concerning Charter Schools. Dr. Church said charter school initiatives, whether it be a charter school authorized by this local school district or a charter school authorized by the South Carolina Public Charter School District, statewide, and single purpose school district, solely for the purpose of authorizing charter schools. He continued what it mean is to convert a traditional public school, the current school, to charter status, compared to what is called the start up school. Dr. Church then presented a PowerPoint presentation which included the following:

- What is a Charter School?

A charter school is a public school. South Carolina law defines a charter school as a "public, nonsectarian, nonreligious, nonhome-based, nonprofit corporation forming a school which operates within a public school district." The charter school is accountable to the local school board of trustees of that district.

Charter Schools are public schools of choice that are authorized to operate with freedom from many of the regulations that apply to traditional public schools.

The "charter" is a performance contract detailing the school's mission, program, goals, students served, methods of assessment, and ways to measure success.

- Charter Schools – Major Characteristics

- Public Schools

- "Contract" schools

- Schools of choice

- Open enrollment (lottery)

- Nondiscriminatory

- Tuition free

- Nonprofit corporations

- Autonomous

- Nonreligious

- Nonhome-based

- Types of Charter Schools

- Start-Up (A group from within or outside the existing school system applies to start a new school)

- Conversion (A traditional public school applies to become a charter school.

- Application can be made by the principal after 2/3 vote of parents and 2/3 vote of instructional staff.

- Are charter schools accountable? (yes)

- Customers (students and parents)

- Local school district's board of trustees

- Education Accountability Act (school report cards)

- Same financial audits as are applied to other public schools

- No Child Left Behind

- Federal program audits (IDEA, Title I)

- How are charter schools funded?

- Local, state, and federal funds based on student population
 - Grants
 - Donations
 - Fundraising efforts

- A State Perspective

- S.C. Charter law was passed in 1996 and amended in 2002 and 2006
 - 29 charter schools are in operation in 14 school districts
 - 2 charter schools are conversions; 27 are start-ups
 - Approximately 5500 students attend charter schools
 - 8 additional schools have been approved to open in fall 2008
 - 13 schools have closed, through board decisions and revocation

- A National Perspective

- First charter law was passed in Minnesota in 1991
 - 40 states, the District of Columbia, and Puerto Rico have charter legislation
 - 3977 charter schools are in operation
 - Nearly 1.15 million students in 40 states attend charter schools
 - 30,000 teachers are employed at charter schools; 90% express satisfaction; 25% Report they would not be teaching if not for charter schools
 - The demand is high. 7 of 10 charter schools have waiting lists.
 - Charter schools are small. (Average enrollment is 250)

- S. C. Application Process

- Applications are reviewed by the Charter School Advisory Committee
 - Applications in compliance with established standards are forwarded to the school District
 - Findings of noncompliance may be appealed to the State Board
 - The local school board rules on the approval or denial of a charter school application
 - Denials may be appealed to the State Board
 - Final approval/denial decisions are made by December 1st of the year preceding the Charter schools' opening

- Charter School Advisory Committee

- 11 voting members representing: S. C. Association of Public Charter Schools (2); S. C. Association of School Administrators (1); S. C. Chamber of Commerce (2); S. C. Education Oversight Committee (1); S. C. Commission on Higher Education (1); S. C. School Boards Association (1); S. C. Alliance of Black Educators (1); Teachers (1); Parents (1)
 - 2 nonvoting members representing: School board of trustees of the affected school District – Local or SCPCSD (1)
 - Charter school planning committee (1)

- What are charter schools intended to do?

- Improve student learning
 - Increase learning opportunities for students
 - Encourage the use of a variety of productive teaching methods
 - Establish new forms of accountability for schools
 - Create new professional opportunities for teachers, including the opportunity To be responsible for the learning program at the school site.
 - Assist SC in reaching academic excellence

Who approves a charter school?

The local school board of trustees or SCPCSD must approve the charter application. When the local school board approves the application, that board becomes the charter school's sponsor and signs the approved application. The approved application is a contract with the charter committee of the charter school. A copy of the charter must be filed with the State Board of Education.

Where does a charter school get its funds?

A charter school is entitled to receive local, state, and federal funds based on its student population. The district distributes local and state funds to the charter school monthly beginning July 1. The district must distribute the charter school's share of federal funds within five months. (No local funds through SCPCSD).

The governing body of a charter may receive donations or grants, but may not charge tuition or other charges except as allowed by the sponsor.

Must a charter school mirror traditional schools?

No. The charter school law was intended to foster innovation educational programs.

Yes, provided the charter school adheres to the same health, safety, civil rights, and disability rights requirements of the public schools operating in the district.

Who governs a charter school?

The charter school is governed by an annually elected charter school board of directors. The board's duties include hiring employees, contracting for services, developing performance criteria and discharge policies, adopting a budget, and approving curriculum and operating procedures.

What services must a school district provide to the charter school?

The local district or SCPCSD must provide technical assistance to persons or groups preparing or revising charter applications at no expense. The local district distributes local, state, and federal funds to the charter school. Other services centrally or otherwise provided by the school district (e.g. food services, maintenance services, transportation) are subject to negotiation between a charter school and the school district.

What are the advantages to a conversion?

The original teachers and staff remain employees of the district but the charter School pays all salaries and benefits from their budget.

The charter school remains with the same grade span and enrollment.

The school facility cost, including repair, maintenance and capital improvements are the responsibility of the charter school.

The charter school operates at much lower per pupil cost than a district school.

The local school board maintains authority over the charter school, including its role not to renew or revoke for cause.

The LEA can cite the charter school as their model for school choice and innovation as now required by SDE.

Do all of the laws and regulations that govern public schools also apply to charter schools?

No. One of the stated purposes of the law is to provide an opportunity for Substantially deregulated schools. The law is to be "interpreted liberally" To support the goals of the legislation. The legislation does not include Specific legal requirements.

A charter school:

Is subject to all federal and state laws and constitutional provisions Prohibiting discrimination on the basis of disability, race, creed, color, Gender, national origin, religion, ancestry, or need for special education Services.

Must meet, but may exceed the same minimum student attendance requirements as are applied to public schools operating in the same district

Must adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools operating in the same school district

Must adhere to the same health, safety, civil rights, and disability rights requirements as are applied to public schools operating in the same school district

Is considered a school district for purposes of tort immunity shall not include acts of intentional or willful racial discrimination by the governing board or employees of the charter school.

Must elect its governing board annually. All employees of the charter school and all parents or guardians of students enrolled in the charter school may participate in the election. Parents have one vote for each student enrolled in the charter school.

Is subject to the Freedom of Information Act

Is the charter school obligated to the sponsor after approval?

Yes, the charter school must report any change in the information provided In the application to the local district or SCPCSD and the State Department of Education. Also at least annually, to its sponsor and the State Department of Education

Charter School Application Components

Mission Statement, Admission Policies and Procedures, Support for Formation, Educational Program, Student Assessment, Budget and Accounting System, Governance and Operation, Administrative and Teaching Staff, Racial Composition, Transportation, Facilities and Equipment, Employee Relations, Grievance and Termination Procedures, Student Conduct, Rights, and Responsibilities, Indemnification, Insurance

Charter Schools are Succeeding

Gains in 24 states with good date

Evidence of achievement in others

Charters serving wide spectrum of children

Healthier populations of special needs children, disadvantages served

Evidence is Mounting

Charter schools are succeeding in their mission to educate hard to educate children

Charters are succeeding in their quest to demonstrate that schools without excessive bureaucracy and with a fixed eye on performance can and will succeed at higher rates.

What Else Do We Know?

The number of charter schools not making AYP is decreasing, while the number of traditional public schools is increasing (Brookings, 2003)

Charter schools are over-represented among schools not making AYP

~ A majority of the nation's 3,800 serve at-risk populations or those

Children not well served by traditional system

Charter School Act of 2006 As Amended - H. 3010

Establishes the South Carolina Public Charter School District as an

Alternative Authorizer and Sponsor

A Charter School may now be a Virtual School

H.3010

The South Carolina Public Charter School District has the same powers, right, and responsibilities with respect to charter schools as other district board of trustees and is considered a Local Education Agency (LEA) and can receive and distribute state and federal funds to charters. It may not issue bonds or levy taxes, nor be funded through local property taxes.

Charter School Grant Program

S.C. received its first three year grant in 1997, fourth in 2006

Funded by U.S. Department of Education

95% of the grant funds are awarded to charter schools and charter school planners through subgrants.

Two types of subgrants: Planning-Implementation and Dissemination

Planning-Implementation Subgrants

Purpose: Developing a charter application and assisting with the initial costs of starting a charter school

Project Period: Up to three years

Size of Awards: The maximum award is \$420,000. Funds are distributed in three phases:

1. Planning Phase: The maximum grant for this phase is \$20,000. The initial \$5,000 funding is contingent on documented collaboration with the sponsoring school district. Up to \$15,000 additional funding is contingent on a charter application being recommended for approval by the State Charter School Advisory Committee. A maximum period of eighteen months is allowed for the planning phase. If planning has not resulted in an approved charter by July 1, 2009, with school opening by fall 2009, the funds associated with the implementation phases will be forfeited by the grantee.
2. Implementation Phase-Year One
The minimum funding for this phase is \$100,000; the maximum is \$200,000. Funding is contingent on an approved charter and documented nonprofit status. Implementation funds may be accessed up to three months prior to opening of school upon completion of all benchmark requirements.
3. Implementation Phase-Year Two
Up to \$200,000. Funding is calculated at \$1,000 per student, up to \$2,000 per student.

Movement to second phase of implementation based on completion of all benchmark requirements.
Dr. Church answered several questions from the trustees.

9. Public Input (continued)

- Mayor Johnny Waller

Mayor Waller issued the following statement: I would like to thank you all for allowing me to come and to address you. I will say that I feel a little different being on this side of the table since I served the school board a little over five years. I have a long history with the folks here in the school district. I wrote a letter back in December concerning the vote to close Calhoun Falls stating the industries that had closed in our town that devastated our community and we asked the school board to wait and give us a chance to grow again in the town. As your auditor stated tonight, the school district lost a large quantity of money, about \$500,000, that's what I heard and the town lost hundreds of thousands of dollars. We are now on the edge of a development in Calhoun Falls that's going to bring two thousand homes in our community and I think in the letter I wrote to the school board, the developer (US Land) stated it was imperative that we have a high school in our community. We've also been in contact with industries out of Florida about other vacant buildings and no one wants to come into our community and bring their families. No one wants to get on a bus and drive fifteen miles. The closing of Calhoun Falls High School; the industry has already devastated it and this is like putting the final nails in our coffin over in Calhoun Falls. This is why I'm here tonight, to urge this board to reconsider the decision to close our school. It is very important you see the community support here and it's been that way since we approached the school board and tonight I am urging you to reconsider that decision. Now if I remember correctly, some of the reasons you decided to close the school was because of per pupil declining enrollment, student/teacher ratio. You said it cost too much to educate our kids in Calhoun Falls and I don't know how you put a price on that but what I'm asking you all tonight is if you all won't educate them, if it cost too much to educate them, then let us. Let the citizens of Calhoun Falls educate our children and educate our community. I'm here to ask the school board to work with us. We've come as humbly as we know how and Calhoun Falls has always had a wonderful working relationship with this school board and anything that was in our power, we did and it seems this board wants to stop us completely. I think I made an appeal to Dr. Randolph that we are hurting financially and our numbers are in the red. But give me a figure for the town to start putting money in your caucus so we can keep our school open for at least another year. Of course, the number he gave me was pretty high but we are willing, as citizens of Calhoun Falls, to take money up and the council here voted to use our resources of money we don't have because that's how important this school is to us here in Calhoun Falls. Tonight if you all will not reconsider then ya'll have in your packet a letter from me and would you consider a conversion; we're going to give ya'll an option even though you won't give us an option; would you consider a

conversion and then if you will not consider a conversion, will you assist us by turning over those school buildings that will be empty in Calhoun Falls? And you know what's going to happen to empty school building; it's going to go down. I'm asking ya'll tonight if you're not going to consider any of those options that I'm asking you and the town and community is asking you, then turn the buildings over to us. I beg you tonight, not to close the high school; I beg you tonight to give us the school building if you must close our school and to work with us. We don't want to fight this school district because the consequences for this county and our community is going to go long into the future because Calhoun Falls will have a school in our community one way or another. I want you to realize the implications. If Calhoun Falls is successful and we start up and the district does not work with us, and we take K-12 in our start up school system, look how many children are going to come out of your school system. Can you afford that and then what are you going to do and we're going to be successful. And then you going to have to pull from Dixie, you'll probably end up trying to bring Dixie down to make this school district work. And what do you think Dixie's going to do. Due West will do the same thing as Calhoun Falls so you could very well tonight, the decision that you all make could very well be putting a nail in the coffin of School District Sixty. But we want to work with you and we're not too proud tonight because we want our community to be saved and it's going to be saved and we're asking you tonight as a school board, please sir, and please ma'am, we ask that you reconsider and if you can't reconsider, we ask that you at least turn the building over to us so that we may operate a charter school. Thank you

Mr. Taylor said: As being a board member and a citizen of Abbeville County, if the board continues the process of closing Calhoun Falls down, it is my suggestion that we give the building and grounds of that school to the city of Calhoun Falls. I'm going to put that in a form of a motion.

Ms. O'Bannon asked how much was owed on this building. Dr. Randolph responded that the information the bond attorney had given him was in the window of \$1.7 million but that may be high or that may be low.

Mr. Taylor said his comment to that is that when the addition was built, he did not believe the cost did not come anywhere close to \$1.7 million and we would have to look at the contract to see what money was actually spent on that part and my comment to that also is the people of Calhoun Falls pay taxes; they're paying on the bond regardless of what the bond is; they'll pay on the bond if it stays open, they'll pay on the bond if it closes; they'll pay on the bond if you give it to them; they'll pay on the bonds that are owed on the buildings here in Abbeville, Wright Middle School, Abbeville High School; they're paying on those bonds also. So, he continued, those people over there are still taxpayers. If you close the school, they are not going to be exempt from taxes. They'll still be using the school the tax payers paid for in that area.

Mr. Reynolds asked could we do that and what is the legality.

Mr. Dave Duff, Attorney, said: As the superintendent indicated, this is really an issue that can be better addressed by your bond council. I'm assuming the bond holders have certain rights as they purchase school bonds whether they're fifteen, twenty, or thirty year bonds, I don't know. The bond holders get a certain rate of return. It's an investment deal for anyone who purchases these school bonds but frankly I'm not sure but the reason why its \$1.7 million if that's what it is, is with the payment of interest as well as the principal over the schedule whether its fifteen or twenty years, could probably far exceed the cost of building the building just as on your home, if you have a thirty year mortgage, you're going to pay out hundreds of thousands of more dollars probably than the cost. So there are bond obligations here that will have to be considered and these questions will have to be answered by bond council. Someone, I imagine, in order not to impair the rights of the bond holders who have invested in school bonds, and in today's stock market, it's probably a good investment, somehow whatever would happen to the building, the rights of all the people who bought the bonds would have to be factured in to whatever you can do to those buildings. My guess is those schedules will have to be honored. When they were issued by this school board, I don't know whether that \$1.7 million obligation can be transferred to another governmental entity or not. These are questions that can be answered by the bond council.

Mr. Burton asked if we could possibly lease it for \$1.00 a year until the bond is paid up and then give it to them. Mr. Duff responded that he did not know but the debt service millage levy will continue to have to be imposed, he assumes, every year of the remaining bond schedule and how many years are left, he does not know if there will continue to be a debt service levy to generate the monies to pay the principal and interest annually on that bond issue. Ms. Shelley Chrisley said there are two sets of series which are 2001 and 2003 and the 2001 comes off in 2021 and the 2003 comes off in 2014.

Dr. Kolb asked if these were several construction projects. Ms. Chrisley responded that this included the three additions at the three high schools as well as Wright Middle School and the district office renovations.

Dr. Kolb said: I'm not opposing your motion but it sounds to me like there are issues that need to be resolved before we could vote on this if you would be willing to table the motion at least until the next meeting when the information could be available.

Mr. Taylor said: I'd like to ask the attorney one more question. If we close the school down and the building stays empty, we're still obligated to pay the money. That does not relieve us of our obligation because we're not there.

Mr. Duff responded: I would assume that would be correct. There are options depending on the bond instruments. These are all questions that I have no idea what the answers are because I'm not involved and I'm not familiar with these

bond issues. It sounds like these bonds include not only this school but renovations of other projects and you have to get these answers from the McNair Firm.

Mr. Taylor said: We would have to break it down on each project and if I'm not mistaken there was one money to do all the projects and the only way would be to look at the contracts and see how much money was spent on each project so you'd know what portion of that bond still belongs to that one place.

Mr. Duff said: I'm not sure it breaks down that way. Probably this bond issue funded several projects but the full credit of the district stands behind the bond payments. Whether it could be re-financed, prepaid or someday restructured. This is something you need to be advised on by the McNair Firm. Ms. Chrisley said these are government obligation bonds and we have to be very careful.

Mr. Taylor said: Mr. Burton had a good suggestion to let the town of Calhoun Falls have it for a dollar a year and that would pretty much do it.

Mr. Burton asked: Isn't that the same thing we're doing with Langley-Milliken?

Mr. Taylor said: It's not any bonds outstanding on it. My whole point is I want the board to realize the folks over there are still going to be paying on the bond. If we leave the building open, closed, or whatever, until the bond is paid, those people are going to pay it. They're paying on Abbeville High School, they're paying on Wright Middle School, they're paying on the work we did at Dixie High School, Diamond Hill; they're paying on all these schools we built and upgrades, they're paying on those too. That belongs to the taxpayers of the county.

Mr. Rhodes said: I agree with Mr. Burton. If we can't give it to the town, lease it to them.

Ms. O'Bannon said: I agree with Dr. Kolb. We need to find out and I don't think we can make a decision about giving it or leasing it as well. This is a government agency and I think we need to find more out before we can make that decision.

Mr. Taylor said: I'll withdraw my motion at this time but at this next meeting, we need to resolve this no later than the next meeting. This has to be done.

Dr. Kolb said: Then the issues would be under what the board could transfer the use of the building to (what type of entities).

Mr. Taylor said: I would like to break the whole bond down and the whole project that we did. I think we had one contractor that did all of it. Is that right? I want to ask Sam who was the project manager on that? (Sam Jones answered M. B. Kahn). So we have all of that broken down. We can look at cost per project.

Mr. Jones said: There were referendum bonds and there were local option bonds.

Dr. Kolb said: And there was some state construction money in there too, right?

Mr. Jones said: We used those for smaller projects. I believe there were \$8 million county wide bonds and about \$1.8 to \$1.9 million local option bonds which was about \$10.4 million for all the projects together.

Mr. Taylor said: This was for all the projects together, building the schools and doing the capital improvements on the three high schools.

Ms. Chrisley said: Sam has given me the spread sheets that breaks it down by projects.

Mr. Taylor asked: Do you remember what that project costs?

Mr. Jones said: I didn't bring those sheets with me but for that addition I believe was \$1.6 million. We did real well on all our bids and we came in under the budget so we had money left over. Additional funds were used for projects done across the county at Calhoun Falls. We covered walkways over there, put new doors and locks; we did a bunch of projects over several years.

Mr. Burton said: Could we have a special called meeting to find out what we can do between now and the next meeting, whether two days or two weeks but as quick as we can find out.

Mr. Taylor said: We need to do something as soon as possible so the folks at Calhoun Falls can proceed whichever way they want to proceed.

Dr. Randolph asked: Do you want me to get the bond attorney here as soon as possible so the board will have access to answers to questions.

Mr. Taylor said: How the bonds would be broken down according to projects that we have the contract papers on. How much money was spent at each place so we can break it down and look at it.

Mr. Rhodes said: If we lease it to them, they're going to be a non-profit organization.

Mr. Taylor said: It will actually be contracted to the city of Calhoun Falls. That's the way I would want to see it, the city of Calhoun Falls's responsibility.

Ms. Chrisley said: I can tell you now from the information I found out from McNair Law Firm that they don't take those bonds and break them down by project. It is the total amount, all the projects together.

Dr. Randolph said: We can get them here to answer our questions and let them tell us what our options are so the board will have good information. We need to know what the law says and what our options are.

Mr. Taylor said: It looks like to me if it's all one monies, it's going to be hard to do that because it's all rolled into one. But I think what we need to ask them is if we can lease that building since we're still obligated to it.

Dr. Randolph said he had a few comments to make before getting into the administrative section. These comments were:

In the past few weeks, much has been said about the closing of Calhoun Falls High School. This is an emotionally charge issue, and no one, not the Board of Trustees nor I as the superintendent, truly wanted to close Calhoun Falls High School or for that matter any school in Abbeville County. This school district has struggled as we face the challenges of dealing with three inescapable variables. The first variable is a declining student enrollment. ACSD has lost over 268 students in the past five years. When a district loses students, it loses funding. This declining enrollment coupled with the recent loss of industry has hit our school district extremely hard. Not only have we faced loss of funding because of this declining enrollment, but also we have faced the loss of tax dollars generated by our county's industry.

This brings me to the second variable, funding for our district, which I have already mentioned earlier when discussing declining student enrollment. In 2005-2006, the total budget reduction amounted to \$511,001 (loss of tax revenue due to closing of several industries). In 2006-2007, the total budget reduction amounted to \$228,500. In the past two years, we have made \$739,501 in budget cuts to the ACSD. The cuts have become necessary due to decreased tax revenues across the board and unfunded mandates from the state. The administration has made every effort to keep these cuts from the classroom. Last, but not least, is the third variable, the quality of the instructional program that is being offered to our students. The teachers, administrators, and staff at Calhoun Falls High School are not to be faulted in any way for they have done an exemplary job. The quality of the instructional program that I am addressing deals with the actual courses that are being offered. There are courses that a school must offer to meet the state's minimum requirements, and there are courses that need to be offered to our students. These include classes in the fine and applied arts, additional AP course, dual enrollment courses for which students receive both high school and college credit, and expanded vocational offerings. Upon graduating from high school, a student should be prepared to be competitive at the college level or in the 21st century job market.

As a school superintendent, I must look at Abbeville County in its entirety and make recommendations to our board of trustees that will best meet the need of all students in our county. Recommendations made by a superintendent can be difficult and it is seldom that everyone is happy. Again, the declining student enrollment, lack of quality course offerings, or limited educational funds is not the fault of this administration, this board, or this community.

First, we must accept the position that we find ourselves in and move forward. According to the facts, this is where we find ourselves:

- The numbers on the per pupil expenditure, broken down by high school, have been questioned. As a district, the school system is spending in excess of \$10,100 per student at Calhoun Falls High School as compared to \$7,400 per student at Abbeville High School, and \$7,100 per student at Dixie High School. Since the meeting in December, these numbers (based on the state report card statistics) have been verified as correct.
- The numbers pertaining to Title I expenditures at Calhoun Falls High School have been questioned. These have also been verified as accurate.
- The number of specific course offerings available to students at each of the three schools has also been questioned. These numbers too have been verified to be correct.
- The reasoning behind closing Calhoun Falls High School has been questioned as a means of increasing school enrollment numbers for the athletic purposes. There are those who believe that this recommendation was maneuvered specifically to enable Abbeville High School to maintain its current 2A status. The fact is that if all students who attended Calhoun Falls High School were to attend Abbeville High School, it would have no effect on the athletic classification of the school.
- Now the latest numbers being challenged are the numbers of students who live in the Calhoun Falls attendance zone but are attending schools outside this zone. At the December board meeting, the trustees were presented with this information and discussed it at length. Some of these students in question have filled out the transfer requests and have transferred in accordance with the district's attendance policy. On the other hand, there are those who have not filled out the proper paperwork. We are in the process of identifying these students and making sure that they comply with our transfer policy.

This evening Mr. Sherwin Johnson will be presenting where we are to date on our transfer policy, attendance area, and he will also share demographic information. Ms. Sherri Smith will present information on SAT scores and advanced placement class information. This data further supports the inequity of the instructional programs among the three high schools. I will provide an update on the status of the transition process for students enrolled at Calhoun Falls High School going to Abbeville High School, Dixie High School and Wright Middle School.

When I make a recommendation to the board, I carefully look at the data and base my decisions on what is best for all students in our county. A student should have the same educational opportunities (similar classes, fine/applied arts, dual enrollment classes, etc.) no matter where he/she lives in Abbeville County. In fact, students in the Abbeville County School District need even more opportunities than are being provided now.

The bottom line is that our student enrollment has dropped throughout the county. Accompanying this drop in enrollment is a drop in funding. We are

the only school system our size (3,000 – 4,000 students) in this state that supports more than one high school. Our funding will not increase one cent because of where students are attending within our county. Abbeville County School District is a small rural system that cannot adequately fund three high schools. Again, at no time has the quality or dedication of the teachers and staff at Calhoun Falls High School been questioned or doubted. Simply put, there are thirty seven students in the Calhoun Falls High School graduating class of 2008. There are thirty two eighth grade students who would be incoming freshmen; therefore, if all thirty two were to graduate, this would be the size of the graduating class of 2012. With limited budgets and inescapable costs, cuts are inevitable, and cuts can be painful and deep. With these particular cuts, there are no winners. This is not a win-lose situation with our friends in the Calhoun Falls community, but a lose-lose situation that we have been forced to address. We could keep this one school open, but this would jeopardize the other nine. Is this a perfect solution? No. Do we anticipate problems as we work out the details? Yes. Nevertheless, the bigger question is, "Is this the right decision for our students?" Yes. With that question answered in the affirmative, everything else can be worked out. This board is to be commended for looking at all of the pertinent data and making decisions to do what is right for all of the students in the county. Since yesterday was Martin Luther King Day, it seems appropriate to quote him: "The time is always right to do what is right."

10. Administrative Section

A. Maintenance/Construction Update

Mr. Jones gave the following report:

- Diamond Hill Elementary School Water Leak – On December 19th, custodians at the school reported a water leak along a wall in the multipurpose room. The repairs were made in time for students to return to class on January 3rd.
- Water Heater Inspections – The State of South Carolina required registration and regular safety inspections of boilers in public building for some time. An agent with the state insurance fund that insures school districts contacted us to register and schedule an inspection of the district's water heaters. This inspection was completed and items noted are being corrected by maintenance.
- Diamond Hill Elementary School Water Treatment – We met at the school with the contractor that installed the water treatment equipment to discuss the problem of the air stripper system shutting down at times and not restarting. An electrical wiring correction was recommended and implemented. We believe the change will correct the problem.
- Maintenance Vehicles – We received a new replacement truck for the maintenance department last week that was included in this year's budget. This is the first replacement vehicle funded for maintenance

department use in seven years. It has become very costly to maintain these ageing vehicles. We believe it is advisable to continue to replace at least one vehicle a year to remove the old ones from service. This was the practice until the budget problems of recent years.

- Winter Break Closing – All school facilities were closed from December 20th until January 2nd for the district's annual winter break. No maintenance problems occurred during this time other than the leak at Diamond Hill mentioned above.

Mr. Jones answered several questions from the trustees.

B. Curriculum Update

Ms. Smith gave a power-point presentation entitled "Preparing Students For The Future" which included the following topics: Trends in SAT scores, AP course data, & College Freshman Report Results. She provided a chart showing SAT trends for Abbeville County School District (Abbeville High School, Calhoun Falls High School, & Dixie High School) for years 1997 thru 2007.

Ms. Smith presented the Advanced Placement Courses, the number of students enrolled in each course and the total enrollment in Abbeville High School and Dixie High School for year 2006 -2007.

Ms. Smith continued with a college freshman report (reports on students enrolled the year after high school). Included in this report for Abbeville High School, Calhoun Falls High School and Dixie High School was: % students entering a 4 yr. college; % students entering a 2 yr. college; % students entering a Technical College; total % students entered in freshman class; % students gainfully employed; % students in Armed Forces; % students in other activities. These percentages included years 2004-2005, 2005-2006, 2006-2007.

Ms. Smith answered questions from the trustees.

C. Consideration of approval of the attendance lines for the absorption of Calhoun Falls High School into Abbeville High School, Dixie High School and Wright Middle School

Mr. Johnson gave the following information:

In light of the two recent Board decisions on restructuring of the school district, I was asked to develop a proposal for new attendance lines and zones. You will be considering new elementary attendance lines for the restructuring of Long Cane Elementary and Westwood Elementary to Long Cane Primary and Westwood Elementary and John C. Calhoun Elementary to Pre-K through Grade 5. You will also be considering new high school attendance lines for the rezoning of Abbeville High School and Dixie High School to include the students from Calhoun Falls High School.

You should have received in your board packets proposed maps for high/middle school attendance areas and elementary attendance areas along with a proposed description of the boundaries of each attendance area. I would like to thank Ms. Smith and her brother for preparing the maps to reflect the new boundaries.

With regard to Long Cane Elementary and Westwood Elementary, the proposed attendance lines combine the two original attendance areas into one attendance area to serve Pre-K through Grade 2 students at Long Cane Primary and grades 3

through 5 students at Westwood Elementary. The northern line for John C. Calhoun Elementary would be moved to correspond with the new high school attendance line forming the boundary between the new Abbeville High School and Dixie High School attendance zones.

With regard to the rezoning of Abbeville High School and Dixie High School Attendance zones to incorporate the Calhoun Falls attendance area, the proposed attendance lines would remain the same up to Little River. The former Calhoun Falls High attendance area would be divided along a boundary from Little River west along the Old Calhoun Falls Highway to and along Latimer Road to Lake Russell.

The descriptions in JCA-E clearly define the attendance areas without any overlap in grade levels. With these boundaries in place, Diamond Hill Elementary would receive 5 students in grades 6 and 7. Wright Middle School would receive 107 students, Dixie High School would receive 27 students and Abbeville High School would receive 130 students.

In December, we began to receive information about the possibility of students attending out of attendance area without going through the proper channels. When I began to receive that information, I undertook a student-by-student audit of the SASI records to determine if students were attending out of attendance areas without permission.

We have identified those students and are ready to bring the district into compliance with Policy JCA-E. Transfer requests will be mailed to these students and the proper paperwork will be submitted. We wanted to wait till after tonight's board meeting to proceed with better direction from the board. In addition, we did not want to act too hastily and upset another segment of our county.

Our recommendation is to allow those students who are out of attendance area and are currently riding the bus to continue to ride through the remainder of this school year. In past administrations, this was allowed as long as it did not divert the bus from its regular route. In addition, students were allowed to catch a shuttle bus from Diamond Hill going to Dixie High School. Beginning with a previous administration, students in 7th grade were allowed to choose whether they wanted to attend Dixie High School or to attend Calhoun Falls High School without requesting a transfer.

Prior to October 2006, the transfer procedures were only procedures. In October 2006, the present administration recommended that the procedures be formalized into policy. From that time, the attendance policy was publicized by writing a letter to the parents and by visiting PTO meeting at the schools to discuss the formalized policy. Having now identified those students who are still not in compliance with the policy, we can bring these students into compliance. If the board approves the new attendance lines proposed tonight, the issue of transportation for these students out of attendance area would be resolved for another school year. Ms. Kathy Stevenson will present revised Policy JCA-E for first reading along with several other policies in a moment.

Mr. Taylor asked questions concerning adoption of the attendance policy adopted October 2006 which Mr. Johnson proceeded to read. Mr. Johnson then answered questions from the trustees.

Mr. Johnson read the following recommendation: The administrations recommendation is to approve the attendance lines as drawn and to grandfather those students who are attending out of the attendance area and are currently riding the school bus to allow them to continue riding the bus for the remainder of the school year. With the approval of the new attendance lines, the transportation issue related transfers will be resolved for another school year.

Dr. Crenshaw made a motion to approve the recommendation.

Mr. Rhodes said: I make a motion to table the motion since we don't have enough data to formulate a plan right now."

Mr. Taylor seconded Mr. Rhodes motion which did not carry with a vote of two in favor (Mr. Rhodes, Mr. Taylor) and seven against (Ms. O'Bannon, Dr. Crenshaw, Mr. Reynolds, Dr. Kolb, Mr. Burton, Mr. Bell, Mr. Tisdale).

Ms. O'Bannon seconded the motion that Dr. Crenshaw had made to accept the recommendation as presented. Mr. Taylor asked if there was any more discussion.

Dr. Kolb said: I would like to ask the superintendent the rationale behind the grandfather clause of continuing those students as they are.

Dr. Randolph responded: We are aware we have students already riding buses and want to look at what's best for the students. We don't want to disrupt the instruction process anymore that is necessary.

Dr. Kolb asked: Is the bus diverting to pick up these students?

Dr. Randolph said: The buses are not diverting; it goes by their home.

Dr. Kolb said: If the students didn't ride the bus, the bus is still going by their house.

Dr. Randolph said: That is correct

With no more questions from the trustees, the motion passed with a vote of seven in favor (O'Bannon, Crenshaw, Reynolds, Kolb, Burton, Bell, Tisdale) and two against (Rhodes, Taylor).

- D. Consideration of First Reading of Policies JCA-E, GDF, GCF, GCFB, GBED**
Ms. Stevenson presented the following policies for approval of first reading:

- **JCA-E – Abbeville County School District Attendance Areas**

- GDF – Support Staff Hiring
- GCF – Professional Staff Hiring
- GCFB – Hiring of Administrative Staff
- GBEB – Staff Conduct

Mr. Tisdale made a motion to accept first reading of the policies presented which was seconded by Dr. Crenshaw and carried unanimously.

E. Dr. Randolph

- Update of the transition status of Calhoun Falls High School

Dr. Randolph said: I want to update the board on the transition of Calhoun Falls High School. The principals have met with students at Calhoun Falls High School by grade level. I've also met with each teacher and indicated to them what they're job assignments will be for the next school year.

Tomorrow they will be attending a meeting at their new schools and there will be an in-service in February for these employees. The principals will be talking to students in the near future about scheduling and transportation issues. We will try to have our schedules started by February and finished by the end of February.

- Consideration of the request for final reading and approval of the 2008-2009 school calendar

Dr. Randolph said administration requests approval of the 2008-2009 calendar as presented. Mr. Taylor asked had there been any changes since the last meeting. Dr. Randolph said there had been no changes.

Mr. Burton made a motion to approve the request as presented. Mr. Bell seconded the motion.

Dr. Kolb asked: Will this now be in compliance with the state or will the start date be moved.

Dr. Randolph responded: We are in compliance with the state as far as this recommendation. The current year we had a snow day built in which we will have to make up on June 2nd. On the current 08-09 calendar, we are trying to in-service with other schools in our consortium so we can have more combined in-service opportunities in our area.

The vote to approve the 2008-2009 calendar as presented was unanimous.

- Consideration of the request of the 6th and 7th grade students at Diamond Hill Elementary School for an educational field trip to Atlanta, Georgia on March 26-27, 2008

Dr. Randolph said administration recommends approval of a request from Diamond Hill Elementary School for a field trip and Mr. Ramey was present should anyone have questions. **Mr. Reynolds made a motion to approve the request which was seconded by Mr. Rhodes and carried unanimously.**

- Consideration of request from Dixie High School Booster Club to construct a 12 ft. X 20 ft. ticket booth

Dr. Randolph said administration recommends approval of request from Dixie High School Booster Club to construct a ticket booth. Mr. Taylor asked if this was a request by the Booster Club. Dr. Randolph responded yes.

Ms. O'Bannon made a motion to accept the request which was seconded by Dr. Crenshaw and carried unanimously.

- Consideration of the Letter of Appeal dated December 22, 2007 in reference to the actions of the Abbeville County School Board's decision to close Calhoun Falls High School at the end of the 2007-2008 school year

Dr. Randolph said: This appeal has several legal ramifications and at this time I would like to recognize our attorney, Mr. Dave Duff.

Mr. Duff said: Thank you and I appreciate the opportunity to appear before you this evening and hopefully provide some guidance or answers to some of the legal issues that may be raised by certain matters that are on the agenda. I'm sorry I could not provide and shed light on the earlier issue concerning the debt on the Calhoun Falls High School but again that's more in the area of the bond council. I think you should contact the firm and get whatever guidance you need. Concerning the petition or letter of appeal that has been received by one or more citizens requesting appeal of the board's earlier decision to close Calhoun Falls High School, the question that arises is whether or not that appeal is properly brought in accordance with the appeal rights that are provided for in state statutory law. And just by way in brief background, I think most of you know that almost all of the laws that pertain to the operation of school districts, school boards, and the rights of students, parents and employees, most all of that is in Title 59 of the South Carolina Code. There are provisions in this school code that do address appeal rights of various citizens, be it parents, students, etc. in regard to actions that are taken probably before and then taken by the school board of trustees. Now this particular appeal or petition for review is filed under a general appeal statute that has been on the books for many, many years and does provide for an appeal to either the county board of education where it exists or back to the district board where the county board has been abolished and the prior authority and powers of the county board have been devolved back to the district board. And this is an appeal route that covers the phrase of the statute matters of local controversy. Seemingly that might fit your actions that you previously took. The reason why that statute does not apply to this petition or request is that when it comes to a decision to operate or close a school, there is a special appeal route for an aggrieved person, be it a citizen, a parent, a tax payer, there is a special appeal route that is accepted or excluded from the general appeal process. The one that applies to appeals of decisions to operate or not operate a school does not take the matter back to the district board or the county board but actually in circuit court. And the circuit court under this special appeals statute is authorized to review a decision to operate or not operate looking only at legal issues. In other words, the court does not review the wisdom or alleged lack of wisdom in the decision to operate or not operate only if there's a legal mistake in that decision. Legally speaking, the appeal petition you have received is not the proper way to make such an appeal and on that basis, the appropriate response needs to be made on the behalf of the board to the individual that filed the petition. Again, that does not mean that there isn't a proper route under the terms of the special appeals statute. A formal appeal taken in the proper way is only one way in which the

board's decision can be revisited by a board. Until a board fully implements a decision, the board is free to revisit a decision it's made. A lot of what I have heard this evening is at least some consideration to information being presented, etc. and a board can revisit a decision under a proper motion whenever it wishes to. So whether or not any legal appeal needs to be taken, I think remains to be seen. It's going to depend on how this board proceeds from this time forward. But the short answer to the petition for review or appeal you received is not brought in the legally correct way at this time and this may be a matter you want to talk further about in executive session if you wish. But I do think that at some point tonight or very soon, the board needs to formally respond to the letter that seeks the appeal of your earlier decision and if you need to discuss that further, you're free to do so in executive session but I think again at some point you need to act on the appeal. My recommendation is that based on the different appeal route, the one you received is not legally correct route appeal.

Mr. Taylor said: Let's reserve any further discussion for executive session.

11. Miscellaneous from the Board

Ms. O'Bannon said: I just wanted to add something to what Dr. Crenshaw said last month at the meeting. It seems to me there's been a lot of anger and tension, a lot of actions that have been inappropriate, a lot of name calling and finger pointing. Please understand that Dr. Randolph did not in any way vote in this decision to close the school. He did what we, as a board, that were elected by the people of this county asked him to do which was to give us a recommendation. We, the members of the board, voted and the majority voted to close the school. Again, like Dr. Crenshaw said last month, if you're going to be angry at somebody, be angry at the folks on this board who voted to close the school. Don't bring it to Dr. Randolph, don't bring it to his house; don't bring it on his doorstep. He didn't do it. He did what we asked him to do; the job that we hired him to do.

Mr. Rhodes said: Since the December 14th meeting, I have been somewhat consumed by trying to find out why we had to close Calhoun Falls High School. It was said that it all has to do with the numbers; I still can't make the numbers add up to what we were told. After a lot of days with out sleep and countless phone calls and one on one conversation, I have come up with several comments and questions. First I feel that the district as well as the board has failed the county and most of all the people and students of Calhoun Falls. The district administration failed to do any type of study or investigation to see if there were ways to correct the problem. The board failed to ensure the administration did its job, through this entire process. This board closed a school that meets all of the states mandates as well as the Federal mandates of NCLB. Plus this school just got the Palmetto Gold Award less than a month ago. To which I quote Jim Rex, "A school that wins one of these awards is a school that is focused on kids and driven to succeed. It shows what can happen when educators have high expectations for students, and when parents and community members support those educators and students". This board closed a school without any type of plan or study done to ensure that there would be a cost savings to the district. Did anyone on the board except for me or Mr. Taylor ask why or is there any other direction we can go? No! All everyone on this board heard

was \$10,000 not anything else that was said. All this board did was close a school that is 78% poverty and 58+% minorities. Closed a school based on numbers but failed to check the numbers to see if they were correct.

Since the board and administration failed to do any studies several members of the community and district, as well as myself, did some to see if we could find any savings.

1. Transportation cost: This year just for Calhoun Falls High School, it cost the district approximately \$119,000 if we add the distance to Abbeville High School and Dixie High School to these routes it will cost the district approximately \$334,000 a year. These figures are shown on the sheets that I have given to each of you. This study was done by me following a bus on its route and then driving to the other two schools to get the mileage.
2. Budget concerns: Did anyone study why the cost per student went up by over \$2,000 in one year. At the end of the school year 04-05 the district decided to move the 6th and 7th grade from John C Calhoun Elementary School to Calhoun Falls High School and the general budget reflect this change. Prior to the start of the 05-06 school year the parents and staff went to this board and asked to please move the 6th grade back to John C Calhoun Elementary, to which the board approved. The problem is that the budget was never amended to show the move back. This is where the increase looks like it came from. The other problem is that the next years budget was copied over and some minor adjustments done, and then the decrease amendments done at a later date. This is one of the budget cut back that the administration talks about.
3. Budget savings: Where are the savings going to come from? Since we are keeping the biggest part of the staff by moving them to other schools, where is the savings? The base salary is not going down, the number of teachers will by maybe three or four. We have already shown a transportation cost increase. The teacher to student ratio at the other school should go down some, which will raise the cost per student. The only savings or should we say budget cut will be utilities and up keep on the buildings at Calhoun Falls High School. This is only approximately \$70,000 a year? Someone please show us the savings.
4. Title I Funds; Title I funds are a fringe benefit that the state and federal government gives to schools that meet the percentage of poverty level. This money is not supposed to be added to the cost per student such as our administration has done. The total amount is given to the districts, and then divided into the schools that qualify. John C. Calhoun Elementary and Calhoun Falls High School are the top two schools in our district for money from this fund. Both are above the federal guideline percentage. According to Columbia, John C. Calhoun Elementary and Calhoun Falls High School should be getting approximately \$545+ per student that qualifies. Not \$220 per student that the district has said. If the students are divided between the two schools that do not get Title I money than those students will not receive that money at said schools. The district itself will also lose some of this fund due to the percentage change at those schools.
5. Test scores and enrollment: Why do we want to close a school that meets all of the state and federal mandates on testing? I have no idea really, other than that the other schools that the children will go to next will see an increase in scores. This would help their report card date show a greater increase in students passing all test scores. As far as enrollment this would help those schools that are showing a decrease in numbers. By adding students from Calhoun Falls High School and John C. Calhoun

Elementary those schools will have an increase in their total number of students. Over the past few years several schools other than Calhoun Falls High School has shown an incredible amount of decrease in numbers. But nothing was said about closing those schools and absorbing them.

In closing as far as I can see all this board did was nothing. We did nothing to see if this was the only option, or problem fix. We did nothing to ensure that this was the right thing to do. We did nothing to ensure that the administration was doing what the board put out as policy. We did nothing to ensure that the student of Calhoun Falls High School knew what was going on. And we did make a decision in the middle of a school year that disrupted classes, exams, student life (a basketball game being stopped), and upsetting teachers. We did nothing but set back a school that has achieved high standards, and upset an entire community. I feel we made a quick rash decision, without thinking if it was truly the right thing that this district need. The only thing that the board did was allow this district to allow back door segregation and start a back door consolidation of its schools. If Calhoun Falls High School is closed in 2008, by year 2010 the administration will say it has to close Dixie High School due to overcrowding or student to teacher ratio is not right. Then this board will have failed again, but the administration will have won a fight that no one knew was there. Or at least six member didn't know was there. I ask as a parent that you reconsider the decision that was made and keep Calhoun Falls High School open just like it is, but with enforcement of board policy about zones.

Dr. Kolb said: I had something I was going to share that's from a Look Magazine from 1946. The title of the article is "Value in Education in America" but due to the lateness of the hour I won't do that.

Mr. Taylor said: I think some of the people in the building tonight feel that I don't do what's best for all the children in the district. I've been on this board for a lot of years and we had meetings that ran into the morning hours sometimes. We built three schools in one year and I spent many, many hours on that; I'm talking about 11:00, 12:00 o'clock nights trying to make things better for the children of Abbeville County. All these years I've worked, I didn't want any money for it; I never got a penny for it. The only thing I wanted to do was make things better for the children of Abbeville County. I would not have spent all those hours if I didn't. And those schools that we worked on, none of them were in my district; these schools were in Abbeville, Due West/Donalds area, and the Diamond Hill area. I also worked on projects to make capital improvements on buildings all over the district simply because I wanted a better place to educate the children of Abbeville County. Now I don't want anybody to question my feelings about the children of Abbeville County. I always consider all the children of Abbeville County and the children in Calhoun Falls are part of all the children in Abbeville County. If you think I was wrong in fighting for what was in my district, I'm sorry if you don't like that. But I was elected by the people there and I'm suppose to represent the people there and that's why I have to fight for the folks that live there. At this point and time, I feel like the effectiveness of the chair is no longer there. I hate to be this way but all the years I put into this, blood, sweat, tears, losing sleep, and losing time from work, I've even lost time from work to do things. I hate for all those years to come down to the last

year I was going to serve on this board to end this way. I will not serve as chairman of this board anymore. So after executive session, there will be a motion on the floor to reelect a chair.

A break was taken at 9:40 p.m.

12. Executive Session

Mr. Burton made a motion to go into executive session which was seconded by Dr. Kolb and carried unanimously.

13. Return to Open Session

When the trustees returned to open session, Dr. Randolph said the first order of business is to elect a chairperson for the Abbeville County School Board of Trustees. He said Mr. Taylor has resigned his position and asked if there was a motion to accept this resignation as chairperson. **Dr. Crenshaw made a motion which was seconded by Ms. O'Bannon.**

Dr. Kolb said: I have served with Mr. Taylor on this board longer than anyone and he told me earlier before the meeting that he was considering stepping down and I asked him to not do that but I think he did what he felt he wanted to do. But personally had he not chosen to do that I would have no problem with him continuing to serve in that position and regret his decision to resign as chair.

The motion to accept the resignation passed with six in favor (Tisdale, Burton, Bell, Reynolds, O'Bannon, Crenshaw) and one abstained (Kolb). (Mr. Rhodes had left the meeting.)

Dr. Randolph said: The next order of business is to elect a chairperson.

Dr. Kolb said: I'd like to recommend that our two seated officers move up one chair so that our vice-chair (Mr. Tisdale) moves to chair and our secretary (Dr. Crenshaw) moves to vice-chair. Dr. Crenshaw seconded the motion which carried unanimously.

Ms. O'Bannon said: On advice of legal council this pending petition on the prior decision to close Calhoun Falls High School is legally insufficient and I move the petition be denied for that reason. I further move that the board chair issue to the petitioners a letter explaining the basis for our decision.

Mr. Bell seconded the motion which carried unanimously.

Dr. Randolph said: We discussed the building situation for Mayor Waller and the board has directed me to contact our bond attorney as soon as possible and find out what our options are and once we find out what our options are for the board to meet in a very timely manner since we understand the essence of time. When that is done, we will consider your request at that particular time based on the information the bond attorney gives us. We have tentatively scheduled this meeting for Tuesday, February 5th. Again this has not been confirmed but I will call first thing in the morning to see if the bond attorney can be here and have time to go through his/her material.

Mr. Tisdale said: The floor is now open for nominations for secretary of the board. Mr. Reynolds nominated Ms. O'Bannon. Dr. Kolb moved nominations be closed. Mr. Bell seconded the motion which carried unanimously.

Ms. O'Bannon made a motion to accept the following recommendations, resignations and retirements which was seconded by Mr. Reynolds and carried unanimously.

- Tamara S. Mentis – English Teacher- Calhoun Falls High School – Hired to replace LaTanya Ford (transferred to teacher assistant)
- W. Travis Scott – Physical Education – Long Cane Elementary School – Resigned effective end of 2007-2008 school year
- Wallace Edwards – Assistant Principal – Calhoun Falls High School – Retiring effective end of 2007-2008 school year

Mr. Burton made a motion to approve the following expulsions which was seconded by Dr. Crenshaw and carried unanimously.

- A fourteen year old 9th grade student at Abbeville High School
- A seventeen year old 11th grade student at Abbeville High School
- A sixteen year old 9th grade student at Abbeville High School
- A fifteen year old 9th grade student at Abbeville High School

14. No action necessary

15. Dr. Crenshaw made a motion to adjourn which was seconded by Dr. Kolb and carried unanimously.

Respectfully submitted,

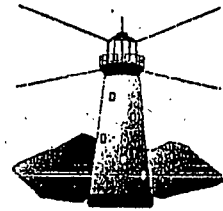


Ivan Randolph

Exhibit E

ABBEVILLE COUNTY SCHOOL DISTRICT

ADMINISTRATIVE OFFICES
400 GREENVILLE STREET
ABBEVILLE, SOUTH CAROLINA 29620
PHONE (864) 366-5427 FAX (864) 366-8531



A special called meeting of the Abbeville County School Board of Trustees will be held Tuesday, January 29, 2008 at 7:00 p.m. at 400 Greenville Street, Abbeville, South Carolina.

January 29, 2008
7:00 p.m.

Agenda

1. Call to Order
2. Approve Agenda
3. Discussion in reference to Calhoun High School Facility
4. Possible Executive Session
5. The Board of Trustees may take any action deemed necessary and appropriate as a result of this discussion.
6. Adjourn

Exhibit F

Minutes of Special Meeting
Abbeville County School District Board of Trustees
January 29, 2008
7:00 p.m.
Greenville Street Building
Abbeville, South Carolina

In accordance with the Code of Laws 1976, Section 30-4-80 (d) as amended, *The Press and Banner*, *The Index Journal*, *The Anderson Independent*, and *The Greenville News* were notified of the time and place and were given an agenda of the meeting.

Trustees Present: Mr. Mark Burton, Dr. Allen Kolb, Mr. Buster Taylor, Mr. James B. Tisdale, Jr., Mr. Tim Rhodes, Mr. Samuel Bell, Mr. Joseph Reynolds, Dr. Bill Crenshaw

Trustees Absent: Ms. Corrinna O'Bannon

Administrative Personnel Present: Dr. Ivan Randolph, Ms. Kathy Stevenson, Ms. Earlene Milford, Mr. Wayne Stevenson, Ms. Sherri Smith, Ms. Shelley Chrisley, Mr. Sam Jones, Mr. Matt Kimsey, Ms. Joyce Cunningham, Mr. Sherwin Johnson, Dr. Steve Glenn

1. Call to Order
Mr. Tisdale called the meeting to order at 7:00 p.m. and led the pledge of allegiance.
2. Approve Agenda
Mr. Taylor made a motion to approve the agenda which was seconded by Mr. Bell and carried unanimously.
3. Discussion in reference to Calhoun Falls High School Facility
Mr. Tisdale said with the next item on the agenda, we will need to go into executive session.
4. Executive session
Mr. Taylor made a motion to go into executive session which was seconded by Mr. Bell and carried unanimously.
5. The Board of Trustees may take any action deemed necessary and appropriate as a result of this discussion.
When the trustees returned to open session, Mr. Rhodes made the following motion: Deed the property over to the town of Calhoun Falls, subject to a reverter at the school district's option if: The town stops using property for a town purpose or for educational purpose, 2. Town wants to sell or lease the property.
Subject to all approvals at the local, state, or federal level.

Subject to town paying expenses.

Building will be "as is" with no environmental warranties.

School district has the right to remove equipment.

School district will make an effort to complete the transaction by August 1st or sooner.

If legal requirements are not met by that time, arrangements would be made for the town to use the facility.

Mr. Burton seconded Mr. Rhodes motion which carried unanimously.

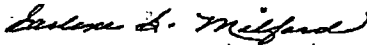
Mr. Jones said since this process is time sensitive, he would like to recommend, under the district's emergency procurement code, the administration be allowed to proceed to contact land surveyor firms, three or more, directly without having to go through the advertising process to select a firm to do this as quickly as possible.

Mr. Taylor made a motion to accept this recommendation which was seconded by Mr. Reynolds and carried unanimously.

6. Adjourn

At 8:13, Mr. Taylor made a motion to adjourn which was seconded by Mr. Rhodes and carried unanimously.

Respectfully submitted,



Earlene S. Milford

Exhibit G

Abbeville County School District
Administration Building
400 Greenville Street
Abbeville, South Carolina 29620

The regular meeting of the Abbeville County School District Board of Trustees will be held on Tuesday, February 26, 2008 at 7:00 p.m., at the Administration Building on 400 Greenville Street in Abbeville, South Carolina.

February 26, 2008
Agenda

1. Call to Order – Mr. James B. Tisdale, Jr.
2. Pledge of Allegiance – Mr. James B. Tisdale, Jr.
3. Approve Agenda – Mr. James B. Tisdale, Jr.
4. Sign Claims
5. Approve Minutes – Mr. James B. Tisdale, Jr.
6. Gold Star Highlights – Mr. James B. Tisdale, Jr.
 - A. Recognition of Palmetto Gold and Silver Award Winners – Ms. Kathy Stevenson
 - B. Recognition of District Accreditation Award – Ms. Sherri Smith
 - C. Recognition of TEAM Grant Stakeholders – Ms. Joyce Cunningham
7. Administrative Section – Dr. Ivan Randolph
 - A. Maintenance/Construction Update – Mr. Sam Jones
 - Consideration of approval of the separation of school property to be deeded to the town of Calhoun Falls (Action)
 - B. Financial Update – Ms. Shelley Chrisley
 - C. Curriculum Update – Ms. Sherri Smith
 - ASCD Data Teams Power Point Presentation
 - D. Consideration of Final Reading of Policies JCA-E, GBEB, GCF, GCFB, &GDF (Action)
Ms. Kathy Stevenson
 - E. Consideration of Approval of First Reading of Revised Policy JICJ (Possession/Use of Paging/Telecommunications Devices in School) (Action) – Mr. Sherwin Johnson
 - F. Dr. Randolph
 - Consideration of request of the 6th and 7th grade students at Cherokee Trail Elementary School for an educational field trip to Washington, DC on April 1-4, 2009 (Action)
 - Consideration of request from Cherokee Trail Junior Beta Club for an educational field trip to Barrier Island Environmental Education Center on February 27-29, 2008. (Action)
 - Update on Calhoun Falls High School Transition
8. Mr. Tim Rhodes – Calhoun Falls High School Statistical Verification
9. Miscellaneous from the Board

10. Executive Session

A. Personnel Elections/Resignations/Retirements

B. Expulsions

11. Return to Open Session

12. The Board may take any action deemed appropriate and necessary in light of the executive session.

13. Adjourn

Exhibit H

Minutes of Regular Meeting
Abbeville County School District Board of Trustees
February 26, 2008
7:00 p.m.
Greenville Street Building
Abbeville, South Carolina

In accordance with the Code of Laws 1976, Section 30-4-80 (d) as amended, *The Press and Banner*, *The Index Journal*, *The Anderson Independent*, and *The Greenville News* were notified of the time and place and were given an agenda of the meeting.

Trustees Present: Mr. Mark Burton, Dr. Allen Kolb, Mr. James B. Tisdale, Jr., Mr. Tim Rhodes, Dr. Bill Crenshaw, Mr. Joseph Reynolds

Trustees Absent: Mr. Buster Taylor, Mr. Samuel Bell, Ms. Corrinna O'Bannon

Administrative Personnel Present: Dr. Ivan Randolph, Ms. Kathy Stevenson, Mr. Wayne Stevenson, Ms. Sherri Smith, Ms. Jean Smith, Ms. Shelley Chrisley, Mr. Sam Jones, Mr. Matt Kimsey, Ms. Joyce Cunningham, Ms. Brenda Chadwick, Mr. Sherwin Johnson, Dr. Steve Glenn, Mr. Charles Costner, Mr. Todd Ramey, Mr. Nick Hyduke, Mr. Tommy Hollingsworth

1. Call to Order – Mr. James B. Tisdale Jr.
Mr. Tisdale called the meeting to order at 7:00 p.m.
2. Pledge of Allegiance
Mr. Tisdale led the pledge of allegiance.
3. Approve Agenda
Mr. Reynolds made a motion to approve the agenda which was seconded by Mr. Burton and carried unanimously.
4. Sign Claims
Claims were signed
5. Approve Minutes
Dr. Kolb made a motion to approve the January 22, 2008 minutes which was seconded by Mr. Burton and carried unanimously. Dr. Crenshaw made a motion to approve the January 29, 2008 minutes which was seconded by Mr. Reynolds and carried unanimously.
6. Gold Star Highlights
 - A. Recognition of Palmetto Gold & Silver Award Winners

Ms. Stevenson recognized Mr. Nick Hyduke, Abbeville Career Center and Mr. Tommy Hollingsworth, Calhoun Falls High School as school winners of the Palmetto Gold Award. Each school also received a flag, certificate and letter from State Superintendent Jim Rex and at a later date will receive a check.

B. Recognition of District Accreditation Award

Ms. Sherri Smith presented to the trustees a plaque that has been received from the SACS Review Team for having received district accreditation in October. She said the plaque will be displayed at the district office.

C. Recognition of TEAM Grant Stakeholders

Ms. Joyce Cunningham, contact person for the "TEAM UP for Kids" grant said: Last year we became a part of the "TEAM UP for Kids" grant which was initiated by McCormick County School District. This is a partnership grant which includes Edgefield County, Abbeville County and McCormick County. It involves three counties, three districts, the regional mental health center, State Department of Education, three higher education institutions, numerous community organizations, parents, employees, and students. This grant has allowed for an overall better school climate and has helped disciplinary referrals and increased student achievement.

Ms. Cunningham then recognized and thanked the following: Debbie Hite, Project Director (not present); Frank Jones, Mental Health Director; Danean Bannister, Mental Health; Dale Roussin, School Based Mental Health Counselor at John C. Calhoun (not present); Marvin Peoples, School Based Mental Health Counselor at Cherokee Trail Elementary and Diamond Hill Elementary; Crystal Martin, School Based Mental Health Counselor at Long Cane Elementary School; Karen Boyd Tatum, School Based Mental Health Counselor at Westwood Elementary School; Marie Cadden, Guidance Counselor, Deanne Williamson, Guidance Counselor, Donna Brown, Guidance Counselor. Ms. Cunningham then asked the community to get involved by taking advantage of services offered and giving support and providing funding for these programs when the grant ends. She said we are in year two of a three year grant.

7. Administration Section

A. Maintenance/Construction Update

Mr. Jones gave the following maintenance and construction report:

- Diamond Hill Elementary School Water Treatment: Water Samples for lead and copper testing from Diamond Hill Elementary School were submitted in December. The water supply is now significantly below the federal action levels for the trace metals that have been of concern for years.
- Survey of Calhoun Falls Property: At the January board meeting, the board authorized the administration to proceed in securing a company to survey the district's Calhoun Falls property on which the high school and elementary school are both located. The boundary survey and legal description is needed in order to separate and deed a portion of the property along with the Calhoun Falls School. We were authorized to act as quickly as possible under the emergency provision of the district's procurement code to hire these services.

The next day Mr. Jones proposed adding this project to the engineering contract with Sinclair and Associates. They are presently working for the district on the bus parking lot engineering for the Calhoun Falls attendance area. Dr. Randolph approved this request. The arrangements were made with Sinclair and Associates and work was started the next week. This will reduce the time required to hire a new company to complete the work by 30 to 60 days. We requested to receive the preliminary survey information in time to present it to the board for approval at the February 26th meeting.

- **Board Consideration of Calhoun Falls Property Surveys:** The administration will be presenting the requested information for the separation of the district's Calhoun Falls property. The board is requested to consider this information for approval or any action necessary.

Mr. Jones said the trustees had been given, in their packets, small copies of the overall boundary surveys. He proceeded to go over these copies explaining in detail the information provided. Mr. Jones said the district deeded three acres of land previously to the Town of Calhoun Falls. He continued if this division is accepted, in the Calhoun Falls High School parcel, there will be 38.3 acres and in the John C. Calhoun Elementary School parcel, there will be 28.76 acres. Mr. Jones said both schools are served from one tower which furnishes internet service and is located on the high school property behind the library. Mr. Jones and Mr. Matt Kimsey answered questions from the trustee concerning the tower. Mr. Jones concluded that this information is being presented for approval or changes will be made if needed.

Dr. Kolb made a motion to approve this recommended division of the site of school property to be deeded to the Town of Calhoun Falls which was seconded by Mr. Burton. Dr. Kolb then asked: The triangle we deeded to the city, did they build a maintenance shop on it? Mr. Jones said there is a maintenance building on the site and it now belongs to them. The motion carried unanimously.

B. Financial Update

Ms. Chrisley made the following statement: Dr. Randolph and I have been working with Mike Gallagher, bond accountant with Ross, Sinclair and Associates and we are looking at refinancing the 1997 series general obligation bonds. If we refinance these bonds, the district will realize a savings of around \$98K. We are currently looking at paying the 1997 series off in 2013 but by refinancing, the bonds will be paid off in 2011. The district would not have to increase debt service millage any further. What we are looking at doing is having Mike Gallagher come in at the March board meeting to be available for any questions and possibly vote to adopt a resolution to refinance the 1997 series bonds.

Dr. Randolph said: We just wanted to prepare you tonight and let you know what we are thinking and making sure we are thinking the same way you are. We are trying to pay these bonds off as quickly as possible.

Ms. Chrisley then asked if the trustees had any questions concerning the financial information sent in board packets. There were no questions.

C. Curriculum Update

Ms. Sherri Smith gave an ASCD Data Teams power point presentation which included the following:

- Data Teams are in all schools; ACCC,AHS,CFHS,CTE,DHE,DXHS,JCCE,LCE,WWE,WMS
- Skilled Professionals; Principal, Curriculum Coordinator, Teachers (Principal's Choice)
- Less Emphasis: External accountability, Premature data-driven decision making, data in isolation, data use by administration
- More Emphasis: Internal accountability, On-going data-driven discussions for continuous improvement, data through collective inquiry, widespread data use
- Plenty of Sources for Data: PACT Results, Behavior/Discipline Data, CAI Lab Results, Benchmarks, Explore Data, HSAP Results, Surveys, DIBELS Data, Graduation Data, MAP Results, In-House Assessments, SAT/ACT Data
- Data Walls: JCCE Data Room, DXHS Data, DHE Data

D. Consideration of Final Reading of Policies JCA-E, GBEB GCF, GCFB, & GDF
Mr. Rhodes made a motion to accept the administrations recommendation to approve final reading of policies JCA-E, GBEB, GCF, GCFB, & GDF. The motion was seconded by Dr. Kolb and carried unanimously.

E. Consideration of Approval of First Reading of Revised Policy JICJ (Possession/Use of Paging/Telecommunications Devices in School)
Mr. Sherwin Johnson explained the revised policy JICJ and answered questions from the trustees after which Mr. Reynolds made a motion to accept administrations recommendation to accept first reading of this revised policy. Dr. Kolb seconded the motion which carried unanimously.

F. Dr. Randolph

- Consideration of the request of 6th and 7th grade students at Cherokee Trail Elementary School for an educational field trip to Washington, DC on April 1-4, 2008
Dr. Randolph said the administration recommends approval of this field trip for students at Cherokee Trail Elementary School. Mr. Burton made a motion to approve this recommendation which was seconded by Mr. Rhodes and carried unanimously.
- Consideration of request from Cherokee Trail Junior Beta Club for an educational trip to Barrier Island Environmental Education Center on February 27-29, 2008.
Dr. Randolph said the administration recommends approval of this field trip to Barrier Island. Dr. Kolb made a motion to approve this recommendation which was seconded by Mr. Reynolds and carried unanimously. Dr. Kolb added that he had chaperoned his son in the fifth grade and it would be a good experience for other groups and be well worth it.

- Update on Calhoun Falls High School Transition
Dr. Randolph gave the following statement: I called Mr. Steven Gilchrist, Imagine Charter School Director and asked for an update on the charter school situation. He said the Calhoun Falls charter school planning committee has been meeting. Their goal is to submit an application to the state charter school advisory board by mid March. The state charter school advisory board has sixty days to consider their application. I asked Mr. Gilchrist about the students at the Calhoun Falls Charter School using our Career Education Center. He said that the school system and the charter school board could come to an agreement on how much the county schools would charge for each student to attend the Career Educational program. I told him that no one from the charter school planning committee has approached me about negotiating any services from the Abbeville County School Board. He told me that he would contact some of the individuals on the charter school planning committee and get back with me. Mr. Gilchrist asked me about taking occupancy of the building before August 1, 2008. I told him that we would do our best to be out of the building by August 1, 2008. A lot of work must be done after the students are out of the building before occupancy can be given to the town of Calhoun Falls. We would try but it will be difficult. I also spoke with Dr. David Church who is the executive director of the South Carolina Association of Public Charter Schools and asked for an update. He indicated that once the application from the Calhoun Falls Charter School Planning Committee was completed that it must be presented to the S.C. Charter School District as well as to the South Carolina Charter School Advisory Board. These two groups have sixty days to review the application and render a decision. I also asked him the question in reference to the Calhoun Falls Charter School students using our facilities. He indicated that a contract would have to be negotiated between the Charter School Advisory Board and the Abbeville County Board of Trustees. This arrangement would need to be included in the charter schools application and approved by the South Carolina Charter School District as well as approved by the South Carolina Charter School Advisory Board. Dr. Church indicated that one area that the South Carolina Charter School Advisory Board would be closely monitoring is the budget. He said that the Calhoun Falls Advisory Board must be able to show financial solvency for the operation of the charter school after the expenses of a managaement had been deducted from the per pupil expenditure and Title I monies had been received. He told me that a "start-up" charter school would be entitled to their portion of the EPA and other enhancements. He gave me the approximate numbers:
K-12 Charter - \$4,800 per student
6-12 Charter - \$3,300 per student
This number does not reflect any Title I money. In our situation, Title I money would be approximately \$550.00. In comparison, information provided by the State Department of Education reflects in the fiscal year 2006-2007 that we spent \$7,277 per student at Abbeville High School, \$7,593 per student at Dixie High School and \$11,285 per student at Calhoun Falls High School.
Dr. Church indicated that the Town of Calhoun Falls would have to lease the building to Imagine if they are going to go with their plan. He said this lease

agreement would also have to be included in their application. This lease must be at minimum, the current "market rate".

As far as an update on the transition: Mr. Harold Campbell has completed the bulk of the inventory of furniture and equipment at Calhoun Falls High School. We are in the process of assessing the needs in each of our schools and assigning equipment and furniture as appropriate. Any surplus equipment or furniture will be disposed of in accordance with the statutes in reference to the disposal of school property. The schools will be scheduling all students as if they will be attending the Abbeville County Schools next year. When the charter is granted by the state, we will then remove the appropriate students from our data base. We will be meeting tomorrow with the high school and middle school principals to discuss the transition process further. Also, Mr. Tisdale and I will be going to visit both Calhoun Falls High School and John C. Calhoun Elementary School next week to access the process of the transition.

I have also been in touch with Mr. David Duff (our legal council) and discussed with him the process and procedures that we are following. All displaced Calhoun Falls personnel have been informed of their new placement beginning the 08-09 school year. These individuals have been provided an opportunity to visit their schools and meet their new faculty and staff members.

Mr. Johnson is continuing to work with the scheduling of the buses for this transition.

The media center coordinators have been involved looking at the media center at Calhoun Falls High School and making decisions in reference to the placement of equipment and materials within the Abbeville County School System.

Athletic directors have also been involved with decisions on how to fairly distribute athletic equipment to the schools with the greatest needs.

8. Mr. Tim Rhodes – Calhoun Falls High School Transition

Mr. Rhodes made the following statement: After several long discussions with Dr. Randolph, I have come to agree that some of the numbers that I gave at the last meeting being incorrect. The cost I gave for transportation is a good deal higher than what the district has estimated. I used seven route buses and two for after school activities. The district is only going to use four route buses, and will look at after school activities later. This would cut my number by more than half, putting the estimated cost a lot lower. The budget concerns for the 6th graders moving back to John C. Calhoun Elementary, the budget was not amended but money was redirected back to John C. Calhoun Elementary for this move. The district is also going to show some savings from closing Calhoun Falls High School of a little over \$400,000 per year. The district will still receive Title I funding and which will be allocated to the school by what percentage of students they have in the poverty levels. It still concerns me that some of the students from Calhoun Falls High School that were entitled to the fund may not received it due to the school they may be attending.

In closing I feel that I reached a goal, the district is thinking and coming up with good, sound plans as how to handle the moving of students to the schools for next year. I also understand that the charter school has started enrolling and that the numbers seem close to 230 + students wishing to remain at Calhoun Falls High School. I hope that as a district we can work together with the community of Calhoun Falls, and the charter

school. As a whole I feel we can make well thought and sound decisions to make sure that every student get the education he or she desires whether it is in a district school or the charter school.

9. Miscellaneous from the Board

Dr. Kolb said: I meant to have mentioned this at the last board meeting but I believe back in January, the gym floor at Dixie High School was named in honor of Tracy Carter. If you haven't been over to see the plaque and the scoring table, it is a real nice tribute. Also I believe the basketball team is doing very good.

Mr. Tisdale said: In January, we had board appreciation month and we all received gift baskets and if I'm not mistaken, they came from the "special needs" students of the district. I would like to thank all of those involved. We also received in our board packets forms from the State Ethics Commission and we need to get those in or there's a \$100 fine per day.

A break was taken at 7:55 p.m.

10. Executive Session

At 8:10, Mr. Rhodes made a motion to go into executive session which was seconded by Mr. Burton and carried unanimously.

11. Return to Open Session

When the trustees returned to open session, Dr. Kolb made a motion to accept the following resignations/retirements and all professional personnel presented for the 2008-2009 school year. Mr. Rhodes seconded the motion which carried unanimously.

- Terri Lewis – Calhoun Falls High School – Resigned effective February 1, 2008
- Jennie Yon – Diamond Hill Elementary School – Retiring effective March 1, 2008

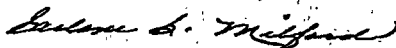
Mr. Burton made a motion to approve the following expulsions which was seconded by Dr. Crenshaw and carried unanimously.

- A 15 year old freshman at Calhoun Falls High School
- A 16 year old freshman at Abbeville High

12. No action necessary

13. At 8:50 the meeting was adjourned.

Respectfully submitted,



Earlene S. Milford

Exhibit I

Abbeville County School District
400 Greenville Street
Abbeville, South Carolina 29620

The regular meeting of the Abbeville County School District Board of Trustees will be held on Tuesday, March 25, 2008 at 7:00 p.m., at the Administration Building on 400 Greenville Street in Abbeville, South Carolina.

March 25, 2008
Agenda

1. Call to Order – Mr. James B. Tisdale, Jr.
2. Pledge of Allegiance – Mr. James B. Tisdale, Jr.
3. Approve Agenda – Mr. James B. Tisdale, Jr.
4. Sign Claims
5. Approve Minutes – Mr. James B. Tisdale, Jr.
6. Gold Star Highlights – Mr. James B. Tisdale, Jr.
 - A. Recognition of State Award-Winning Wrestlers – Abbeville High School – Ms. Kathy Stevenson
 - B. Recognition of Automotive Technology Grant – Abbeville Career Center – Ms. Kathy Stevenson
 - C. Recognition of Science P.L.U.S. Institute Winners – Ms. Kathy Stevenson
 - D. Recognition of Junior Scholars – Ms. Jean Smith
7. Board of Education's Roles and Responsibilities – Mr. James B. Tisdale, Jr.
8. Administrative Section – Dr. Ivan Randolph
 - A. Maintenance/Construction Update – Mr. Sam Jones
 - Consideration of approval of resolution to deed Calhoun Falls High School property to the Town of Calhoun Falls (Action)
 - B. Financial Update – Ms. Shelley Chrisley
 - Consideration of approval to adopt resolutions to refinance bonds (Action)
 - C. Student Services Update – Mr. Sherwin Johnson
 - Consideration of Approval of Final Reading of Revised Policy JICJ (Possession/Use of Paging/Telecommunications Devices in School) (Action)
 - Consideration of Approval of First Reading of Revised Policy FF (Naming Facilities) (Action)
 - D. Curriculum Update – Ms. Sherri Smith
 - E. District Accreditation Classification 2007-2008 School Year – Ms. Kathy Stevenson
 - F. Dr. Randolph
 - Graduation Dates
9. Miscellaneous from the Board
10. Executive Session
 - A. Personnel Elections/Resignations/Retirements
 - B. Expulsions
11. Return to Open Session
12. The Board may take any action deemed appropriate and necessary in light of the executive session.
13. Adjourn

Exhibit J

Minutes of Meeting
Abbeville County School District Board of Trustees
March 25, 2008
7:00 p.m.
400 Greenville Street
Abbeville, South Carolina

In accordance with the Code of Laws 1976, Section 30-4-80 (d) as amended, *The Press and Banner*, *The Index Journal*, *The Anderson Independent*, and *The Greenville News* were notified of the time and place and were given an agenda of the meeting.

Trustees Present: Mr. Mark Burton, Dr. Allen Kolb, Mr. Buster Taylor, Mr. James B. Tisdale, Jr., Mr. Joseph Reynolds, Dr. Bill Crenshaw, Ms. Corrinna O'Bannon

Trustees Absent: Mr. Tim Rhodes, Mr. Samuel Bell

Administrative Personnel Present: Dr. Ivan Randolph, Mr. Sam Jones, Ms. Earlene Milford, Ms. Kathy Stevenson, Dr. Steve Glenn, Ms. Joyce Cunningham, Ms. Sherri Smith, Ms. Jean Smith, Ms. Shelley Chrisley, Mr. Wayne Stevenson, Ms. Brenda Chadwick, Mr. Matt Kimsey

1. Call to Order – Mr. James B. Tisdale, Jr.
Mr. Tisdale called the meeting to order at 7:00 p.m.
2. Pledge of Allegiance
Mr. Tisdale led the pledge of allegiance to the flag.
3. Approve Agenda
Mr. Tisdale said the agenda had been included in board packets and asked if anyone had any changes to be made. Hearing none, he said the agenda was approved as presented.
4. Sign Claims
Claims were signed.
5. Approve Minutes – February 26, 2008
Mr. Tisdale said a copy of the minutes of the board meeting held February 26, 2008 was mailed in board packets and asked if there were any corrections. Hearing none, he said they would stand approved as presented.
6. Gold Star Highlights
 - A. Recognition of State Award Winning Wrestlers
Ms. Kathy Stevenson recognized the following wrestlers from Abbeville High School who were not able to be present due to being at the competition in Nashville.
Josh Cowan, Bill Glace, Bryan Glace, Adam Oaks, Jack Sweat
 - B. Recognition of Automotive Technology Grant
Ms. Stevenson recognized and presented a certificate to Mr. Tim Hall, instructor at the Abbeville Career Center, for receiving the Automotive Technology Grant in the amount of \$4,000.
Dr. Randolph said he would also like to congratulate Mr. Hall and thank him for

making a positive difference for the students at the Career Center.

C. Recognition of Science P.L.U.S. Institute Winners

Ms. Kathy Stevenson said we are very fortunate to have had three teachers attending the P.L.U.S. Science Institute this year. She said they will be receiving a check in the amount of \$500.00 for materials for their classroom. She then recognized and presented certificates to the following teachers from Diamond Hill Elementary School: Ms. Mary Anna Bowman, Ms. Fonda Taylor, Ms. Michelle Waters

D. Recognition of Junior Scholars

Ms. Jean Smith recognized and presented certificates to the following Junior Scholars:

- Wright Middle School: Sarah Chapman, Gennifer Durham, Elizabeth Houston, Khadijah Jennings, Elizabeth Littleton, Michelle Ryder, Paul Stammer, Thomas Underwood
- Calhoun Falls High School: Jessica Campbell
- Dixie High School: Jacob Alewine

The Junior Scholars not present were:

- Wright Middle School: Rachel Geer, Kytorious Jones, Amber Overholt, Amy Shurden, Daniel Weichmann
- Calhoun Falls High School: Sherry Hodges
- Dixie High School: John Peyton Bush, Sara Jane Bush, Riley Kneiding, Andrew Pearman

Dr. Randolph said he would like to commend these students who have distinguished themselves academically. He continued we are proud of them and want them to continue with their academic goals, work hard and pursue their academic dreams.

7. Board of Education's Roles and Responsibilities

Mr. Tisdale said that in February, he attended the SCSBA conference and during a workshop he received a handout from Boykin, Davis, Hawkins, LLC of which copies were mailed in board packets. He said in the handout was information concerning the constitutional authority for establishing free public schools in South Carolina and the constitutional authority to establish school districts. Mr. Tisdale then continued to highlight the following information:

- School Districts shall be under management of Boards of Trustees
- Boards of Trustees serve three primary functions
 - a. Legislative
 - b. Quasi Judicial
 - c. Executive
- Handling Information and Conducting Business
 - (a) Freedom of Information Act
 - Public Records
 - Specific Information; Exceptions, Exemptions, Violations
 - Meetings: Exemptions, Conference Calls, E-Mail, Advisory
 - Committee Meetings, Location, Violations
 - (b) The Family Educational Rights and Privacy Act
 - Scope and enforcement
 - Records, Not "Records"
 - Release of Information
 - Exceptions, Generalized Information (Directory Files, Press

Consent, Challenges, (Test Scores, Procedure, Recordkeeping)

8. Administrative Section – Dr. Ivan Randolph

A. Maintenance/Construction Section

Mr. Sam Jones gave the following report:

- John C. Calhoun Elementary School Building: The district will be utilizing the metal building behind John C. Calhoun Elementary School for temporary storage of materials that will be removed from Calhoun Falls High School and redistributed throughout the district in June. A door company has been contacted to install double doors to aid in moving the material from the high school in and back out to the other schools this summer.
- Cherokee Trail Elementary School Electrical: Cherokee Trail Elementary School reported having trouble with lights in some areas flickering off and problems with loss of power in random areas on several occasions this month. This problem was corrected.
- Wright Middle School Storm Water Ponds: The maintenance staff performed our annual control burn and cleanup of the storm water detention ponds in front of Wright Middle School this month.
- District Grass Mowing Schedule: The maintenance staff started the grass mowing schedule which will continue until frost appears this fall.
- District Office Computer Server Room: The computer network server room located on the first floor of the district office building has reached its capacity for equipment space with no room to expand. New equipment is needed and the only space available is the second floor of this building. The maintenance staff is currently installing additional electrical service, network cabling and air conditioning to this space.
- Transfer of Calhoun Falls Property: The plat surveys separation of district's property in Calhoun Falls into two separate tracts of land associated with John C. Calhoun Elementary School and Calhoun Falls High School was completed following the boards approval of the plan at the February meeting. Attorneys for the district are preparing a resolution to transfer to the Town of Calhoun Falls that portion of land and building presently being used for Calhoun Falls High School. When the board approves the resolution a request for approval of the property transfer will be presented to the State Board of Education at their next regular meeting. After approval of the transfer by the State Board, attorneys will prepare the deed of transfer for August 1, 2008. At that time, the transfer to the Town of Calhoun Falls will be completed.

Mr. Jones said: In your packet you received a draft of the resolution and the administration is recommending the approval of the transfer of the property pertaining to the Calhoun Falls High School building and the property approved in the survey last month.

Mr. Tisdale asked for a motion for the approval of the resolution to deed Calhoun Falls High School property to the Town of Calhoun Falls. Mr. Burton made a motion to approve this recommendation which was seconded by Ms. O'Bannon. Mr. Taylor asked if this was a resolution that the Town and District worked out

together. Mr. Jones responded that this is the format that the State Board of Education asks us to use. **The motion carried unanimously.**

B. Financial Update – Ms. Shelley Chrisley

Ms. Chrisley said that tonight we have with us Mr. Mike Gallagher, bond attorney with Ross, Sinclair and Associates to talk with us about refinancing the 1997 series bonds and the possibility of refinancing the 2001 series bonds.

During Mr. Gallagher's report, he gave a comparison on the payment schedule of the 1997 series bonds and the re-issued 2008 series bonds. The 1997 series was originally set to pay off in 2013. With the 2008 series re-issue, the bonds will pay off in 2011 and the district will realize a savings of \$98,289.

Mr. Gallagher answered questions from the trustees.

Ms. Chrisley said the administration recommends approval to adopt a resolution to refinance the 1997 series bonds. **Dr. Kolb made a motion to accept the recommendation which was seconded by Mr. Burton and carried unanimously.** Ms. Chrisley then said the administration recommends approval to adopt a resolution to give the school district the authority to refinance the 2001 series bonds if the market condition is favorable. Mr. Gallagher answered questions from the trustees after which **Dr. Kolb made a motion to accept this recommendation. Ms. O'Bannon seconded the motion which carried unanimously.**

Ms. Chrisley gave the trustees the following information from a budget update meeting she and Ms. Joni Wilson had recently attended for the SC Association of School Business Officials.

- Dr. Gillespie, Chief Economist with the State of South Carolina spoke with us concerning the outlook of state funding over the next few years. A few things that may be of interest to the board:
 - ~Provision to allocate any surplus funds to the school building fund was eliminated for 08-09
 - ~Projects that over the next five years, state revenues are likely to grow less than state needs and doesn't see any new funding for school districts from general state revenues (No New \$ for 2008-2009)
 - ~One of the challenges for school districts will be to keep increasing revenues at rates in excess of inflation. In order to do so, it will mean raising millage or finding other sources of raising revenue (501 C 3)
 - ~Advised that districts need to develop better systems of reserves, which is our fund balance and procedures for using those reserves.
 - ~Base Student Cost \$2,578
 - ~CDEPP (Child Development Education Pilot Program) will be funded one more year with no expansion in funding
 - ~\$275 Teacher Supplies (same as last year)
 - ~Minimum Salary increase 3.85%

Ms. Chrisley asked if there were any questions concerning the financial update that had been included in board packets. There were none.

C. Student Services Update – Mr. Sherwin Johnson

Mr. Johnson said the administration recommends approval of final reading of revised policy JICJ (Possession/Use of Paging/Telecommunications Devices in School). **Mr. Reynolds made a motion to accept this recommendation which was seconded by Mr. Burton and carried unanimously.**

Mr. Johnson said the administration recommends approval of first reading of revised policy FF (Naming Facilities). Ms. O'Bannon made a motion to accept this recommendation which was seconded by Mr. Taylor and carried unanimously.

D. Curriculum Update – Ms. Sherri Smith

Ms. Smith said: Each of you should have received the SC Education Oversight Annual Report in your board packets. Also back in November, we talked about "Project Lead the Way", an engineering program that we wanted to implement. This program was approved and we wrote a \$25,000 grant. We received the funding and we are now getting ready to train instructors so the program will be in place next school year at the Career Center. Also we will close the MAP testing on Friday and things have gone very smoothly. We are excited about getting that data back since we will then have a complete year of data. We will be using that data when we get the PACT scores to correlate the possibility of the growth of kids which will predict how achievement levels increase.

Starting in April, we're going to have Abbeville County Career Center Awareness Month to bring attention to the Career Center, the whole concept on the Career to Work program and the EEA.

E. District Accreditation Classification 2007-2008 School Year – Ms. Stevenson
Ms. Stevenson said we have been given final accreditation classification for the 2007-2008 school year of an "all clear". She continued we have met this status for three years in a row and we are extremely proud of department heads and principals for this status being given so early in the year.

F. Graduation Dates – Dr. Randolph

Dr. Randolph gave the following graduation dates:

- Abbeville Career Center – May 20, 2008 (Career Center)
- Dixie High School – May 29, 2008 (Erskine College)
- Calhoun Falls High School – May 30, 2008 (Ball Field)
- Abbeville High School – May 31, 2008 (Lander University)

9. Miscellaneous from the Board

Mr. Tisdale said when he attended the SCSBA conference, the law firm of Childs & Halligan sponsored a speaker who spoke on "Lessons from America's Wisest President". He continued that they had purchased a DVD for each school district which was quite interesting and he would leave it with the district so that the board members, administration and schools may view it.

A break was taken at 7:43 p.m.

10. Executive Session

At 7:55 p.m., Mr. Burton made a motion to go into executive session which was seconded by Ms. O'Bannon and carried unanimously.

11. Return to Open Session

At 8:13 when the board returned to open session, Mr. Burton made a motion to approve the following recommendations/resignations/retirements which was seconded by Dr. Crenshaw and carried unanimously.

- D. Wayne Botts – Long Cane Elementary School – Physical Education – Replacing Travis Scott effective 2008-2009 school year
- Hannah Davis- Wright Middle School – Special Education - Replacing FACES teacher effective 2008-2009 school year
- Cari Carter – Dixie High School – English - Resigning effective end of school year
- Sheila Stone – Westwood Elementary School – Special Education – Resigning effective end of school year
- Vanessa Dove – John C. Calhoun Elementary School – Elementary – Resigning effective end of school year
- Wanda Coleman – Dixie High School – Math – Retiring effective end of school year
- Crystal Dunlap – Dixie High School – Science – Retiring effective end of school year
- Melissa Hullett – School Psychologist – Resigning effective end of school year

Mr. Taylor made a motion to approve the following expulsions which was seconded by Dr. Crenshaw and carried unanimously.

- A sixteen year old 10th grade student at Dixie High School
- A sixteen year old 10th student at Dixie High School
- A seventeen year old 10th grade student at Abbeville High School

12. No action necessary.

13. Adjourn

At 8:16 p.m. Mr. Taylor made a motion to adjourn which was seconded by Dr. Crenshaw and carried unanimously.

Respectfully submitted,

Earlene S. Milford

Earlene S. Milford

Exhibit K

Abbeville County School District
400 Greenville Street
Abbeville, South Carolina 29620

The regular meeting of the Abbeville County School District Board of Trustees will be held on Tuesday, June 24, 2008 at 7:00 p.m., at the Administration Building on 400 Greenville Street in Abbeville, South Carolina.

Prior to the board meeting, a public hearing on the 2008-2009 General Fund Budget will be held from 6:45 p.m. – 7:00 p.m.

June 24, 2008

Agenda

1. Call to Order – Mr. James B. Tisdale, Jr.
2. Pledge of Allegiance – Mr. James B. Tisdale, Jr.
3. Approve Agenda – Mr. James B. Tisdale, Jr.
4. Sign Claims
5. Approve Minutes – Mr. James B. Tisdale, Jr.
6. Gold Star Highlights – Mr. James B. Tisdale, Jr.
 - A. Recognition of School Bus Drivers
7. Administrative Section – Dr. Ivan Randolph
 - A. Maintenance/Construction Update – Mr. Sam Jones
 - B. Financial Update – Ms. Shelley Chrisley
 - Consideration of approval of final reading of proposed 2008-2009 General Fund Budget (Action)
 - Consideration to Accept Bid for Career Center House (Action)
 - C. Personnel Update – Ms. Betty Jo Hall
 - D. Student Services Update – Mr. Sherwin Johnson
 - Consideration of Approval of Final Reading of Revised Policy KB (Parent Involvement in Education (Action)
 - Consideration of Approval of Title I Application FY09 (Action)
 - E. Dr. Randolph
 - Finalization of transfer of Calhoun Falls High School Property to Town of Calhoun Falls
 - Summer Picnic on June 25th (240 day employees)
8. Miscellaneous from the Board
9. Executive Session
 - Personnel Elections/Resignations/Retirements
 - Personnel Matter
 - Attorney/Client Matter
10. Return to Open Session
11. The Board may take any action deemed appropriate and necessary in light of the executive session.
12. Adjourn

Exhibit L

Minutes of Meeting
Abbeville County School District Board of Trustees
June 24, 2008
7:00 p.m.
400 Greenville Street
Abbeville, South Carolina

In accordance with the Code of Laws 1976, Section 30-4-80 (d) as amended, *The Press and Banner*, *The Index Journal*, *The Anderson Independent*, and *The Greenville News* were notified of the time and place and were given an agenda of the meeting.

Trustees Present: Mr. Mark Burton, Mr. Samuel Bell, Dr. Allen Kolb, Mr. James B. Tisdale, Jr., Mr. Joseph Reynolds, Dr. Bill Crenshaw, Mr. Tim Rhodes, Mr. Buster Taylor

Trustees Absent: Ms. Corrinna O'Bannon

Administrative Personnel Present: Dr. Ivan Randolph, Mr. Sam Jones, Ms. Earlene Milford, Dr. Steve Glenn, Ms. Joyce Cunningham, Ms. Jean Smith, Ms. Shelley Chrisley, Ms. Brenda Chadwick, Ms. Betty Jo Hall, Mr. Sherwin Johnson

At 6:45, prior to the board meeting, a public hearing on the 2008-2009 General Fund Budget was held. Mr. Tisdale asked if anyone from the audience wanted to speak. Hearing no response, Dr. Kolb made a motion to close the public hearing which was seconded by Mr. Taylor and carried unanimously.

1. Call to Order – Mr. James B. Tisdale, Jr.
Mr. Tisdale called the meeting to order at 7:00 p.m.
2. Pledge of Allegiance
Mr. Tisdale led the pledge of allegiance to the flag.
3. Approve Agenda
Mr. Tisdale asked if there were any corrections to the agenda. Hearing none, he said the agenda would stand approved as presented.
4. Sign Claims
Claims were signed.
5. Approve Minutes – May 13, 2008 and May 27, 2008
Mr. Tisdale said a copy of the minutes of the board meetings held in May was mailed in board packets. He asked if there were any corrections to the special meeting held on May 13, 2008. Hearing none, he said the minutes would stand approved as presented. He asked if there were any corrections to the May 27, 2008 minutes. Hearing none, he said the minutes would stand approved as presented.
6. Gold Star Highlights
 - A. Recognition of School Bus Drivers
Mr. Sherwin Johnson thanked the following bus drivers for their services to Abbeville County School District. He recognized and presented certificates to the following "Outstanding Bus Drivers": Faye Johnson, Eunice Martin, Rhonda Dorn, Rena

Rhodes. Those not present were: John Elmore, Mike Culbreath, Wilma Groves, David Earl Campbell, Donna Ashley, Melinda Fellows.

He then recognized and presented "Certificates of Merit" to the following: Howard Smith, James Arnold, James Campbell, Doug Belcher, Doris Starks, Dawn Blackmon, Rebecca Holland, Kyle Hoover, Milton Scott, Tenia Willoughby, Melissa Bowen, Robert Lutz.

Those not present were: Patricia Terry, Bonnie Campbell, Debra Thompson, Kathryn Hall, Steve Dunlap, Sherry Duncan, Rob Pruitt.

7. Administrative Section

A. Maintenance/Construction Section

Mr. Sam Jones gave a report on the following topics:

- Moving Schools
- Transfer of Calhoun Falls Property
- Annual Safety Training
- Diamond Hill Elementary School Water Leak
- Cherokee Trail Elementary School Electrical Service
- Long Cane Elementary School Sign
- Adult Education Administration Building Floor
- Abbeville County Career Center and Dixie High School Storage Buildings
- GLEAMNS Building at John C. Calhoun Elementary School
- John C. Calhoun Elementary School Computer Lab.
- Painting Westwood Elementary and John C. Calhoun Elementary School
- District Office Painting

Dr. Randolph said he would like to thank Mr. Jones and the maintenance crew for the good job they did when moving Westwood Elementary School, Long Cane Elementary School and Calhoun Falls High School.

B. Financial Update – Ms. Shelley Chrisley

Ms. Chrisley gave the following report to the trustees:

We received applications from Calhoun Falls Charter High School. The number of students they currently project as enrolled is 206. I calculated how this would effect our EFA funding and how it will impact our budget for 08-09. We will loose approximately \$133,000 if all 206 attend the Charter High School. EFA budgeted revenue for 08-09 has already been reduced by \$270,946. \$55,000 of the revenue reduction was for the possible loss of students based on prior year trends, the remaining reduction was the decline in ADM between 45th and 135th day reports. The approximate shortfall the district will face is \$78,000. This shortfall will be absorbed by salaries of vacancies that will not be filled.

The budgeted revenues include a 2 mill reduction in the original proposed 7 mill increase. Legislation Proviso 1.45 passed suspending the EIA Maintenance of Local Effort requirement for one year. Because of this suspension it will not be necessary to levy 7 additional mills for 2008-2009; however, state law allows the school district to increase by 3 mills above the rate imposed for the prior tax year without County Council approval. County Council approved an additional 2 mill increase for a total of five additional mills for 2008-2009 to offset their reduction of \$150,000 to our fee in lieu of taxes. The original recommended budget has been reduced by \$260,234. A reduction in expenditures was necessary to offset the reduction in revenues. The district was able to reduce expenses by not replacing vacated positions.

Ms. Chrisley then recommended approval of the second and final reading of the 2008-2009 General Fund Operating Budget.

Mr. Tisdale asked if there was any discussion.

Dr. Randolph said: We talked with Scott Moulder late yesterday and he is going to make a recommendation to County Council that they not take at this time the \$40,000 they said they were going to take. This would enable us to fund a 4K class at Long Cane Elementary School.

Mr. Burton made a motion to accept the administrations recommendation to approve the second and final reading of the 2008-2009 General Fund Budget. Mr. Reynolds seconded the motion which carried unanimously.

Ms. Chrisley made the following report on the Career Center house bids: We received bids on the house constructed by the carpentry class at the Career Center on Wednesday, June 18th. The minimum bid was advertised at \$31,500. We received one bid of \$31,599 from Duston Ricketts from Abbeville, S.C.

Ms. Chrisley then said the administration recommends acceptance of the bid in the amount of \$31,599. She answered several questions from the trustees after which **Mr. Taylor made a motion to accept this recommendation. Mr. Bell seconded the motion which carried unanimously.**

C. Student Services Update – Mr. Sherwin Johnson

Mr. Johnson said in accordance with federal guidelines established under "No Child Left Behind", our parental involvement policy has been reviewed and revised. The administration would like to recommend approval of final reading of Policy KB.

Dr. Kolb made a motion to accept the administrations recommendation to approve final reading of Policy KB. The motion was seconded by Mr. Burton and carried unanimously.

Mr. Johnson shared with the Board information concerning the FY 09 Project Application which must be submitted on or before July 1, 2008. He then said the administration would like to recommend approval of the FY09 Title I Project Application as presented and asks that the superintendent be given the authority to approve any amendments that may become necessary during the course of the school year.

Dr. Crenshaw made a motion to accept this recommendation which was seconded by Mr. Bell and carried unanimously.

D. Dr. Randolph

Dr. Randolph said: Mayor Waller and his attorney, Randall R. Williams, prepared a "Quitclaim Deed" for the property at Calhoun Falls High School. This "Quitclaim Deed" has been sent to our attorney, Dave Duff. Mr. Duff has reviewed said deed and indicated to me that things are in proper order. This evening we are prepared to exchange keys and give the documents to the Mayor at this time.

Dr. Randolph turned the keys and deed over to Mayor Waller.

Mayor Waller expressed his appreciation for all of the hard work the Board went through to make this possible for the citizens of Calhoun Falls. My hat goes off,

he continued, to Dr. Randolph, Sam Jones, and Harold Campbell for this smooth transition. Mayor Waller said one of the positive things he wants to say about the people of Calhoun Falls, the School Board and Dr. Randolph is that we are headed in a positive direction and we hope to continue this positive relationship. Mayor Waller said that we'll be working together to make this relationship stronger and maintain it.

Dr. Randolph said: We've had a good relationship through this situation. I know a lot has been said but I think we're all pulling in the same direction for the students in the county. I think it's time we have a healing now and work together for all the kids in the county.

Dr. Randolph said each year he and his wife host a summer picnic for all 240 day employees and he would like to invite the board members. He continued it would be held at Wright Middle School at 11:30 a.m. on June 25th.

8. Miscellaneous from the Board

Dr. Kolb said: Concerning the joint meeting we had with County Council the other week, we have met with them in the past and it would probably be a good idea if we could plan somewhere in our budget process every year to sit down with County Council after we've had a budget workshop. And either before or after the first reading of our budget, we could sit down with County Council and go over some things so that any misunderstandings could be cleared up.

A break was taken at 7:35 p.m.

9. Executive Session

Ms. O'Bannon came into the meeting.

At 7:43 p.m., Mr. Rhodes made a motion to go into executive session which was seconded by Mr. Taylor and carried unanimously.

10. Return to Open Session

At 8:50 p.m. when the board returned to open session, Dr. Kolb made a motion to extend Dr. Randolph's contract for one year. The motion was seconded by Ms. O'Bannon and carried unanimously.

Mr. Taylor made a motion to approve the following recommendations/retirements which was seconded by Mr. Rhodes and carried unanimously.

- Martha Kinsler – Abbeville High School – Science – Recommended to replace Crystal Dunlap (Pending Letter of Eligibility for PACE)
- Elizabeth Harris – Dixie High School – Special Education – Recommended for the 2008-2009 school year
- Lynn Chandler – Wright Middle School – Special Education – Recommended to replace Carolyn Hagins
- Angela Sykes – Westwood Elementary School – 3rd grade – Recommended to replace Loretta Harrington
- Elizabeth Birch – Wright Middle School – M.L. Math – Recommended to replace Krystal Ashley (Transfer)
- Harold Campbell – District Office – Adult Education Director (.5 FTE) Recommended for the 2008-2009 school year

- Tommy Hollingsworth – Calhoun Falls High School – Principal – Resigning effective end of 2007-2008 school year
- Bennie McCoy – John C. Calhoun Elementary School – 6th grade – Resigning effective end of 2007-2008 school year
- Deirdre McCullough – Calhoun Falls High School – Curriculum Coordinator Resigning effective end of 2007-2008 school year
- Harold Watkins – Calhoun Falls High School – Social Studies (assigned to SS at Abbeville High School for the 08-09 school year) – Resigning effective end of 2007-2008 school year
- Lori Lindler – Calhoun Falls High School – Math (assigned to Intervention Specialist at WRMS for the 08-09 school year) – Resigning effective end of 2007-2008 school year

Dr. Randolph said he would like to thank the Board for their vote of confidence.

11. Adjourn

At 8:52 the meeting was adjourned.

Respectfully submitted,

Earlene S. Milford

Earlene S. Milford

Exhibit M

Abbeville County School District
400 Greenville Street
Abbeville, South Carolina 29620

The regular meeting of the Abbeville County School District Board of Trustees will be held on Tuesday, September 23, 2008 at 7:00 p.m., at the Administration Building on 400 Greenville Street in Abbeville, South Carolina.

September 23, 2008

Agenda

1. Call to Order – Mr. James B. Tisdale, Jr.
2. Pledge of Allegiance – Mr. James B. Tisdale, Jr.
3. Approve Agenda – Mr. James B. Tisdale, Jr.
4. Sign Claims
5. Approve Minutes – Mr. James B. Tisdale, Jr.
6. Gold Star Highlights – Ms. Betty Jo Hall
 - Recognition of Palmetto Gold & Silver Award Showcase Winner
 - Recognition of "Teachers of the Year" and Principal of the Year"
7. Administrative Section – Dr. Ivan Randolph
 - A. Maintenance/Construction Update – Mr. Sam Jones
 - Request from administration for approval of construction of a driveway extension at Long Cane Primary School (Action)
 - Request from administration for approval of awarding engineering services contract at Long Cane Primary School (Action)
 - B. Financial Update – Ms. Shelley Chrisley
 - C. Student Enrollment Information – Mr. Sherwin Johnson
 - D. Curriculum Update – Ms. Sherri Smith
 - E. Gifted and Talented Plan (Action) – Ms. Jean Smith
 - F. Dr. Randolph
 - Long Cane Primary School Parking Lot
 - Election of Delegate for the 2008 Delegate Assembly (Action)
 - Request from Rev. Oscar Klugh for Use of Abbeville High School Facility for Youth Activities (Action)
 - Memorandum of Agreement Between Calhoun Falls Charter School and Abbeville County School District
 - Community Outreach Center Invitation
8. Miscellaneous from the Board
9. Adjourn

Exhibit N

Minutes of Meeting
Abbeville County School District Board of Trustees
September 23, 2008
7:00 p.m.
400 Greenville Street
Abbeville, South Carolina

In accordance with the Code of Laws 1976, Section 30-4-80 (d) as amended, *The Press and Banner*, *The Index Journal*, *The Anderson Independent*, and *The Greenville News* were notified of the time and place and were given an agenda of the meeting.

Trustees Present: Mr. Mark Burton, Dr. Allen Kolb, Mr. James B. Tisdale, Jr., Mr. Joseph Reynolds, Mr. Buster Taylor, Ms. Corrinna O'Bannon, Dr. Bill Crenshaw, Mr. Tim Rhodes

Trustees Absent: Mr. Samuel Bell

Administrative Personnel Present: Dr. Ivan Randolph, Ms. Earlene Milford, Ms. Joyce Cunningham, Ms. Jean Smith, Ms. Shelley Chrisley, Ms. Brenda Chadwick, Ms. Betty Jo Hall, Mr. Sam Jones, Ms. Sherri Smith, Mr. Matt Kimsey, Mr. Sherwin Johnson, Mr. Nick Hyduke

1. Call to Order

Mr. Tisdale called the meeting to order at 7:00 p.m.

2. Pledge of Allegiance

Mr. Tisdale led the pledge of allegiance to the flag.

3. Approve Agenda

Mr. Tisdale said a request by Cherokee Trail for a field trip to Atlanta needed to be added to the agenda. He asked if there were any objections to amending the agenda to include this item. Hearing none, he said the amended agenda would stand approved.

4. Sign Claims

Claims were signed.

5. Approve Minutes – August 26, 2008

Mr. Tisdale said a copy of the minutes of the board meeting held in August was mailed in board packets. He asked if there were any corrections to the August 26, 2008 minutes. Hearing none, he said the minutes would stand approved as presented.

6. Gold Star Highlights

Ms. Hall, Mr. Tisdale, and Dr. Randolph recognized and presented a plaque to Mr. Nick Hyduke, Abbeville Career Center Director. Ms. Hall congratulated Mr. Hyduke as a Palmetto Gold and Silver Award Showcase Winner. The award was for bringing parents and community members to the school with its annual community night.

Ms. Hall, Mr. Tisdale, and Dr. Randolph recognized and presented certificates to the following "Teachers of the Year" and "Principal of the Year":

Amanda Brown – Westwood Elementary School

Jo Ann Myers – Wright Middle School

Anna Evans – Diamond Hill Elementary School

Sandra Young – Abbeville High School

Tim Hall – Abbeville Career Center
Karen Bass – John C. Calhoun Elementary School
Erin Atkins – Long Cane Primary School
Adrienne Padner – Cherokee Trail Elementary School Teacher of the Year and District Teacher of the Year
Barry Jacks – Wright Middle School - Principal of the Year
Not present was Kim Ware – Dixie High School -

7. Administrative Section

A. Maintenance/Construction Section

Mr. Jones gave a report on the following topics:

- Abbeville High School Kitchen
- Abbeville High School Smart Boards
- Long Cane Primary School Driveway

Mr. Jones answered questions from the trustees.

Mr. Jones said the administration recommends approval of construction of a driveway extension at Long Cane Primary School. He also said the administration recommends approval of awarding engineering services contract at Long Cane Primary School.

Mr. Taylor made a motion to accept the administrations request to award engineering services contract at Long Cane Primary which was seconded by Mr. Rhodes. Mr. Jones then said that the first recommendation concerning construction of a driveway extension needed to be approved first. Mr. Taylor then withdrew his motion as did Mr. Rhodes his second. Mr. Taylor then made a motion to accept administrations request to approve construction of a driveway extension at Long Cane Primary which was seconded by Mr. Rhodes. This motion passed unanimously.

Mr. Taylor made a motion to accept the administrations request to award engineering services to Sinclair and Associates. The motion was seconded by Mr. Rhodes and carried unanimously.

B. Financial Update – Ms. Shelley Chrisley

Ms. Chrisley gave the following report to the trustees:

I am mailing RFP packages to local banking institutions on Thursday of this week. Proposals will be accepted until the cut-off date of Friday, October 31st at 3:30 p.m. The administration will then make a recommendation to the Board at the November board meeting.

A financial update was included in your board packets. I included a memo informing you that the Revenue Budget Report was not final for the month of August due to information that was not received from the County Treasurer's office. I had anticipated receiving the information before the meeting tonight but the information was not available and I was unable to finalize the report. I will include the finalized report with your October board packages.

Ms. Chrisley then asked if there were any questions concerning the financial update included in board packets. There were none.

C. Student Enrollment Information – Mr. Sherwin Johnson

Mr. Johnson said included in board packets were copies of graphs and charts which provide information on the enrollment trends of Abbeville County School District as well as the impact of the closing of Calhoun Falls High School on the school district. He proceeded to discuss the following:

- Abbeville County School District Enrollment Over 7 Years

- Student Enrollment Comparison: 07-08 vs. 08-09
 - Charter School Impact on Abbeville County School District
- Mr. Johnson asked if the trustees had any questions. There were none.

D. Curriculum Update – Ms. Sherri Smith

Ms. Smith said she had included in board packets a current draft of the District Report Cards and she would let everyone know when the draft became final. She also reported that in looking at the district and number of students proficient on the recent Palmetto Achievement Challenge Test (PACT), our district ranks 15th in the state out of 85 districts. That is up 20 from last year, Ms. Smith continued, and if you look at how much is spent per pupil, we rank 51st out of those same 85 districts.

Ms. Smith then discussed the brochures she had included concerning "Quality of Education" provided in rural districts in South Carolina.

E. Gifted and Talented Plan – Ms. Jean Smith

Ms. Smith said included in board packets was the District Plan for the Education of Gifted and Talented students. She asked if there were any questions. Hearing none, she said the administration recommends approval of the District Plan for the Education of Gifted and Talented students. Mr. Reynolds made a motion to approve this recommendation which was seconded by Ms. O'Bannon and carried unanimously.

F. Dr. Randolph

Dr. Randolph said concerning Long Cane Elementary Parking Lot, he went to the County Council on September 3rd and made a presentation requesting \$80,000 from CCC funds. The County Council was very interested in this project and voted unanimously to approve this request. He said he really appreciated their support.

Dr. Randolph said the administration was recommending approval of a field trip requested by Cherokee Trail Elementary School to Atlanta Ga. on October 30th. He answered several questions from the trustees after which Mr. Burton made a motion to approve the request. The motion was seconded by Ms. O'Bannon and carried unanimously.

Dr. Randolph said that in the material sent to the trustees was a letter of request from Rev. Oscar Klugh on behalf of the A.M.E. Church requesting the use of facilities at Abbeville High School on September 26th. He continued that they had used the building several years ago and it was very successful. Dr. Randolph said the administration recommends approval of this request. Ms. O'Bannon made a motion to approve this request which was seconded by Mr. Rhodes. Dr. Randolph answered several questions after which the motion carried unanimously.

Dr. Randolph said the next few items on the agenda are for information only. The first item, he continued, is a copy of the Memorandum of Agreement between Calhoun Falls Charter School and Abbeville County School District so that the Board can see the final document. Dr. Randolph and Ms. Chrisley answered several questions from the trustees.

Dr. Randolph said the second item was a letter he had received from Mr. James Jackson, Founder of the "Community Outreach Center". In the letter, he continued, Mr. Jackson invited everyone to visit the after-school program at the center.

Dr. Randolph said our district will have one voting delegate during the 2008 SCSBA Delegate Assembly which will be held on Saturday, December 6, 2008. He said a delegate would need to be elected. Dr. Kolb made a motion that Mr. Tisdale be elected as a delegate and Mr. Rhodes as an alternate. Ms. O'Bannon seconded the motion that carried unanimously.

8. Miscellaneous from the Board

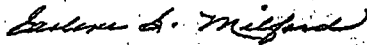
Dr. Kolb said in response to Ms. Smith's report concerning the number of students proficient on the recent PACT: Being No. 15 out of 85, we would be in the top 20 percent of the state and I think that's certainly something the teachers and students should be proud of. I think that's newsworthy.

Dr. Randolph said Mr. Johnson had given to each trustee a brochure on a presentation to be held at Abbeville High School. Mr. Johnson said Mr. Don Cantrell with the South Carolina State Department will present information on Internet dangers and how you can protect your child. He said everyone is invited.

9. Adjourn

At 7:50 the meeting was adjourned.

Respectfully submitted,



Earlene S. Milford

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,
Plaintiffs,

v.

Abbeville County School Board,
Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

DEFENDANT'S MOTION TO STRIKE
AFFIDAVITS SUBMITTED BY
PLAINTIFFS IN OPPOSITION TO
SUMMARY JUDGMENT

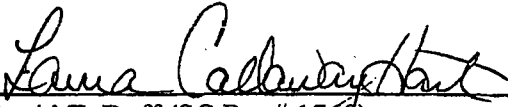
TO: C. LANCE SHEEK, ATTORNEY FOR PLAINTIFFS:

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 56, SCRPC, Defendant Abbeville County School Board (hereinafter "the Board") will move before the presiding judge for the Eighth Judicial Circuit, on the tenth day after service hereof or as soon thereafter as counsel may be heard, for an Order striking the affidavits submitted by the Plaintiffs in opposition to the Defendant's Motion for Summary Judgment. This motion is based on the grounds that the affidavits submitted by Plaintiffs are untimely under Rule 56(c) and do not comply with Rule 56(e) in that they do not set forth specific sworn facts or evidence to create a genuine issue for trial. Because the affidavits submitted by Plaintiffs were neither timely under Rule 56(c) nor compliant with Rule 56(e), they cannot, therefore, be considered by the Court in its determination on Defendant's Motion for Summary Judgment and should be struck from the record.

This Motion is supported by the applicable statutory and case law of South Carolina, the contemporaneously filed Memorandum of Law in Support of Defendant's Motion to Strike Affidavits Submitted by Plaintiffs, and such other pleadings, documents, and evidence as may be presented to the Court.

Respectfully Submitted:

DUFF, WHITE & TURNER, L.L.C.

By: 

David T. Duff (SC Bar # 1768)

Laura Callaway Hart (SC Bar # 2766)

P.O. Box 1486

Columbia, SC 29202

Telephone: (803) 790-0603

Facsimile: (803) 790-0605

Attorneys for Defendant Abbeville County School
Board

February 20, 2012
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,

Plaintiffs,

v.

Abbeville County School Board,

Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

MEMORANDUM OF LAW IN SUPPORT
OF DEFENDANT'S MOTION TO STRIKE
AFFIDAVITS SUBMITTED
BY PLAINTIFFS

Defendant Abbeville County School Board submits this memorandum of law in support of its motion to strike affidavits submitted by Plaintiffs in opposition to Defendant's previously filed motion for summary judgment. The affidavits submitted by Plaintiffs were untimely and contain no admissible factual evidence sufficient to show a genuine issue for trial. The affidavits are, therefore, improper under the controlling provisions of Rule 56(c) and (e) and should be stricken from the record.

FACTUAL BACKGROUND

Defendant filed its Motion to Dismiss or, In the Alternative, for Summary Judgment on October 20, 2012, along with the Affidavit of Ivan Randolph, Ph.D.¹ Defendant's Motion for Summary Judgment was heard almost three months later, on January 10, 2012.

Subsequently, on February 13, 2010, Plaintiff filed a written response to Defendant's Motion, along with three affidavits. Plaintiffs submitted one affidavit signed by both Danny Hozey and Terry Richey attaching multiple unsworn, uncertified, and unauthenticated documents; one affidavit signed by Tracy Lindler attaching an unsworn, uncertified, and unauthenticated series of email messages; and one affidavit signed by Tim

¹ Defendant's Amended Motion was filed on October 31, 2012. It is also supported by the previously filed Affidavit of Dr. Randolph.

Rhodes. Each of these affidavits was dated February 12, 2012 and filed with the court on Monday, February 13, 2012, thirty-four (34) days after the January 10, 2012 hearing on Defendant's Motion for Summary Judgment and almost four months after Defendant's initial motion and supporting affidavit were filed.

ARGUMENT

1. Plaintiffs' affidavits should be stricken because they were untimely.

Rule 56(c), SCRPC, allows a party opposing a motion for summary judgment to file affidavits, but requires that such affidavits be filed "not later than two days before the hearing." Continuances to allow the party opposing summary judgment to obtain affidavits or other evidence may be granted, but only in cases where the party, by affidavit, asserts that affidavits were unavailable and, further, states the reasons for the unavailability and facts supporting such reasons. Rule 56(f), SCRPC. See also Black v. Lexington School District No. 2, 327 S.C. 55, 488 S.E.2d 327 (1997); West v. Gladney, 341 S.C. 127, 533 S.E.2d 334 (Ct. App. 2000) (trial court properly refused to consider opposing party's affidavit which was not filed until day of hearing and opposing party failed to present any good cause for failing to timely file it). The law is clear: unless the party opposing summary judgment offers a sworn statement asserting that affidavits in opposition were not available prior to the hearing and gives specific reasons and facts showing the unavailability, the court should not allow additional time for the party opposing summary judgment to obtain opposing evidence and affidavits.

In this case, Plaintiffs' affidavits and attached documentation were filed thirty-four days after the hearing on Defendant's summary judgment motion, clearly in violation of the rule. This fact alone is sufficient for the court to refuse to consider them and strike them from the record. Further, Plaintiffs offered no justification for the untimely submission of their affidavits. Indeed, Plaintiffs simply filed three affidavits after the hearing, without seeking a

continuance and without any suggestion that the affidavits were not available prior to the hearing.

As the South Carolina Supreme Court in Black and the South Carolina Court of Appeals in West affirmed, a failure by the opposing party to serve affidavits by two days prior to a summary judgment hearing, without asserting any good excuse for that failure, warrants a refusal by the trial court to consider the opposing party's affidavits. Plaintiffs did not assert and, indeed, cannot assert any reason for failing to comply with the time limitations of Rule 56. The affidavits they submitted after the summary judgment hearing should be stricken and not considered by the Court.

2. **Plaintiffs' affidavits and accompanying documentation should be stricken because they contain no admissible factual evidence pertinent to the issues before the court.**

Rule 56(e) sets out the substantive requirements of affidavits submitted in connection with summary judgment motions:

[A]ffidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. . . . When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

Plaintiffs' affidavits consist merely of conclusory allegations of wrongdoing, specifically, that in the opinion of the affiants, the Defendant violated the South Carolina Freedom of Information Act ("FOIA") in some manner that is left undefined and undescribed. The affidavits include no facts to support these conclusory allegations. In addition, the documents, letters, and statements attached to the affidavits are not sworn or certified copies and, thus, are inadmissible hearsay. As such, they do not comply with Rule 56(e).

Further, the affidavits refer to issues that are irrelevant to the matter before this Court. Although Plaintiffs refused to concede at the summary judgment hearing that their Complaint about the closing of Calhoun Falls High School in 2007 is based on their allegations that the Defendant violated the FOIA, it is apparent from their written response to the Defendant's Motion for Summary Judgment that their allegations of FOIA violations indeed form their sole basis for seeking an order from this Court to reopen the school. Plaintiffs' affidavits include no factual support for their allegations that the Defendant violated FOIA during the deliberations and vote on the closing of Calhoun Falls High School in 2007. Whether the Defendant has committed FOIA violations relating to other issues since that time, as Plaintiffs seem to suggest in their proffered affidavits, is entirely irrelevant to the matter before this Court.

Affidavits supporting and opposing summary judgment motions are appropriate only when they contain admissible evidence and shed light on consequential matters. "[W]hen the parties submit admissible evidence on the issue in question under a summary judgment motion, the court can determine that a trial is unnecessary only if either the facts are undisputed, or if disputed, the dispute is of no consequence to the dispositive question." Mitchell v. Data Gen. Corp., 12 F.3d 1310, 1315-16 (4th Cir. 1993), citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251, 106 S.Ct. 2505, 2511, 91 L.Ed.2d 202 (1986) (evidence opposing summary judgment must be "significantly probative").

The affidavits submitted by Plaintiffs not only contain non-admissible evidence, but they are also of no consequence to the dispositive question. The affidavits contain inadmissible opinion, hearsay, and conclusions unsupported by sworn factual testimony. The affidavits introduce no admissible evidence and no specific sworn facts suggesting an issue of

fact pertinent to the Defendant's Motion for Summary Judgment and are, therefore, improper and insufficient under Rule 56(e). They should not be considered by this Court.

CONCLUSION

The affidavits submitted by Plaintiffs were neither timely under Rule 56(c) nor compliant with Rule 56(e) and cannot, therefore, be considered by the Court in its determination on Defendant's Motion for Summary Judgment. Further, the affidavits do not present any admissible evidence that would raise a factual dispute that is of any consequence to the issue raised in the Defendant's Motion for Summary Judgment. The Defendant respectfully submits that they should be disregarded by this Court and stricken from the record.

Respectfully Submitted:

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Attorneys for Defendant Abbeville County School
Board

February 20, 2012
Columbia, South Carolina

State of South Carolina) In the Court of Common Pleas
County of Abbeville) Eighth Judicial Circuit
2011-CP-01-00242

Danny Hozey and Terry
Richey,

Plaintiffs,

vs.

Abbeville County School
Board,

Defendant.

Transcript of Record

January 10, 2012
Abbeville, South Carolina

B e f o r e:

The Honorable Frank R. Addy, Jr., Judge

A p p e a r a n c e s:

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David T. Duff, Esquire
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Maryann S. Nevers, CVR-M
Circuit Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
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No Exhibits Introduced.

1 (Whereupon, the proceeding was commenced at 12:23
2 p.m.)

3 THE COURT: All right. We are on the record in Case
4 11-CP-01-242, *Danny Hozey and Terry Richey v. Abbeville*
5 *County School Board*. It's my understanding that the
6 defendant in this case is moving to dismiss or, in the
7 alternative, making a motion for summary judgment in this
8 particular case. We have Mr. Sheek present, representing
9 the plaintiffs. I believe it's Ms. Hart -- is that
10 correct?

11 MS. HART: That's correct, Your Honor.

12 THE COURT: All right. --- representing the school
13 board.

14 MS. HART: This is Mr. ---

15 THE COURT: --- Duff?

16 MR. DUFF: Mr. Duff -- David ---

17 THE COURT: Mr. Duff.

18 MR. DUFF: --- Duff.

19 THE COURT: Okay. I apologize. It's been a while
20 since I've seen y'all.

21 MR. DUFF: Yes.

22 THE COURT: All right. You have the floor.

23 MS. HART: Thank you, Your Honor. The defendant, the
24 school board, has filed a memorandum of law in support of
25 its motions to dismiss or, alternatively, for summary

1 judgment. Briefly, the facts are that the school board, in
2 December of 2007, which is over four years now, voted to
3 close Calhoun Falls High School. There were a number of
4 reasons for that vote. And all that -- not -- not
5 important for the purpose of this motion, but the vote was
6 made in December of 2007 in open session.

7 Subsequently, the school board closed the school,
8 transferred the students to other schools within the
9 district, and sold the land and the buildings that used to
10 be Calhoun Falls High School to the town of Calhoun Falls.
11 They no longer own that property.

12 The town of Calhoun Falls obtained a charter and
13 opened a charter -- charter school in that district -- in
14 that building -- excuse me. And the district entered into
15 agreement with the charter school, which is a separate
16 entity from the district and from the board, whereby the
17 charter school agreed to pay fees so that its students
18 could take classes at the career center that's operated by
19 Abbeville School District. Those are the facts.

20 The plaintiffs object to these actions by the school
21 board and by the district. And they filed this lawsuit,
22 seeking to have the votes rescinded, the -- Calhoun Falls
23 High School reopened, and preventing the district from
24 charging fees to the charter school.

25 We've moved for dismissal because the complaint fails

1 to state facts sufficient to constitute a cause of action
2 and because they have no standing. They have no children
3 in either the charter school or in the schools of the
4 Abbeville School Board -- Abbeville School District to
5 complain about the charging of fees. We've ---

6 THE COURT: Sorry. Go ahead.

7 MS. HART: That's fine. We've also filed an affidavit
8 by the superintendent, Dr. Randolph, who is here behind me,
9 setting out all the facts and the dates on which these
10 actions occurred. And if the Court feels it necessary to
11 refer to that affidavit, we would ask that the Court then
12 issue summary judgment on the board's behalf because the
13 facts are undisputed -- material facts are undisputed and
14 the board is entitled to judgment as a matter of law.

15 As to the motion of -- to dismiss, the complaint,
16 which I presume the -- the judge -- the Court has looked at
17 ---

18 THE COURT: I did have a chance to review the file
19 completely last night, so I've read everything that is in
20 the case file.

21 MS. HART: Okay. The complaint seems to allege that
22 the actions taken by the board were improper because the
23 board failed to follow particular notice requirements and
24 meeting procedures. There is no common law cause of action
25 for meetings to be held in a particular way, for notice to

1 be given. The only grounds for such a claim would come
2 under the Freedom of Information Act, FOIA, which created a
3 new right.

4 Although the plaintiffs don't claim that FOIA is the
5 basis for their action and it -- that's probably because
6 the FOIA statute of limitations is one year. It sounds
7 like a FOIA action. It can't be a common law cause of
8 action because there is no common law cause of action for
9 that kind of alleged wrong. So for -- on that basis, we
10 would urge the Court to dismiss the action on the grounds
11 that it fails to state facts sufficient to constitute a
12 cause of action.

13 Plaintiffs also do not allege that the vote to close
14 the school was in any way arbitrary, an abuse of
15 discretion, outside of the authority granted to the school
16 board to operate the schools. So assuming, for purposes of
17 this motion to dismiss, that the board failed, in fact, to
18 follow proper meeting procedures and notice requirements,
19 there's no reason to void the vote. Our courts are
20 cautioned by our Supreme Court -- and I'll just quote this
21 -- to be loathe to substitute their judgement for that of
22 elected representatives, when those elected representatives
23 make discretionary decisions, such as the school board made
24 in this case to close Calhoun Falls High School. So -- and
25 on those grounds, we would ask that the case be dismissed.

1 As to the charging of fees, the plaintiffs it have a
2 little bit wrong in their complaint. They -- they allege
3 that the board charges fees to charter-school students.
4 The board does not charge fees to charter-school students.
5 The board has an agreement whereby the charter school
6 agreed to pay fees to the board -- or to the district so
7 that its students could take advantage of classes offered
8 by the school district at the career center.

9 But in any event, even if -- assuming that's correct,
10 these plaintiffs have no children enrolled in the charter
11 school. They have no children enrolled in the district
12 schools. They don't allege that they do; that's absent
13 from the complaint. And the affidavit of Dr. Randolph
14 supports that they have no children. So therefore, they
15 have no personal stake in the charging of fees to students
16 and, therefore, have no standing to complain about the
17 charging of fees.

18 THE COURT: So sorry.

19 MS. HART: No. That's fine.

20 THE COURT: So sorry. There's a case, I think, that
21 came out on the standing issue or that touched on the
22 standing issue that you're raising -- I believe it came out
23 last week -- that I wanted to take a look at while we were
24 discussing. But continue.

25 MS. HART: Oh, dear.

1 THE COURT: I'm sorry.

2 MS. HART: That's not -- I didn't see a standing case
3 last ---

4 THE COURT: Yeah.

5 MS. HART: --- from last week. What's the name of it?

6 THE COURT: Hold on. I'm trying to get the clerk to
7 -- don't hold me to that. It may or may not be relate, but
8 ---

9 MS. HART: Right.

10 THE COURT: I wanted to say it's the case involving
11 DHEC down at the coast, where the Supreme Court allowed
12 some individuals to bring suit against --- I think it's
13 *Kiawah v. DHEC*. But my clerk will find that. I thought
14 they touched on standing in that case, but I might be
15 incorrect. Because one of the criticisms of that case was
16 that it was going to open up the possibility of anyone and
17 everyone having standing to bring a suit against DHEC to
18 challenge a regulatory decision that was made. Obviously,
19 that's in the context of a regulatory body and not in a
20 executive body like a school board would be. But I just
21 wanted to take a look at that later. Sorry to interrupt.
22 Continue.

23 MS. HART: You know, just to conclude this -- this
24 part of the argument which is all about the motion to
25 dismiss, this whole complaint -- and I -- Your -- Your

1 Honor has a copy of it -- or -- I guess you have the
2 original of it -- it really sounds like a FOIA claim. It
3 -- it complains about, in Paragraphs 8, 9, 10, 11, that the
4 board did not follow proper notice procedures and didn't
5 follow proper meeting procedures and resulted in these
6 actions. And these are the actions that the plaintiffs
7 want declared void.

8 Our view -- and I -- I think the law is very clear on
9 this -- that there is no common law cause of action for
10 that kind of alleged wrongdoing, if it can be alleged to be
11 wrongdoing. It wasn't made a wrong until FOIA passed in
12 1976. FOIA provides the remedy. And where a clear right
13 -- a -- a new right is created by a statute, that becomes
14 the exclusive remedy.

15 So the plaintiffs really are confined to FOIA for
16 their complaints. I understand why they didn't want to
17 allege FOIA in the complaint, because they are clearly
18 beyond the one-year statute of limitation. And that goes
19 to our motion for summary judgment, and that's where I want
20 to move now.

21 First of all, the summary judgment motion is
22 supported, as I said, by the affidavit of Dr. Randolph.
23 Dr. Randolph sets out the dates on which these actions
24 occurred. And they are really -- it's really undisputed;
25 it's all a matter of public record.

1 The vote of the board was taken in December of 2007 to
2 close the school. The school was closed in the spring or
3 summer of 2008. The district entered into this agreement
4 in 2009 -- August 2009 about charging fees to the charter
5 school for charter-school students to attend the career
6 center.

7 This action was not commenced -- it wasn't even filed
8 until September of 2011. That's more than three years --
9 almost four years, actually -- after the vote to close the
10 school. It's more than two years after the agreement to
11 make these charges go into effect as to charter-school
12 students.

13 So it -- it's clearly beyond the one-year statute of
14 limitation. That -- the statute of limitation is in 30-4-
15 100, which states that a citizen may sue under this
16 chapter, provided -- as long as the application is made no
17 later than one year following the date on which the alleged
18 violation occurs or one year after a public vote in public
19 session, whichever comes later.

20 It doesn't matter how you look at this. It's beyond
21 one year. It's really -- it's over two years as to the
22 charging of fees for students. And it's over three years
23 -- really, almost four years -- as to the vote to close the
24 school. So FOIA clearly -- the statute of limitations in
25 FOIA clearly bars all of these claims.

1 In addition, we've raised laches as a defense.
2 Plaintiffs' delayed an unreasonable time -- again, two to
3 three years, almost four years -- to act. The board acted
4 by closing the school, transferring students to other
5 schools, selling the property. And -- and all the while,
6 the plaintiffs were sleeping on any rights they may have
7 had. We're not -- we're not admitting they had any rights
8 to complain, but they slept on them. And laches would bar
9 the remedy that they seek, which is an equitable remedy of
10 injunction and -- and a declaratory statement that the
11 board acted improperly.

12 But the laches -- the equitable doctrine of laches
13 bars this case, as does the equitable doctrine of equitable
14 estoppel. And -- and all of that is addressed in our
15 memorandum of law, which we submitted.

16 Your Honor, I just -- this case clearly lacks any
17 merit and has caused the board to go to a great deal of
18 expense in hiring us and in, you know, pursuing this motion
19 to dismiss and motion for summary judgment. We just feel
20 that the case is so lacking in legal and factual basis as
21 to actually warrant an award of sanctions of costs or
22 attorneys' fees to the board for having to defend against
23 it.

24 THE COURT: All right. Thank you. Mr. Sheek, happy
25 to hear from you.

1 MR. SHEEK: Thank you, Your Honor. First of all, I'd
2 like to raise a -- a -- I guess, a request, for lack of a
3 better term. The plaintiffs -- the defendants in this
4 action filed a -- what I'd call a rather standard motion
5 for summary judgment and/or a 12(b)(6) motion and/or a
6 judgment on the pleadings, alleging that it -- the -- the
7 complaint would fail on a variety of different theories. I
8 think I received the memorandum that you have just a few
9 minutes before the Court received it.

10 So the first thing I'm going to ask the Court to do --
11 and I believe would be equitable to my clients to allow me
12 to do it -- would be have a reasonable amount of time to
13 respond, because I don't know the specifics of their
14 complaints about -- or their -- their basis until we come
15 and -- and receive a -- a rather lengthy and detailed
16 memorandum of law in support. I mean, I'd like to be able
17 to -- to provide a memorandum once I've had a chance to
18 look at the numerous cases that they've cited in here.

19 Now, that being said, I'll attempt to address these
20 issues, which would be more or less off the hip, because I
21 wasn't sure exactly where they were headed with this. The
22 complaint in this action is based upon -- first of all, I
23 -- I'm going to turn to the issue of standing. I'm not
24 positive I'm thinking of the same case you're thinking of
25 regarding DHEC. But I think, in that case, the criticism

1 was that it would allow anybody to challenge a regulatory
2 decision, even when that regulatory decision did not
3 directly affect that person and I believe -- if I'm
4 thinking of the same case, and I may not be.

5 In this case the named plaintiffs, Mr. Hozey and Mr.
6 Richey, are residents of the county of Abbeville. And
7 they're residents of the district formerly served by the
8 Calhoun Falls High School, which is now the Calhoun Falls
9 Charter School. So even though they do not have students
10 -- and I would concede, for this argument, that they do not
11 have children that are directly involved in the school or
12 required to pay any extra fees -- they are members of the
13 community served by this entity. And they are affected by
14 the decisions and actions of that public board.

15 I believe the -- we would have the same argument we do
16 in DHEC if somebody from Greenwood County were to come in
17 and file suit over the alleged actions of the Abbeville
18 County School Board, when they clearly aren't affected by
19 it because they don't live in the district. And these
20 gentlemen do and -- and have for quite some time.

21 The allegations that FOIA was violated would certainly
22 go to the basis for their allegations that this is a
23 wrongful act by the school board. A public body, when FOIA
24 was enacted, is required to conduct its business in open
25 sessions to avoid situations that we find ourselves in,

1 where somebody comes into court and alleges: "Wait a
2 second. This action that was taken two years ago or three
3 years ago was wrong, but we didn't know about it because it
4 wasn't conducted in an open session as FOIA requires."

5 The allegations would be that discussions and -- and
6 negotiations or whatever you want to call them occurred in
7 violation of FOIA, either in executive session or
8 privately, as opposed to an open session, where the
9 community is allowed to participate and be present, which
10 my clients certainly would've had the right to do. By its
11 very nature, when FOIA is violated, you don't know exactly
12 what has occurred. I mean, that is the very nature of the
13 violation of Freedom of Information Act. Clearly, had they
14 known about exactly what occurred four years ago and then
15 failed to bring an action, then you've got an issue.

16 I also believe this motion is a little bit premature
17 because I believe we ought to have the right to conduct
18 some discovery in this case. As you were just told, the
19 service was effected in October the 3rd, so we're just a
20 few months out from the service of the complaint. And I
21 believe my clients would have the right to conduct some
22 discovery. Because while I could stand up here and tell
23 you things we've been told, hearsay is not proper in this
24 motion, nor would it be admissible in court. People, for
25 various reasons, are reluctant to get involved voluntarily.

1 But through subpoena powers and depositions, certain
2 information can be gathered under sworn testimony and then
3 can be presented, which I believe we should have the right
4 to conduct.

5 So the two things I'm asking the Court to do is, one,
6 allow me a -- a -- a reasonable amount of time to review
7 this and respond properly. And secondly, I would ask that
8 -- not necessarily that their motion be denied, but that we
9 be allowed a reasonable time to conduct discovery and that
10 this motion can then be entertained at that time ---

11 THE COURT: All right.

12 MR. SHEEK: --- because obviously, we would argue
13 we're within the statute of limitations from the time that
14 we learned of when these various wrongful acts occurred.

15 Now, while the courts certainly have stated that the
16 Court should be reluctant to place its judgment in the
17 place of a public body, it certainly is within the Court's
18 power. And that is the reason the action has been brought.
19 So yeah. We stand here at the beginning of the action,
20 somewhat fayzy (phonetic) -- fuzzy on exactly what occurred
21 and when it occurred. And that would be the reason
22 discovery is allowed. And we're asking the -- to be able
23 to do that before the trigger is pulled.

24 This isn't a professional malpractice case where if I
25 can't produce an expert to show the -- the malpractice,

1 then summary judgment is -- clearly is proper. This is a
2 case where I think they're trying to get summary judgment
3 before we can complete the discovery, which would provide
4 the basis for the lawsuit we've brought.

5 THE COURT: All right. While we're on that topic, Mr.
6 Sheek -- and I have no problem with affording you some
7 additional time to respond to what the defendants have
8 provided me this morning in the way of the memorandum. But
9 in reviewing the file last night and in reviewing what the
10 defendants have submitted, the biggest concern that I have
11 relates more to separation-of-powers principles than
12 anything else.

13 The school board in this case apparently has taken a
14 vote. They have made a decision. It would seem that your
15 clients' remedy -- seeing as how the school board is an
16 executive body, your clients' remedy would be to either run
17 against the school board or put a candidate out there to
18 run against -- this is what I'm saying. This is a public-
19 policy question.

20 And the defendants are correct when they assert that
21 courts traditionally are extremely hesitant to involve
22 themselves in matters which are purely within the
23 providence of the executive or the legislative branches.
24 And that's what it seems we have in this particular
25 situation. And that's what causes me the greatest

1 hesitation.

2 I understand your clients' position. I understand
3 that they feel like they've been aggrieved. And I would
4 like to say that somewhere there's a remedy for this kind
5 of a -- a situation. I think that the remedy would be at
6 the ballot box, as opposed to in the courtroom. That's my
7 bias at this particular point in time, for lack of a better
8 word.

9 And I realize you haven't had a chance to brief me on
10 this. But -- but -- you want to speak to that while we're
11 here?

12 MR. SHEEK: I'll speak to it briefly, Judge. And I
13 would like more of a chance to -- to brief it more fully.

14 I believe you're -- you're correct, except if the
15 board acted on information provided to it by elected
16 members, such as a superintendent or a hired employee --
17 the numbers in the information and the statistics were not
18 correct, were known to not be correct, and were provided
19 for the purpose of effecting a goal -- the closing of the
20 school -- and did so based on incorrect, false, and known-
21 to-be-false information, then we're in a different
22 situation. If I were simply saying I feel like the school
23 board's decision was unwise, they shouldn't have done it,
24 then I think -- yes, sir -- we're -- we're directly in the
25 place that you're talking about.

1 But on the information that -- that I believe we can
2 show through discovery, feel confident that we can show,
3 that's not the case.

4 THE COURT: All right. Not to cut you off, let's go
5 one step further. Let's assume that we go forward with
6 this complaint and basically you allege two causes of
7 action: You seek an injunction; you seek also declaratory
8 relief. The property has already been sold, the check has
9 been cashed, and the school has been closed. How do I
10 unring that bell or how could a court unring that bell?

11 MR. SHEEK: That is problematic.

12 THE COURT: All right.

13 MR. SHEEK: Sometimes unringing the bell is -- is
14 very, very difficult, if not impossible. In this case it
15 may -- I don't want to say be -- not be possible. There
16 are certainly ways that a school can be established, even
17 though that particular piece of property is gone.

18 But we -- we also have the second cause of action you
19 just alluded to, and that is the charging of fees to one
20 school. And I realize the -- the complaint may say to
21 students. And they say it's not charged to students; it's
22 charged to the school on behalf of the students. If we've
23 got other people in the exact same situation who are not
24 required to pay those fees, then we've got a situation
25 where basically it's going to cost somebody to attend the

1 charter school that it wouldn't cost to go to another
2 private school. That was another issue we've had.

3 But again, until there is the completion of discovery,
4 everything is somewhat fuzzy. It is a he-said or "this is
5 what I've been told" situation, as opposed to sworn
6 testimony that I can present the Court.

7 THE COURT: All right. On the issue of the fees in
8 the complaint, do you feel that perhaps your suit would be
9 stronger if, in fact -- at least from a standing standpoint
10 -- if, in fact, you did have a parent or a student who was
11 a named plaintiff who was being charged those fees?

12 MR. SHEEK: I don't believe so, Judge. Because I
13 believe it affects the community, and the members of the
14 community have a right that their community be treated
15 fairly. Because as we all know, if you go in, for
16 instance, to sell your house and someone comes in to look
17 at it, one of the first things they're going to look at is
18 the school district. It's information a real estate agent
19 is going to provide them, usually if you've got a good real
20 estate agent.

21 In this case the truthful information would be:
22 You've got a charter school that if your child attends,
23 they're going to have to pay a fee to go to this learning
24 center that they're not going to have to pay if they attend
25 this other private institution or go to this other school

1 over here.

2 So I think my -- my clients are aggrieved by being
3 members of the community directly affected by this action.

4 THE COURT: All right. Thank you, Mr. Sheek.

5 Anything ---

6 MS. HART: Your ---

7 THE COURT: --- in reply ---

8 MS. HART: Yes, Your ---

9 THE COURT: --- briefly?

10 MS. HART: --- Honor. I really would like to address
11 several things. First of all, I -- I think I heard Mr.
12 Sheek acknowledge that this is a FOIA action.

13 MR. SHEEK: That is not correct. I -- I allege that
14 the violation of FOIA certainly would be part of the
15 overall nexus of events that have brought us to where we
16 are. It is certainly basis for the reason my clients are
17 not able to present today absolute information as to when,
18 what happened, and how it happened, or why they did not
19 know exactly what occurred on the dates alleged in the
20 statute of limitations argument. But I certainly have not
21 conceded, nor brought an action based solely on the
22 violation of FOIA.

23 THE COURT: All right. I understand.

24 MS. HART: Okay. Well, we also have laches; we also
25 have equitable estoppel. We also have the fact that the --

1 the complaint has no cause of action for anything other
2 than FOIA. Although it doesn't expressly allege FOIA,
3 that's what it is. Because all he is complaining about in
4 here is failure to follow proper procedure, failure to
5 conduct meetings according to proper procedure and policy
6 and discussing items in closed session, failing to give
7 proper notice to the community. All of those are FOIA-
8 based allegations that there -- there is no right to sue on
9 outside of FOIA. There is no common law right.

10 Secondly, the motion to dismiss or -- or, in the
11 alternative, for summary judgment was filed on November --
12 I can't really read this -- November 1st, together with the
13 affidavit of Dr. Randolph. The motion is actually a very
14 long motion. It clearly outlines the arguments that I
15 talked about this morning. I don't think there's anything
16 new in my argument today that's not contained within the
17 motion that was filed over two -- almost three months ago.
18 I -- this is an amended motion; I think we did the original
19 motion in October, even.

20 So plaintiff is obligated -- once he receives this
21 motion and this affidavit, if he wants to bring some
22 evidence in, some -- something to challenge the facts that
23 are stated in this affidavit, he had plenty of time to do
24 that. And he has an obligation to do that before this
25 motion is heard by this Court. The fact that he didn't get

1 the memorandum until this morning, although I did try to
2 get it to both the -- you, Judge, and Mr. Sheek yesterday
3 -- my e-mail procedures failed for some reason -- that's
4 kind of beside the point.

5 The arguments were set out in the motion and in the
6 affidavit that have been on file for three months. And he
7 has an obligation to address those before this morning. He
8 can't rest on his mere allegations.

9 Secondly, I -- it -- it's ludicrous to assume that
10 these plaintiffs didn't know the school closed in their
11 community. It closed in the spring of 2008. That was
12 coming up on four years ago. And the charging of fees
13 actually goes to the benefit of them as taxpayers because
14 the fees come to the school board, which they support with
15 their tax dollars.

16 So it's not like they're out anything as taxpayers or
17 as members of the community, because the charter school has
18 to pay fees or has agreed. There's no allegation of any
19 kind of duress or anything the charter schools do, and that
20 is just a business contract between the charter school and
21 the district that they will pay fees for using the district
22 facilities and teachers. So they're not out anything.

23 And -- oh, what was the other thing? I -- I can't
24 even remember. It -- the -- the complaint -- if --
25 discovery at this point is not going to change the fact

1 that the vote was taken four years ago in open session.
2 It's not going to change the fact in any way that the
3 school closed in -- almost four years ago.

4 And the FOIA-sounding complaint, which is really what
5 it is -- he doesn't want to talk about it because he knows
6 there's a one-year statute of limitation -- there is no
7 discovery provision on this statute of limitations. It is
8 just -- it starts to run when the vote is taken. And
9 whether they knew about it or not is beside the point. And
10 besides that, the vote was taken in open session. And
11 there was no hiding of it.

12 Discovery is not going to uncover anything that will
13 change the material facts of this case. And that is that
14 that this board is entitled to judgment as a matter of law.
15 There -- they didn't allege arbitrariness in the decision.
16 They just alleged procedural violations, FOIA-type
17 violations.

18 And so there's no -- they can talk all they want --
19 and I guess they will -- about how the board acted in bad
20 faith or something. That's beside the point. It's denied,
21 of course, by the board and, I think, would be proven if we
22 did get into discovery. But there's no reason to make the
23 board go to that expense and that time to defend these
24 claims, which have no basis in -- in law or in fact.

25 THE COURT: All right. Let -- let me ask you one

1 quick question, Ms. Hart: Let's assume for the moment --
2 because -- let me back up. The plaintiffs' complaint seems
3 to dance around and almost allege an *ultra vires* kind of an
4 argument. It doesn't exactly use those magic words, or it
5 doesn't exactly say that.

6 But the -- the -- let's assume for a moment that
7 plaintiff is correct and that some activity that took place
8 on behalf of the charter -- or on behalf of the school
9 board in eliminating the Calhoun Falls School -- let's
10 assume for the moment that it was improper or illegal.
11 What would plaintiffs' remedies be?

12 MS. HART: Well, their remedy would be, apparently,
13 under FOIA to -- to file a claim under FOIA. (To Mr. Duff)
14 I'm sorry?

15 (Whereupon, Ms. Hart and Mr. Duff conferred.)

16 MS. HART: May I turn this over to ---

17 THE COURT: Sure.

18 MS. HART: --- Mr. Duff, who has ---

19 THE COURT: Come on ---

20 MS. HART: --- something ---

21 THE COURT: --- Mr. Duff.

22 MS. HART: --- to say?

23 THE COURT: Let me hear from you.

24 MS. HART: Your -- Your Honor, as you pointed out a
25 few minutes ago, how -- how do you undo an action that

1 occurred four years ago -- a substantial action? It's not
2 like a termination of a single employee who can be
3 reinstated with back pay. This is the closing of a school,
4 the -- the sale of the property. The -- the -- the only
5 remedy that I could think of would be a -- a mere
6 declaration that the act was in some way improper or
7 unlawful. I mean, what -- what other remedy could there
8 be?

9 I don't -- I don't think a court -- it -- the
10 separation of -- of the branches of -- how could a court
11 order a school district to reconstitute or reopen and --
12 and, at this point, find another piece of property and
13 construct a school? It -- it -- it just, you know, is --
14 is beyond what a court can order.

15 And -- and this -- this point about the plaintiffs
16 didn't know: They knew within a year that Calhoun Falls
17 closed. They could have said, "Wait a second. When did --
18 when did the board vote to do that? We got no notice. Did
19 they do it in secret?"

20 They could've brought their FOIA action when the
21 school closed within a year of the -- the public vote,
22 which would clearly be established, I mean, if we had to
23 get into it. I mean, so the -- the -- the fact that they
24 say, "Well, we didn't know about something because it was
25 in secret," they can't say they didn't know the school

1 closed within a year. They live in Calhoun Falls. It was
2 widely known.

3 So they had a chance to bring a FOIA action. They
4 could've said, "Well, now that we see the school closed,
5 when did the school board decide to close? Did they do it
6 in public? Did they notice the meeting? We're bringing a
7 FOIA action."

8 That's what they should've done and could've done.
9 But they didn't. And not only is the remedy completely
10 impossible, the one that they're seeking, but they -- they
11 have no cause of action here.

12 And -- and, you know, this is not an insurance case.
13 It -- it -- it requests injunctive and declaratory relief.
14 This is coming out of the school district's general fund,
15 which they have very little of. Why should we be put to
16 the expense of continuing to defend a case that clearly has
17 no legal -- it -- it -- it is unfounded legally in -- in
18 several ways.

19 And factually, the one factual allegation they make is
20 -- is wrong. I mean, we don't even have to go that far.
21 But this is -- I mean, it's -- 12(b)(6) is there for a
22 reason. It -- it -- it's to dismiss cases that have a -- a
23 fundamental, fatal, legal defect.

24 And this is -- if anything is a 12(b)(6) case, this is
25 it. And we should not be put to any further expense, time

1 loss, etc., defending a case that has a -- a fatal,
2 fundamental -- several fatal, fundamental, legal defects to
3 it.

4 THE COURT: Anything briefly in ---

5 MR. SHEEK: Yes, sir.

6 THE COURT: --- reply?

7 MR. SHEEK: 12(b)(6) is put there to dismiss actions
8 which are brought and fail to state a cause of action upon
9 which relief can be granted. It doesn't state what kind of
10 relief has to be granted, simply that there can be no
11 relief granted. And in this case the only relief that you
12 may be able to grant is to declare the actions unlawful or
13 improper. I don't know.

14 But to say we're bringing it on 12(b)(6) and then
15 argue our basis for it are several factual issues, that
16 takes it out of the realm of 12(b)(6) and into the realm of
17 summary judgment, because then we're arguing over facts and
18 not over whether or not there's a cause of action. And I
19 think in this case, they'd have to concede there's a cause
20 of action.

21 Now, they want to continue to say it's a FOIA cause of
22 action and, therefore, you're outside the one year. And I
23 understand why they want to argue that. But we didn't
24 bring a FOIA cause of action.

25 Factually, even if it was a FOIA cause of action, that

1 one year begins to run from when you knew or reasonably
2 should've known that the cause of action originated, not
3 from when the vote occurred. And how that occurred and
4 what information was gathered and what notice was given,
5 again, comes back to factual issues.

6 And I won't go any further than that. I think you --
7 you read what was submitted. I would request to be granted
8 reasonable time to respond appropriately. And -- and I'll
9 leave it at that at this point, Judge.

10 THE COURT: All right. Very good. Mr. Sheek, it -- I
11 can -- I can give you till February the 10th if you want to
12 respond to what they have provided; that's a Friday.

13 MR. SHEEK: Yes, sir.

14 THE COURT: And it's 30 days from today. So that's
15 probably enough time to ---

16 MR. SHEEK: Yes, sir.

17 THE COURT: --- prepare anything that you may want to
18 submit to me in reply to what they have submitted.

19 You're pleading alternative relief. Are you sure you
20 don't want to say -- simply stay on 12(b)(6)? Because if
21 we go ---

22 MS. HART: I ---

23 THE COURT: --- to summary judgment under Rule 56, we
24 may be looking at -- I mean, I don't ---

25 MS. HART: I'm happy ---

1 THE COURT: --- I don't ---

2 MS. HART: --- to rest on 12(b)(6). But even if we go
3 to 56, the time frames are ---

4 THE COURT: I understand.

5 MS. HART: --- there -- there's no -- there's no
6 judgment in there. It's the way it is.

7 THE COURT: I understand. All right. I'll take the
8 matter under advisement. And if you could have me
9 something by the 10th and if -- if -- if I don't receive
10 anything by then, I'll just -- and I -- I'm sure I'll get
11 something from you. But I intend to rule shortly
12 thereafter.

13 MR. SHEEK: Yes, sir.

14 THE COURT: All right.

15 MR. SHEEK: Thank you, Judge.

16 THE COURT: Thank you very much.

17 MR. DUFF: Thank you, Your Honor.

18 (Whereupon, the proceeding was concluded at 1:00 p.m.)

19 --- END OF TRANSCRIPT OF RECORD ---
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21
22
23
24
25

CERTIFICATE

I, the undersigned Maryann S. Nevers, CVR-M, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Laurens County, South Carolina, on the 10th day of January, 2012.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.



Maryann S. Nevers, CVR-M
Official Court Reporter

Columbia, South Carolina

August 7, 2012

STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

Danny Hozey and Terry Richey,)

Plaintiff,)

vs.)

Abbeville County School Board,)

Defendant.)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-CP-01-242

MOTION FOR RECONSIDERATION

TRUE COPY
BY *[Signature]*
ABBEVILLE COUNTY CLERK OF COURT

TO: DAVID DUFF AND LAURA HART, ATTORNEYS FOR THE DEFENDANT:

PLEASE TAKE NOTICE that the Plaintiff above named, by and through their undersigned attorney, will move before the presiding judge for the Court of Common Pleas, ten (10) days after notice hereof, or as soon thereafter as parties may be heard, for a reconsideration of his judgment in this matter filed in the Office of the Clerk of Court for Abbeville County on March 5, 2012 and received by the Plaintiff's on March 6, 2012. The Plaintiff's request that the Court reconsider the following judgments:

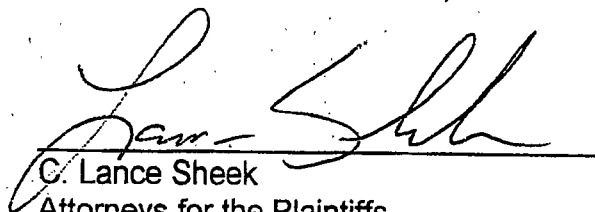
1. That the matter in the Plaintiff's Complaint was barred by the applicable statute of limitations, and;
2. That the Plaintiffs lacked standing to bring this action, and;
3. That the Court should not exercise its right to redress this issue due to the fact that the challenged decision is one of a legislative body.

This motion is made pursuant to the facts of this case, the applicable statutory and case law, and the Memorandum of Law to be filed in this matter.

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2012 MAR 16 AM 10 46
EMILY Y MCMAHAN
CLERK OF COURT

Respectfully Submitted,

GEOLY, SHEEK & MERRITT, LLC

A handwritten signature in black ink, appearing to read "C. Lance Sheek", is written over a horizontal line.

C. Lance Sheek
Attorneys for the Plaintiffs
1225 S. Main Street
Greenwood, SC 29646
(864) 223-3352
(864) 223-3400 fax

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,
Plaintiffs,

v.

Abbeville County School Board,
Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

**MEMORANDUM OF LAW IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR RECONSIDERATION**

Defendant Abbeville County School Board submits this memorandum of law in opposition to Plaintiffs' Motion for Reconsideration of the Order of this Court dated March 2, 2012. The Motion requests that the Court reconsider three rulings: (1) that the statute of limitations bars Plaintiffs' claims; (2) that the Plaintiffs lack standing; and (3) that the Court would not substitute its judgment for that of the elected members of a legislative body, the Abbeville County School Board. Plaintiffs did not identify the grounds on which it based its Motion and has not yet filed a Memorandum of Law in support of its Motion.

Plaintiffs' failure to state with particularity the grounds for their motion violates Rule 7(b)(1), SCRCF, which requires that motions "shall state with particularity the grounds therefor, and shall set forth the relief or order sought."

By requiring notice to the court and the opposing party of the basis for the motion, rule 7(b)(1) advances the policies of reducing prejudice to either party and assuring that 'the court can comprehend the basis of the motion and deal with it fairly.'" *Calderon v. Kansas Dept. of Soc. and Rehab. Servs.*, 181 F.3d 1180, 1186 (10th Cir.1999) (quoting 5 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1192, at 42 (2d ed.1990)). Therefore, when a motion is challenged for a lack of particularity, the court should ask "whether any party is prejudiced by a lack of particularity or 'whether the court can comprehend the basis for the motion and deal with it fairly.'" *Registration Control*, 922 F.2d at 807-08 (quoting 5 Wright & Miller, *Federal Practice and Procedure* § 1192, at 42).

Camp v. Camp, 386 S.C. 571, 575, 689 S.E.2d 634, 646 (2010). The Defendant can discern no stated reason that this Court should reconsider its rulings, and it is, therefore, uncertain of the issue to be addressed. The Defendant presumes that the motion is made under the provisions of Rule 59, SCRCP, although that is also left unstated. Plaintiff's request that this Court reconsider its rulings, without identifying any alleged defects in them, leaves the Defendant and the Court unable to "comprehend the basis for the motion and deal with it fairly."

Nevertheless, the Defendant believes that the prior memoranda of law submitted by the Defendant to this Court provided more than sufficient support for the Court's rulings. The Defendant, therefore, hereby incorporates and relies upon the arguments set forth in the following: (1) Memorandum of Law in Support of Amended Motion to Dismiss or, Alternatively, for Summary Judgment by Defendant Abbeville County School Board; (2) Memorandum of Law in Support of Defendant's Motion to Strike Affidavits Submitted by Plaintiffs; and (3) Defendant's Reply Memorandum in Support of its Motion for Summary Judgment. If Plaintiffs submit a Memorandum of Law to the Court in support of their Motion for Reconsideration in the future, the Defendant reserves the right to submit a written response.

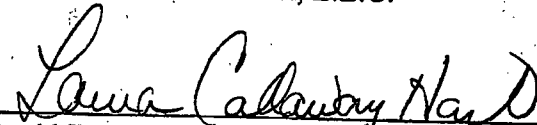
The Defendant respectfully submits that Plaintiffs have provided no particularized grounds to support their Motion for Reconsideration and, in any case, the Court's Order dated March 2, 2012 is fully supported by the law and the facts. The Defendant, therefore, respectfully submits that Plaintiffs' Motion for Reconsideration should be denied.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

Respectfully Submitted:

DUFF, WHITE & TURNER, L.L.C.

By:


David T. Duff (SC Bar # 1768)
Laura Callaway Hart (SC Bar # 2766)

P.O. Box 1486

Columbia, SC 29202

Telephone: (803) 790-0603

Facsimile: (803) 790-0605

Attorneys for Defendant Abbeville County School
Board

March 20, 2012
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

Danny Hozey, and Terry Richey,

Plaintiffs,

v.

Abbeville County School Board,

Defendant.

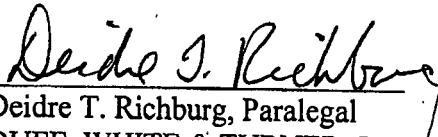
IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-01-242

**CERTIFICATE OF SERVICE
VIA U.S. MAIL**

The undersigned of Duff, White & Turner, L.L.C., hereby certifies that she has served the following counsel of record with the foregoing **MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFFS' MOTION FOR RECONSIDERATION** by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 20TH day of MARCH, 2012:

C. Lance Sheek, Esq.
Geoly, Sheek & Merritt
1225 South Main Street
Greenwood, SC. 29646


Deidre T. Richburg, Paralegal
DUFF, WHITE & TURNER, L.L.C.
P.O. Box 1486
Columbia, SC 29202
803-790-0603

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

Frank R. Addy, Circuit Court Judge

Case No. 2011-CP-01-242

Danny Hozey and Terry
Richey,

Appellants,

v.

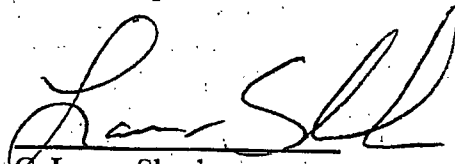
Abbeville County School
Board,

Respondent.

NOTICE OF APPEAL

Danny Hozey and Terry Richey appeals the order of the Honorable Frank R. Addy, Jr. dated March 2, 2012 and filed in the Office of the Clerk of Court on March 5, 2012. The order denying the Appellants' Motion for Reconsideration was filed in the Office of the Clerk of Court on April 25, 2012 and received by the Appellants on April 26, 2012.

May 18, 2012


C. Lance Sheek
Attorney for the Appellants
1225 S. Main Street
Greenwood, South Carolina 29646
(864) 223-3352
(864) 223-3400 fax

Other Counsel of Record:
Laura C. Hart, Esq.
Post Office Box 11070
Greenville, South Carolina 29211
Attorney for Respondent
(803) 865-1185

STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE EIGHTH JUDICIAL CIRCUIT
C.A. No: 2011-DR-01-242

Danny Hozey and Terry Richey,)
Plaintiffs,)

vs.)

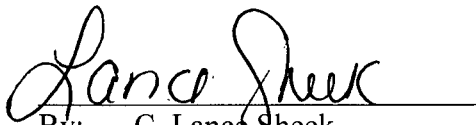
Abbeville County School Board,)
Defendant.)

PROOF OF SERVICE

The undersigned hereby certifies that on the 12th day of February, 2013, he served upon the Defendant a copy of the Record on Appeal by placing the same in the U. S. mail, with the appropriate postage affixed thereto, addressed to the Defendant's attorneys of record, Laura Calloway Hart, P.O. Box 1486, Columbia, South Carolina, 29202.

Respectfully Submitted,

SC Legal Solutions, LLC



By: C. Lance Sheek
Attorney for the Plaintiffs
1201 E. Cambridge Ave.
Greenwood, SC 29646
(864) 538-0549
(864) 538-0057 fax

RECEIVED

FEB 15 2013

SC COURT OF APPEALS

THE SOUTH CAROLINA COURT OF APPEALS

Danny Hozey and Terry Richey,

Appellants

v.

Abbeville County School Board,

Respondent

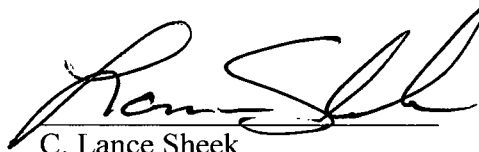
The Honorable Frank R. Addy, Jr.
Abbeville County
Case No: 2012-212023

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all materials designated by counsel and contains no material not relevant to this action.

Respectfully Submitted,

SC LEGAL SOLUTIONS, LLC



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MAR 20 2013
SC Court of Appeals