



**Public Statement
March 5, 2019**

For four years now, the District has received much attention regarding the construction of five innovative high-performance, energy-positive schools. During this time, the District has also received numerous Freedom of Information Act (FOIA) requests from individuals, the media, and attorneys. The District provided responses to these requests and in some instances sought legal advice regarding appropriate responses. On May 7, 2018, the most extensive FOIA request was received from PAPR, a freedom of information advocacy group. The District provided over 10,000 documents to PAPR in response to their FOIA request, documents which can be accessed on their website at www.papr.org. The District has and will continue to comply with South Carolina laws pertaining to the Freedom of Information Act, but at the same time, the District will not release information that would compromise a law enforcement investigation. Hopefully, the following information will provide clarification on these matters.

In December 2015, an agent of the South Carolina Law Enforcement Division (SLED) contacted Superintendent Rick Maxey and asked to speak with him regarding the District's selection of First Floor Energy Positive as the builder of the five new high performance, energy-positive schools. First Floor Energy Positive had been recently awarded contracts to build the District's five new schools on November 23, 2015. According to the SLED agent, the inquiry was assigned to SLED by the South Carolina Attorney General's Office based upon a citizen's complaint the Attorney General's Office had received regarding the five new schools. SLED agents met with Superintendent Maxey on December 17, 2015, to discuss the new school construction projects.

Today's public statement is given to clarify responses the District intends to provide to the following FOIA requests:

- 1) *All emails from school board attorney Keith Powell to FirstFloor Energy Positive CEO Robbie Ferris on any date on or before February 26, 2015, that were later sent to any official employed by, or representing, the South Carolina Law Enforcement Division (also known as SLED) by an employee of Horry County Schools or an attorney working on behalf of Horry County Schools.*
- 2) *All emails from FirstFloor Energy Positive CEO Robbie Ferris to school board attorney Keith Powell on any date on or before February 26, 2015, that were later sent to any official employed by, or representing, the South Carolina Law Enforcement Division (also known as SLED) by an employee of Horry County Schools or an attorney working on behalf of Horry County Schools.*

In order to understand the historical context of these emails which will be made available to the public, the following details are provided.

On April 20, 2017, Kathy Mahoney, an attorney with the law firm formerly known as Childs & Halligan, sent the District a link to electronic copies of numerous email exchanges between Keith Powell, also an attorney with the law firm formerly known as Childs & Halligan, Robbie Ferris, and other attorneys. (The Childs & Halligan law firm provided legal counsel and services to the District in all of the construction and procurement matters related to the District's five new schools.) In addition to the link to the electronic files, Ms. Mahoney sent a cover letter in which she detailed that these email exchanges, in her opinion, were not protected by attorney-client privilege and could be provided to the media outlet in response to its FOIA request.

After a thorough review of the emails, three days later, on April 23, 2017, Superintendent Maxey met with Neil James, Board member and Facilities Committee Chairman, to share with him the same emails that Ms. Mahoney had sent to the District revealing discussions about proposals for the District's new building projects between Mr. Powell and Mr. Ferris, as well as other attorneys. These discussions via email, mainly between Mr. Powell and Mr. Ferris, occurred as early as June 10, 2014. Prior to Ms. Mahoney's sending these emails to the District on April 20, 2017, these 2014 email conversations between these parties were unknown by the District staff and the Board. These emails revealed that communications about the proposed new schools were taking place four months prior to Mr. Ferris's initial presentation to the Board of his high-performance, energy-positive school proposal on October 20, 2014. Superintendent Maxey and Mr. James agreed that based upon the substance of the communications between the District's outside counsel and Mr. Ferris that the emails needed to be shared with the entire Board on April 24, 2017, and that SLED needed to be notified and receive copies of the emails. The next day, April 24, 2017, SLED was notified and provided access to the multiple email exchanges involving Mr. Powell and Mr. Ferris. Additionally, that evening, the emails were shared with all Board members, and they were informed that SLED had been notified and had been provided access to the emails.

Hopefully, this background information provides context for understanding the email documents requested via FOIA. In closing, we want the public to know that the Horry County Board of Education and the District Administration have and will continue to comply with the South Carolina Freedom of Information Act and, likewise, have and will continue to work cooperatively with SLED, as it investigates matters concerning the construction of the five new schools.



Ken Richardson, Chair
Horry County Board of Education



Neil James, Former Interim Chair, Facilities Committee Chair
Horry County Board of Education



Rick Maxey, Superintendent
Horry County Schools