STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

The School District of Greenville County, Appellant, v. Greenville Science Charter School, Respondent.	)	Docket No. 07-ALJ-30-0162-AP **ORDER OF REMAND**
Greenville Science Charter School, Appellant, v. The School District of Greenville County, Respondent.	)	Docket No. 07-ALJ-30-0184-AP

Appearances: Greenville Science Charter School: Edwin Russell Jeter, Esq.

The School District of Greenville County: Kenneth L. Childs, Esq.,
William F. Halligan, Esq.
John M. Reagle, Esq.

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC" or "Court") pursuant to S.C. Code Ann. §§ 59-40-10 et seq. (Supp. 2006), the South Carolina Charter Schools Act of 1996 ("Act"). In late spring of 2006, the Greenville Science Charter School ("Charter School")[1] submitted a charter school application ("application") to the State Charter School Advisory

[1] The South Carolina Secretary of State issued a certificate of incorporation for Palmetto Education Corporation as a nonprofit corporation on January 5, 2006. The registered agent for the corporation was Guven Yucesan. Its address was listed as 230 Roper Mountain Road, Greenville, South Carolina 29615. The corporate filing was amended on June 26, 2006 to reflect that the corporate name had been changed to "Greenville Science."

Committee ("Advisory Committee"). The Advisory Committee reviewed the application and recommended in writing to the School District of Greenville County ("School District") that it approve the application. On November 16, 2006, the board of trustees for the School District ("School Board") held a hearing on the matter and issued its order and decision on November 27, 2006 ("School District Decision"). In the School District Decision, the School Board held that the Charter School had not complied with the statutory requirements of S.C. Code Ann. §§ 59-40-10 through 59-40-240. The School District Decision was appealed to the State Board of Education ("State Board") which conducted an appellate hearing on February 14, 2007. On March 6, 2007, the State Board issued its Final Order ("State Board Order") in which it reversed the School Board Decision and approved the Charter School's application.

The School District and the Charter School filed cross appeals from the State Board Order to the ALC on April 4, 2007, and April 12, 2007, respectively.[2] The record on appeal was delivered to the ALC by the State Board on May 8, 2007.[3] After timely notice to the parties, a hearing was held at the ALC in Columbia, South Carolina on November 27, 2007, at which time the parties presented arguments on their respective positions. This Order addresses both appeals.

FACTUAL BACKGROUND[4]

The Charter School is a product of the efforts of science faculty at Clemson University, as well as other individuals, to create a charter school in the Greenville, South Carolina area that will specialize in the teaching of science. Its mission – as stated in its application – is "to provide improved science learning opportunities that promote scientifically literate individuals, workforce, and leadership through world class and challenging science teaching standards." Its

[2] Docket No. 07-ALJ-30-0162-AP, filed by the School District, challenges the State Board Order which reversed the School District Decision and approved the Charter School's application. Docket No. 07-ALJ-30-0184-AP, filed by the Charter School, challenges the State Board Order regarding the issue of notice of a public hearing.

[3] The index to the record delineates five separate inclusions: the State Board Order; the "Pleadings (Notice of Appeal to the State Board of Education)"; the Transcript of the State Board hearing; the Record on Appeal before the State Board; and, a certificate of service of the record to the Court and the parties involved in both appeals. The Court did not receive – as part of the record – the tapes or transcriptions of the 3 cassette tapes which recorded the three Advisory Committee meetings referenced in the body of this Order.

[4] No record of the hearing before the School Board was presented to this Court for review. The parties attempted to have the tape of the hearing transcribed, but because there were gaps in the testimony and it was not offered to the State Board for its review and consideration, the parties requested that the transcript of the hearing before the School Board not be reviewed or considered by this Court. The Court granted this request. The Court did have before it a written transcript of the hearing conducted by the State Board held on February 14, 2007, together with exhibits considered by both the School Board and the State Board.

charter committee consists of five individuals: Ms. Joan Breitenbruck[5]; Dr. Guven Yucesan[6]; Dr. Mevlut Tascan[7]; Ethan E. Ballard[8]; and Ali Ozer.[9] Mr. Ozer is the project director of the charter committee for the Charter School and has previously assisted in the founding of two charter schools, one having been in operation for one year at the time of the application filing and the other, located in Atlanta, having been in operation for six years at the time of the application filing.[10]

On June 15, 2006, the Advisory Committee met with representatives from the Charter School, the South Carolina Department of Education ("Department") and the School District's administration, to review the application. At that meeting, the Advisory Committee determined that the Charter School had not met the minimum requirements for the issuance of a charter. Among the concerns the parties discussed at the meeting was a failure by the Charter School to show that it could meet its enrollment projections, the soundness of its proposed budget, and its partial reliance on special education funding for its support and the purchase of needed equipment and technology.

On June 29, 2006, the representatives from the Department and the School District met once again with representatives of the Charter School. At this meeting, the same concerns were discussed. The Advisory Committee again found that the Charter School's proposal was not in compliance with applicable state law. After this meeting, the Charter School conducted a survey to solicit support from interested persons in the community. On September 21, 2006, representatives of the Charter School met for the third time with representatives from the School District and the Department, and the Charter School provided the School District and the Department a revision of its proposed charter application. Attached to the revision were more

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[5] Ms. Breitenbruck holds a Bachelor of Science degree and is a resident of Clemson, South Carolina. She is a certified to teach high school physics, chemistry, biology and physical science in South Carolina, and she teaches physical science at Traveler's Rest High School, Traveler's Rest, South Carolina.

[6] Dr. Yucesan holds a Master of Science degree and a Doctor of Philosophy degree. He is a resident of Greenville who previously taught aeronautical engineering courses at various universities. Presently, he is employed by General Electric Energy in Greenville where he works on improving the efficiency of gas turbines in electricity production.

[7] Dr. Tascan holds a Bachelor of Science degree, two Master of Science degrees, and a Doctor of Philosophy degree. He is a resident of Clemson, South Carolina and teaches at Clemson University.

[8] Mr. Ballard holds a Bachelor of Science degree and Master of Science degree. He is a resident of Easley, South Carolina, and, at the time of the application submission, was a Doctor of Philosophy candidate in materials science and engineering. Mr. Ballard teaches physical and organic chemistry at Clemson University.

[9] Mr. Ozer holds a Master of Science degree and has completed course work requirements for a Master of Education degree.

[10] Pages 9-11 of the application were not included in the record sent to the Court by the State Board.

than 160 completed survey forms (characterized by the Charter School as support letters),[11] copies of two newspaper advertisements, and six survey forms. Each survey form stated that the Charter School would be known as "Greenville Science" and that it would be a "tuition-free college preparatory middle and high school with a rigorous inquiry based educational program focusing on science." Further, it stated that the Charter School would consist of grades 6-12, would begin in the fall of 2007, would provide "exceptional learning in a tuition-free private school environment," and would contain "80 students per grade level." The survey form contained blank spaces in which interested persons could write their name, address, email address, and any comments. Also, the survey form listed a personal email address and a website which interested persons could write to or log onto to request or obtain additional information about the Charter School. Finally, each survey form contained two questions which interested persons could respond to by circling the word "yes" or "no" at the end of each question: (1) "Do you support the idea of opening this school in the Greenville County School District?" and, (2) "Would you consider sending your children to this school if the application is approved?"[12]

The School District asserts that throughout this entire review process its representatives expressed concerns about the Charter School's enrollment projections,[13] budget, projected revenue (particularly to its inability to hire a qualified teaching staff, special education teachers and to purchase equipment and technology),[14] and the projected revenue's heavy reliance on special education funds.[15] In sum, representatives of the School District and the Advisory Committee were extremely concerned that the Charter School's budgetary plans were based upon faulty assumptions, used excessive revenue projections, and that, absent sufficient

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[11] From a review of the entire record, discussion, references and exhibits, the number of completed surveys varies in number from 160 to 180.

[12] See Ex. 6, which contains copies of the surveys submitted to the School District by the Advisory Committee. They illustrate the actual information provided to interested persons as well as the information they listed on the surveys.

[13] The School District opined that the survey's reference to a "tuition-free private school environment" was misleading and questioned how much support the survey actually indicated when those completing it had not read the Charter School's proposed charter application. For this and other reasons, it felt that the completed surveys did not show adequate support in the community for the school.

[14] The School District opined that the budget plan's proposal to hire science and math teachers at a $30,000.00 salary was unrealistic given that the School District paid a much higher salary to hire qualified teachers for those positions.

[15] The School District noted that its student population included various categories of students, i.e. vocational educational students and special education students, for whom it received considerably more money than it received for non-vocational and non-disabled students. Further, it opined that neither of these categories of students would realistically abandon the School District's programs – because of their structure to provide for these students' special needs – to enroll in the Charter School which planned to provide improved science learning opportunities.

community interest, it would not attract enough students to generate the funds needed for its operation.

On October 17, 2006, the Advisory Committee notified the School District in writing that the Charter School's application complied with the standards set forth in Reg. 43-601 and recommended that the School District approve the application. On Friday, November 10, 2006, the School District notified the public of its School Board's regular monthly meeting and that the agenda included consideration of the Charter School's application. The meeting was set for the following Tuesday, November 14, 2006; however, on Monday, November 13, 2006, the Charter School requested a postponement of the special meeting of the School Board. The School District postponed the meeting to 9:00 a.m. on November 16, 2006.

During the School Board's hearing, the Charter School objected to the timing of the hearing based upon procedural irregularities, arguing that due process required more than two business days notice of the hearing and that the hearing should be a public hearing. Also, it requested an opportunity to supplement the record after the hearing. During the hearing, representatives from the Charter School and the School District's administration gave their respective positions on the application. At the conclusion of the hearing, the School Board denied the charter application request, finding that the Charter School had not complied with the statutory requirements of §§ 59-40-60 (F)(3) and 59-40-60 (F)(6) as follows: (1) the Charter School failed to show that an adequate number of parents, teachers, pupils, or any combination of them supported the formation of the Charter School; and, (2) the Charter School failed to show that its plan was economically sound.

On December 7, 2006, the Charter School appealed the School District Decision to the State Board, seeking its reversal and alleging procedural irregularities by the School Board. Subsequently, on February 1, 2007, the Charter School filed a motion with the State Board, requesting to supplement the record before the State Board with evidence it alleged it was unable to present to the School Board during its hearing. The State Board denied the motion to supplement the record, stating that pursuant to Reg. 43-600 only the record before the School Board should be considered by the State Board on review.

The State Board held its appellate hearing on February 14, 2007, and both parties gave oral arguments.[16] The Charter School argued that representatives of the School District neither

[16] As stipulated to by both parties, no record of the hearing that was conducted by the School Board was

commented about the adequacy of the completed surveys during the meeting on September 21, 2006, nor did they approve or reject the application until Friday, November 10, 2006 – when the Charter School was told that a public hearing would be held on November 14th to consider its application. Further, the Charter School argued that it was first told of the specific reasons for the School District's denial of the application at 3:00 p.m. on November 14, 2006, just over one day prior to the hearing, which began at 9:00 a.m. on November 16, 2006. At the conclusion of the hearing, the State Board found that the procedures utilized by the School District were neither unlawful nor did they affect a substantial right of the Charter School; however, the State Board did express concern about the short notice of the hearing. The State Board reversed the School District Decision, finding that: (1) there was substantial evidence in the record to show sufficient community support for the Charter School; and, (2) there was substantial evidence in the record to show that the Charter School had an economically sound plan.

JURISDICTION AND STANDARD OF REVIEW

A proposed charter school must seek review of its application by submitting it to the Advisory Committee and by providing a copy to the local school board of trustees in the district in which it is seeking sponsorship. Thereafter, the Advisory Committee receives input from the local school district and requests clarifying information from the applicant. Within sixty days after submission, the Advisory Committee determines if the application is in compliance with the Act. If the application is deemed in compliance, the Advisory Committee forwards the application to the local school district along with a letter informing it of the compliance. The letter must contain a recommendation to approve or deny the charter application together with the Advisory Committee's reasons for its recommendation. The recommendation is not binding on the local school board of trustees. § 59-40-70 (A)(5).

The board of trustees of a local school district, upon receipt of an application from a proposed charter school seeking sponsorship must, within thirty days after its receipt, rule on the application at a public hearing. The statute requires that reasonable public notice of the hearing

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provided to the State Board. S.C. Code Ann. Regs. 43-600 (I)(C), entitled "Record on Appeal," only requires that the record to the State Board contain the "written explanation of the decision of the school board of trustees and evidence, submitted by either party that was considered by the school board of trustees and that is relevant to the issue(s) on appeal." There is no requirement that a transcript of the hearing be made and provided to the State Board as is required in matters heard on appeal by this Court pursuant to §§ 1-23-600 and 1-23-650, as well as ALC Rule 36(B)(6).

must be given. § 59-40-70(B). After the hearing, the local school board must deny the application if it does not comply with those requirements contained in §§ 59-40-50 or 59-40-60, fails to meet the spirit and intent of the Act, or adversely affects, as defined in the regulation, the other students in the district in which the charter school is to be located. § 59-40-70(C). The local school district shall provide, within 10 days of the public hearing, a written explanation of its reasons for denial, citing specific standards related to the provisions of §§ 59-40-50 or 59-40-60 that the application violates. This written explanation must be sent immediately to the charter school and must be filed with the State Board and the Advisory Committee. § 59-40-70(C).

Appeals from a decision by a local school board must be filed with the State Board within 10 days of the school board's decision. §§ 59-40-70 (E), (G) and 59-40-90 (B); see also Reg. 43-600. Pursuant to § 59-40-90 (C) and Reg. 43-600(G), the State Board must, within 45 days after receipt of the Notice of Appeal and, after reasonable public notice, conduct a public hearing to consider the appeal. Each party to the appeal is authorized to make an oral argument at the hearing addressing the issues on appeal, and the State Board may, at its discretion, allow public comments addressing the issues on appeal. Within 20 days of the public hearing, the State Board must issue a final written order. Reg. 43-600(D) provides that the State Board's review will be limited to the record on appeal and that it will not consider any fact that does not appear in the record on appeal. Further, Reg. 43-600(E) provides that the standard of review to be applied by the State Board in its appellate review mirrors the limited standard of review contained in the South Carolina Administrative Procedures Act ("APA"); Beaufort County Bd. of Educ. v. Lighthouse Charter School Comm., et al, 335 S.C. 230, 234, 516 S.E. 2d 655, 657 (1999); S.C. Code Ann. § 1-23-380 (A)(5) and (B).

A decision by the State Board may be appealed to the ALC as provided in § 1-23-600(D). See § 59-40-90(D) (Supp. 2005).[17] The ALC has authority to review the order of the State Board as an appeal under § 1-23-380 (A)(6), which provides for reversal only if its findings are:

(a) in violation of constitutional or statutory provisions;
(b) in excess of the statutory authority of the agency;
(c) made upon unlawful procedure;
(d) clearly erroneous in view of the reliable, probative and substantial evidence on the

[17] The statutory change in 2006 (Act No. 274, § 1, effective May 3, 2006), which provided that appeals from the State Board would go to the ALC versus the circuit court and which delineated that the standard of review by this Court would be pursuant to the APA and this court's rules, resolved the disagreement between the majority and the dissent (Justice Pleicones) in Lee County School District Board of Trustees v. MLD Charter School, Academy Planning Committee, 371 S.C. 561, 641 S.E.2d 24 (2007).

whole record; or
(e) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise or discretion.

In applying this scope of review, the reviewing court may not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, but may reverse where the decision is affected by an error of law. Liberty Mutual Ins. Co. v. S.C. Second Injury Fund, 363 S.C. 612, 611 S.E.2d 297 (Ct. App. 2005). This Court reviews the findings of the School Board to determine if its findings of fact or conclusions of law are based on substantial evidence contained in the whole record. The South Carolina Supreme Court in Porter v. South Carolina Public Service Commission, 333 S.C. 12, 20-21, 507 S.E.2d 328, 332 (1998) defined the substantial evidence standard of review:

> Substantial evidence is relevant evidence that, considering the record as a whole, a reasonable mind would accept to support an administrative agency's action. Substantial evidence exists when, if the case were presented to a jury, the court would refuse to direct a verdict because the evidence raises questions of fact for the jury. It is more than a mere scintilla of evidence, but is something less than the weight of the evidence. Furthermore, the possibility of drawing two inconsistent conclusions from the evidence does not prevent a court from concluding that substantial evidence supports an administrative agency's finding.

The Supreme Court found "[t]his deferential standard of review does not mean, however, the Court will accept an administrative agency's decision at face value without requiring the agency to explain its reasoning." Id. at 332. Further, the agency "must fully document its findings of fact and base its decision on reliable, probative, and substantial evidence on the whole record." Id. "An administrative body must make findings, which are sufficiently detailed to enable this Court to determine whether the findings are supported by the evidence and whether the law has been applied properly to those findings. Id. And if "material facts are in dispute, the administrative body must make specific, express findings of fact." Id.

DISCUSSION

Did the hearing before the School Board involve significant procedural irregularities affecting a substantial right of the Charter School?

The Act establishes the process that must be followed in filing an application, provides that an applicant must meet with the Advisory Committee, and provides that the applicant must demonstrate to both the Advisory Committee and the local school district that the application

complies with the Act's requirements. Sections 59-40-50 and 59-40-60 of the Act state the requirements for admission of a charter school, and § 59-40-70(C) provides that "a school district board of trustees only shall deny an application if the application does not meet the requirements specified in § 59-40-50 or 59-40-60 . . . ." Section 59-40-70(B) of the Act clearly provides that within thirty days after the Advisory Committee submits an application for a charter school to a local school board, the board shall, after reasonable notice, approve or deny the application in a public hearing. The School Board is not required to issue its written order until ten days after the public hearing.

The instant application process began in 2006. On April 23 and April 26, 2006, the Charter School placed advertisements in the "Greenville News," a newspaper of general circulation in Greenville County, South Carolina, notifying interested persons of the proposed charter school. Further, during the summer of 2006 the Charter School solicited written indications of interest from persons in the community and provided those completed or partially completed survey forms to the Advisory Committee and representatives of the School District during the meeting on September 26, 2006.

The Charter School argues that the School District's failure to provide it more notice and time to prepare for a hearing was unjust, unreasonable and totally insufficient for it to digest the reasons for the denial of the charter application and to prepare for a hearing. It opines that the South Carolina Supreme Court in Lee County School District Board of Trustees v. MLD Charter School Academy Planning Committee, 371 S.C. 561, 641 S.E.2d 24 (2007), has mandated that the thirty day notice requirement for hearings, as contained in § 1-23-320(a) of the APA, must be applied to hearings required under the Act. In Lee County, the Supreme Court addressed several issues concerning the APA. The first issue dealt with the standard of review the circuit court (the court that reviewed appeals from the State Board at that time) must apply when reviewing an order of the State Board. The second issue dealt with the requirement that administrative agencies make specific, express findings of fact in their final orders, as outlined in Porter v. South Carolina Public Service Commission, 333 S.C. 12, 507 S.E.2d 328 (1998).[18] It is clear

[18] Section 1-23-350, which is contained in the APA, requires that all final decisions in contested cases heard by a state board, state commission, state department, or a state officer, except the legislature or the courts, must contain findings of fact and conclusions of law, separately stated.

In the first instance, the Supreme Court held that the circuit court, when hearing these appeals from the State Board, must apply the standard of review as set forth in the APA. See § 1-23-380 (A)(6). However, as Justice Pleicones stated in his dissent in Lee County, the General Assembly provided in § 59-40-180 that the State Board

that the South Carolina General Assembly has enacted statutory provisions and the State Board has promulgated regulations which provide the process applicable to hearings concerning charter schools. Although these statutes and regulations do not provide that the hearings held by local school boards are subject to the APA, the Supreme Court in Lee County held that local school boards, just as all administrative agencies, must comply with the requirements of § 1-23-350. However, the Lee County holding did not make the leap to require that hearings held by local school boards are subject to the APA. Consequently, because the local school board is not required to adhere to the notice requirements set forth under the APA, specifically § 1-23-320, the notice requirement provided for under the Act must be used. Section 59-40-70 requires that the local school board "rule on the application for a charter school in a public hearing, upon reasonable public notice, within thirty days after receiving the application." § 59-40-70(B). Given the clear and plain language of the statute, it would be almost impossible for the local school board, upon receipt of a charter school application, to provide notice of the hearing to the parties and general public, and conduct a hearing – in which the local school board renders a decision on the charter application – within the 30 days as required under § 59-40-70(B).

Section 59-40-70(B) does not provide a specific period of time for which the local school board must provide notice of the public hearing. Rather, the statute merely provides that "reasonable public notice" must be given. Here, the Charter School received two business days notice that the School Board would hold a public hearing regarding the Charter School's application. Although § 59-40-70(B) does not specify the number of days notice that must be provided, this Court does not find that two business days satisfies the "reasonable notice" requirements. See In re Mixson, 258 S.C. 408, 412, 189 S.E.2d 12, 14 (1972) (stating that twenty-five days notice of a hearing to an individual was sufficient under a rule that specifies

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"shall promulgate regulations and develop guidelines necessary to implement the provision of this chapter" and the State Board, following that mandate, promulgated Reg. 43-600, entitled "Charter School Appeals." See Reg 43-600 (I)(E). Although he noted that the standard of review is the same, he opined that the majority was wrong in its holding that the standard contained in the APA was applicable.

The Supreme Court also held in Lee County that its holding in Porter, which required the Public Service Commission to set forth detailed findings of fact in its orders that are supported by the law, was "applicable to all administrative agencies, including local school boards." Lee County, 371 S.C. at 568, 641 S.E.2d at 28. Again, Justice Pleicones disagreed with the majority, writing that a school board is not an agency, does not come within the meaning of the APA and there is no authority for the Supreme Court to require a school board to make its findings of fact in accordance with the APA. He noted that our courts have previously articulated that the term "agency" as used in the APA means a state board, commission, department or officer, of the executive branch only and not the boards of local political subdivisions. Id. at 569, 641 S.E.2d at 28; see, e.g., Kores Nordic (USA) Corp. v. Sinkler, Gibbs & Simmons, 284 S.C. 513, 327 S.E.2d 365 (Ct. App. 1985); Rowe v. City of West Columbia, 334 S.C. 400, 513 S.E. 2d 379 (Ct. App. 1999).

"reasonable notice" must be given); see, e.g., S.C. Dep't of Health and Envtl. Control v. Armstrong, 293 S.C. 209, 215, 359 S.E.2d 302, 305 (Ct. App. 1987) ("Due process is not a technical concept with fixed parameters unrelated to time, place and circumstances; rather, it is a flexible concept that calls for such procedural protections as the situation demands.").

This requirement by our General Assembly that the school board give reasonable notice to the public is provided in part to ensure that the entire general public has the opportunity to participate in the hearing; it is not meant solely as a procedural protection for a charter school applicant. Although the Charter School knew, as a result of its investigations,[19] that the School Board was required by statute to conduct a hearing at some point after it received the letter from the Advisory Committee, the general public was not as aware. The general public must be given an opportunity at the hearing to raise any concerns it has about the application and the applicant must be prepared at the same time to support its application and answer any queries raised by any member of the public and/or the school board and the school district administration.

Further, because the School Board did not provide reasonable notice to the Charter School of the public hearing, its right to prepare for a hearing was prejudiced and adversely affected. It was denied the time to properly digest the reasons for denial of the application, to seek legal counsel, and prepare for the hearing. Further, by giving reasonable notice of the public hearing, the general public is given an opportunity to meaningfully participate in the hearing to raise any concerns it may have. For its failure to give reasonable notice of the hearing, the Court finds that the matter must be remanded to the School Board for a public hearing to be conducted on the merits after giving reasonable notice of at least ten (10) days to the Charter School and the general public. See Ross v. MUSC, 328 S.C. 51, 492 S.E.2d 62 (1997) (holding that a state may cure a procedural deprivation of due process rights by providing later procedural remedy). Because of the Court's ruling in these matters, it is unnecessary to address the parties' additional arguments.

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[19] Our General Assembly spelled out clearly in § 59-40-60 all the information a charter school applicant must provide or conform with before a charter could be issued to it. This section, as well as § 59-40-115, speaks about the contract or agreement the charter school enters into with its sponsor, and subsections 59-40-60(D) and (E) list all the requirements that must be met. Since the application had undergone repeated rewrites and reviews before approval by the Advisory Committee, it strains credibility for the Charter School to assert it was unaware that a public hearing would be required.

ORDER

IT IS HEREBY ORDERED that this matter is remanded to the School District of Greenville County.

IT IS FURTHER ORDERED that the School Board shall conduct a public hearing after giving reasonable notice of at least 10 days to the parties and to the general public of the public hearing.

IT IS FURTHER ORDERED that the School Board shall render a written, amended decision, within 10 days of the public hearing, taking into account any new evidence or arguments propounded during the public hearing.

AND IT IS SO ORDERED.

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Marvin F. Kittrell
Chief Administrative Law Judge

April 25, 2008
Columbia, South Carolina