

**PETERSBURG SCHOOL BOARD  
PETERSBURG, VIRGINIA  
MINUTES OF THE SPECIAL MEETING (Personnel)  
Petersburg City Public Schools  
School Administrative Office  
December 13, 2011 – 6:00 p.m.  
Mrs. Jeanette P. Berrios, Clerk of the Board**

**CALL TO ORDER**

Mr. Kenneth L. Pritchett, Chairman of the School Board, called the Special Meeting of the Petersburg School Board to order at 6:12 p.m. at the Petersburg City Public Schools (PCPS) Administrative Office, 255 South Boulevard, East, Petersburg, VA.

**ROLL CALL**

The Clerk of the Board called the roll with the following responding:

Ward One: Mr. Steven L. Pierce, Sr.  
Ward Three: Mr. Kenneth L. Pritchett, Chairman  
Ward Four: Ms. Mary Jane Hendricks  
Ward Seven: Dr. Elsie R. Jarmon

The following school board members were absent: Mr. Fred B. Wilson (Ward Two), Dr. Kenneth W. Lewis (Ward Five); and Mr. Bernard J. Lundy, Jr. (Ward Six).

The following staff members were also present: Dr. Alvera J. Parrish, Superintendent; Mr. John L. Mayo, Assistant Superintendent; Ms. JoAnn Crowell-Redd, Interim Director of Human Resources; Mr. Willie J. Bell, Jr., Director of Secondary Instruction; and Ms. Alicia Fields, principal of Petersburg High School.

Mr. Milton K. Brown, Jr., Virginia Education Association attorney for PCPS employee, Mr. Harvey indicated that his client desired a public hearing before the school board. Mr. Brown provided a list of exhibits to the school board members.

Ms. Stacy Haney with Reed-Smith noted she was present on behalf of the PCPS superintendent's recommendation for a suspension without pay for Mr. Harvey pending finalization of the termination process. She added that the issue before the school board was whether or not Mr. Harvey is to be suspended without pay as recommended by the superintendent. She indicated any additional determinations will be made at another time.

Ms. Haney indicated that Mr. Harvey will use Code of Virginia Section 22.1-315. Grounds and Procedure for Suspension, which notes that, “A *teacher or other public school employee, whether full-time or part-time, permanent, or temporary, may be suspended for good and just cause when the safety or welfare of the school division or the students therein is threatened.* . . .” Ms. Haney noted that it was her intent to provide evidence that under the stated standard, Mr. Harvey should be suspended without pay. She stated that Mr. Harvey was involved in a physical altercation with a student and that it was the belief of the school division’s counsel that the force exerted by Mr. Harvey during the incident was neither reasonable nor necessary under the circumstance and warrants suspension pending the outcome of the dismissal procedure.

Ms. Haney further noted that testimony will be received from students and others and will be held in private. She stated that the testimonies will state that Mr. Harvey grabbed the student because he thought that the student had Mr. Harvey’s camera. Ms. Haney indicated that the fact that Mr. Harvey grabbed the student is not disputed as the student walked or ran away. She reiterated that Mr. Harvey’s actions were not reasonable or necessary, and to lay hands on the student was inappropriate.

Mr. Milton K. Brown, Jr., counsel for Mr. Harvey noted that there are not too many things to dispute regarding what actually happened. He added that *the school board will act as judge and jury; it will listen to the facts and make a determination.* Mr. Brown called the school board’s attention to Exhibit 1, *Section 22.1-279.1 of the Code of Virginia, Corporal Punishment Prohibited.* Mr. Brown noted the following, and he highlighted points related to reasonable and necessary force:

- A. *No teacher, principal, or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment. This prohibition of corporal punishment shall not be deemed to prevent (1) the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) the use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance which threatens physical injury to persons or damage to property; (iii) the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) the use of reasonable and necessary force for self-defense or the defense of others; . . .”*

It was indicated by Mr. Brown that “reasonableness” is the operative word. He added that the school nurse who spoke with the student stated that (the student) had a scratch underneath (the) arm, and that the student told her that the student had the camera.

Mr. Brown stated that Mr. Harvey has been here for 14 years, and he has not hurt or injured anyone or been a threat to the safety and welfare of the school division. He further noted that Mr. Harvey has had numerous witnesses who have known him for years, and indicated *it takes a lot for people to testify when the superintendent wants to fire someone.*

Additionally, Mr. Brown indicated that Mr. Harvey served in the Air Force for 20 years. He stated, "I feel when you see the facts in light of the law, you will not be inclined to suspend the teacher."

Mr. Kenneth L. Pritchett, School Board Chairman, reminded board members that they may redirect or cross exam the witnesses.

Ms. Haney asked Mr. Harvey to look at a copy of his statement given following the incident, and verify its accuracy. Mr. Harvey answered, "It appears to be, yes." She asked if the incident took place on Friday, October 28, 2011. Mr. Harvey answered affirmatively. Ms. Haney asked when he drafted the statement, and Mr. Harvey noted, "I believe it was either Saturday or Sunday, and turned it in on Monday." Ms. Haney asked if the statement is accurate. Mr. Harvey responded, "Yes, to the best of my recollection."

Ms. Haney asked Mr. Harvey if it was his contention that the student had Mr. Harvey's digital camera in his possession. Mr. Harvey answered affirmatively. She noted that the statement indicated that as the student pulled the camera from the student's pocket, the student ran from Mr. Harvey when asked to stop. She asked if the student was leaving the classroom or the immediate area. Mr. Harvey responded, "I do not know where (the student) was heading." Ms. Haney asked if the student was coming after Mr. Harvey. Mr. Harvey answered, "No."

She asked Mr. Harvey if it was accurate that, "If you had not grabbed the student initially when (the student) was walking or running away from you, you would never have tumbled to the floor; if you had not initially grabbed (the student), you would not have ended up holding or restraining him." Mr. Harvey responded, "Probably not." Ms. Haney added that, "Had you not grabbed the student, after the incident, the student would not have destroyed the computer." Mr. Harvey responded, "I cannot say that." Ms. Haney inquired of Mr. Harvey if he pressed the panic call button for assistance before he grabbed the student. Mr. Harvey responded, "No, I did not."

Ms. Haney asked if Mr. Harvey has received any formal training concerning proper restraint of a student. Mr. Harvey responded, "A gentleman provided an in-service, and a police officer demonstrated how to restrain students." Ms. Haney continued, "Other than the one in-service, have you received additional training on how to restrain students?" Mr. Harvey responded, "Not for students per se, no."

Ms. Haney asked if there had been any other occasions during his time in Petersburg prior to the current incident where he had to restrain a student. Mr. Brown objected, stating, "We are prepared to defend the incident." He indicated he received a personnel file for Mr. Harvey, and there were no other incidents noted.

Mr. Harvey; however, responded, "There was an incident a couple of years ago." Mr. Harvey recounted that while situated in a corner of a classroom and dealing with another student at the time, a student came up to him and yelled in his face. Mr. Harvey noted he told the student, "You need to step back." Mr. Harvey stated that the student did not comply, and then pushed Mr. Harvey. The student fell and bumped his head on a desk biting his lip. He added that social services conducted an investigation, and the case was considered not founded. Ms. Haney noted that in the previous incident, the student pushed Mr. Harvey. Ms. Haney asked, "In this case that brings us here today, when you grabbed the student's backpack, he had not made any move to push you or come at you?" Mr. Harvey responded, "No (the student) didn't."

## **CLOSED SESSION**

**At 8:20 p.m., following a motion by Dr. Elsie R. Jarmon, and a second by Ms. Mary Jane Hendricks, the Board unanimously agreed to enter into a closed session pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia to hear student testimony relating to the discipline of an employee, and discussion of personnel resignations.**

## **OPEN SESSION**

**At 8:20 p.m., following a motion by Ms. Mary Jane Hendricks, and a second by Mr. Steven L. Pierce, Sr., the Board unanimously agreed to return to an open session.**

The Clerk of the Board then read the following statement:

*As required by Section 2.2-3712.D of the Virginia Freedom of Information Act, a roll call vote will be taken to certify that, to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Act and (2) only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed, or considered in the closed session by the Board.*

*Prior to the vote, any member of the Board who believes that there was a departure from the requirements of 1 and 2 as read shall so state the same, indicating the substance of the departure that, in his or her judgment, has taken place. Does any Board member wish to respond?*

No member responded; therefore, a roll call was taken, and all Board members responded affirmatively.

## **ACTION ON CLOSED SESSION MATTERS**

Mr. Kenneth L. Pritchett expressed appreciation to attorneys, Mr. Milton K. Brown, Jr., and Ms. Stacie Haney, for attending the meeting and providing the school board with evidence, and noted that the school board has reached a decision regarding suspension.

Mr. Brown suggested that, "We end this tonight." He noted this would prevent a return at a later time to avoid increased legal expenses.

Ms. Haney responded that it would not be proper to bring the matter of dismissal before the school board at this time, and stated, "We should allow the process to play out."

The school board action follows:

**On a motion by Ms. Mary Jane Hendricks, and a second by Mr. Steven L. Pierce, Sr., the School Board unanimously approved the superintendent's recommendation not to accept the resignation of the employee in personnel case # 11-058 at this time until a desirable candidate is hired for the position of Head Start Supervisor.**

**Following a motion by Ms. Mary Jane Hendricks, and a second by Mr. Steven L. Pierce, Sr., the School Board, without dissent, approved the superintendent's recommendation not to accept the letter of resignation for the employee in personnel case # 11-059 at this time, and that the dates of resignation are to be renegotiated for the position of Director of Budget and Finance.**

**With a motion by Mr. Steven L. Pierce, Sr., and a second by Ms. Mary Jane Hendricks, the School Board, with no opposing vote, approved the superintendent's recommendation that the employee in personnel case # 11-060 be suspended for four days with pay for the dates of December 13 – December 16, 2011, and suspended without pay for five days from January 2 – January 6, 2012. In addition, based on this proposed recommendation of suspension without pay for the dates stated, the employee has agreed to waive rights to a hearing with the School Board.**

**ADJOURNMENT**

**On a motion by Ms. Mary Jane Hendricks, and a second by Mr. Steven L. Pierce, Sr., the school board unanimously agreed to adjourn at 9:27 p.m.**

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Clerk of the Board

**APPROVAL**

**Approved:**

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Chairman of the Board