



Minutes/November 14, 2011

The Board of Trustees of School District Five of Lexington and Richland Counties met at Chapin Elementary School with the following members present:

Mr. Robert Gantt, Chairman
Mrs. Beth Hutchison-Watson, Vice Chairman
Mrs. Ellen Baumgardner, Secretary
Mrs. Jan Hammond
Mrs. Kim Murphy
Mr. Jim Turner
Mr. Ed White
Dr. Stephen Hefner, District Superintendent

The following staff were in attendance:

Dr. Angela Bain, Chief Human Resource Services Officer
Dr. Karl Fulmer, Chief Financial Services Officer
Mr. Michael Harris, Director of Student Services
Mr. Keith McAlister, Director of New Design and Construction
Mr. Buddy Price, Director of Office of Community Services

Chairman Robert Gantt called the meeting to order and gave welcoming remarks.

The Invocation was given by Buddy Price. The Pledge of Allegiance was led by Richie Kiser, student council president and a fifth grade student at Chapin Elementary School.

The School Board Spotlight was led by Robert Gantt, Beth Watson and Ellen Baumgardner.

A welcome and overview of Chapin Elementary School was given by Davida Price, assistant principal.

During the superintendent's report, Dr. Hefner presented information on the state report card ratings for 2010-2011 (Exhibit B), the 45 day enrollment report (Exhibit C), and an update on the Vision 2015; Dr. Fulmer presented an update on the cost of legal appeals for the wetlands, storm water and waste water at Chapin High School (Exhibit D), the monthly financial reports (Exhibit E), and the Comprehensive Annual Financial Report (Exhibit F).

During public participation, Ed Yates spoke regarding the District; Susan Baker, Bart Teal, Matteo Macalusosko, Diane Schiferl, Julie Murray and Logan Schumpert spoke regarding Chapin High School ; and Kevin Grindstaff spoke regarding Oak Pointe Elementary School.

A = Absent
AB = Abstain
N = No
X = Yes
R = Recuse

SCHOOL DISTRICT FIVE
OF
LEXINGTON AND RICHLAND COUNTIES

Meeting of November 14, 2011

	B A U M G A R D N E R	G A N T T	H A M M O N D	M U R P H Y	T U R N E R	W A T S O N	W H I T E
<p>1. M. Baumgardner S. Watson</p> <p>Enter executive session to consider the following: a) selected employment items (Exhibit A)</p> <p>M. Murphy S. Hammond</p> <p>Amend to add 2b ICEA legal brief and 2c contractual matter</p> <p>Vote on original motion</p>							
	X	X	X	X	X	X	A
	X	X	X	X	X	X	A
<p>2. Election of Board Officers</p> <p>Turner nominated Hammond Chair seconded by Murphy</p> <p>White nominated Gantt Chair seconded by Baumgardner</p> <p>Hammond nominated Turner Vice Chair seconded by Murphy</p> <p>White nominated Watson Vice Chair seconded by Baumgardner</p> <p>Hammond nominated Turner Secretary seconded by Murphy</p> <p>White nominated Baumgardner Secretary seconded by Watson</p>	No	No	X	X	X	No	No
	X	X	No	No	No	X	X
	No	No	X	X	X	No	No
	X	X	No	No	No	X	X
	No	No	X	X	X	No	No
	X	X	No	No	No	X	X
<p>3. M. Hammond S. Watson</p> <p>Approve the agenda (as amended to add 2b ICEA legal brief and 2c contractual matter)</p> <p>M. Murphy S. Gantt</p> <p>Amend to add employment to 2c</p>							
	X	X	X	X	X	X	X

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	M. Murphy	No	No	No	X	No	No	No
	S. Turner							
	Amend to move the minutes approval #19 to the front of the action agenda	X	X	X	AB	X	X	X
	Vote on original motion							
4.	M. Watson	X	X	X	X	X	X	X
	S. Baumgardner							
	Approve the selected employment items (Exhibit A)							
5.	M. Watson	X	X	X	No	X	X	X
	S. Hammond							
	Approve a change order in the amount of \$340,022.00 pending final approval of the agreement by the City of Columbia on Tuesday, November 15, 2011 (Exhibit G)							
6.	M. Watson	X	X	X	No	X	X	X
	S. Hammond							
	Authorize the district administration to enter into a contract with the lowest responsible and responsive bidder for an amount not to exceed \$45,940,500.00 in response to the District's Invitation to Bid, advertised September 18, 2011, for the renovation and expansion of Chapin High School. The District Administration is authorized to execute the contract at such time as there is no legal impediment to doing so (Exhibit H)							
7.	M. Watson							
	S. Hammond							
	Approve second reading of proposed additions and revisions to board policies I (Exhibit I): Add new Policy IHAC "Social Studies Education", Add new policy IHAB "Mathematics Education", Add new policy IHAA "English/Reading/Writing/ Language Arts Education", Add new policy IGCA "Service Learning", Replace current policies IC "Curriculum Development" and ID "Curriculum Design" with new board policy IG "Curriculum Development, Adoption and Review", Replace part of current policy IDA "Basic Program" with new policy, IHA							

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<p>"Basic Instructional Program", Replace policies AE "School Year" and AEA "School Calendar" with new policy IC "School Year", Replace current policies AF "School Day", AF-R "School Day" and part of IKD "School Ceremonies and Observances" with new policy ID "School Day", Replace part of current policy IKD "School Ceremonies and Observances" with new policy IMD "School Ceremonies and Observations"</p> <p>M. Murphy S. Turner</p> <p>Withhold policy IMD so that we can do further research to determine whether or not the words benedictions and/or invocations or prayers can be added to a student led message in the policy</p> <p>Vote on original motion</p> <p>M. Hammond S. Baumgardner</p> <p>The Board go on record that we would like to be as permissive as possible under the law for students to be allowed to use benedictions, invocations, prayers and any other messages they would like to give</p>	No	No	No	X	X	No	No
	X	X	X	No	X	X	A
	X	X	X	X	X	X	X
<p>8. M. Watson S. Baumgardner</p> <p>Approve first reading of proposed revisions to Board J Policies (Exhibit J): a. JLD "Guidance And Counseling" replaces JE and IG "Guidance Program", Add JLDDBB "Self-Esteem Promotion/Suicide Prevention", JLF "Student Welfare" replaces JG "Student Welfare – Reporting Cases of Child Abuse/Neglect", JG-R "Student Welfare – Reporting Cases of Child Abuse/Neglect", and JG-E "District Pupil Release Form", JLIB "Student Dismissal Precautions" replaces JBF "Released Time", JQ "Student Fees, Fines And Charges" replaces JS and JS-R "Student Fees, Fines and Charges", JRA "Student Records"</p>	X	X	X	X	X	X	X

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replaces JR "Student Records", JRA-R "Student Records" replaces JR-R "Student Records/Fingerprinting", JR-E-1 and 2 "Student Records/Fingerprinting", JR-E-3 "Request Acknowledgment", JR-E-4 "Student Records/Fingerprinting"							
9. M. Baumgardner S. Watson Approve the naming of the new Career and Technology Education Center – Center for Advanced Technical Studies (Exhibit K)	X	X	X	X	X	X	X
10. M. Watson S. Baumgardner Approved the revised School Board meeting schedule for 2011-2012 (Exhibit L)	X	X	X	X	X	X	X
11. M. Watson S. Baumgardner Approve the minutes of the September 26, 2011 board meeting M. Murphy S. Amend that my Chapin High School documents reflecting that Chapin High School is not being expanded to 1700 students be included in the minutes of the 9/26 meeting M. White S. Gantt Amend that we direct the Board Chair to include a disclaimer of the information as not being factual and contains her opinion M. Gantt S. Baumgardner Amend to also include in the disclaimer that the reference to the plans that were submitted to and approved at the State Department of Education incorrectly show that the wording is, will only accommodate 1300 students, I think that is an incorrect statement and I would like to include that in the disclaimer also							
	X	X	X	No	X	X	X

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- I move that we seek an Attorney General's opinion on our "on the record" statements and documents that have been excluded from the minutes.

"For the record"

I would like to go on the record as to the reason why I believe we seek have an Attorney General's opinion. We have a Freedom of Information Act that specifically says that board members can go on the record with any documents or statement and you are withholding my information from our minutes. This is free and there is no reason why we would want to violate the Freedom of Information Act.

--

Kim Murphy 446-6565
154 Old Laurel Lane
Chapin, SC 29036

Attachment 1 is included with
the minutes of the 11-14-11
meeting, at the request of Board member
Kim Murphy
pursuant to S.C. Code Ann. § 30-4-90(a)(4)
and Board Policy BEDG. The Board majority
did not approve, disapprove, or otherwise
act upon the contents of this attachment.

Kim Murphy
November 14-2011
Chapin High Renovations

I have a few words to say about my vote on the Chapin High project. This is not a popularity contest but I must do what I believe is the right thing to do for the parents, students and taxpayers of District 5.

This Chapin High renovation won't expand student capacity at the school to any more than its current enrollment. The addition of one more classroom – it's like adding one more portable – it will not serve 400 more students.

And what parents were promised is expanded capacity. That's why they voted "yes" three years ago.

Why was the project changed?

... Because enrollment wasn't actually increasing it was dropping.
When District 5 went back on its promise to expand Chapin High, it was a face-saving move.

How do you get away with building another new high school in Chapin in an environment of declining enrollment?

... Well, one way to do it was to eliminate plans to expand Chapin High. You can't both build a new high school AND expand Chapin. The student population won't support that.

The facts show Chapin High is being renovated, but not expanded.
I've tried and tried and tried to have this issue discussed in public.

I even tried to have this information included in the minutes of the September and October meetings, which is the right of any school board member. It was part of an effort to let the public see how this renovation won't increase student capacity. (I do have the plans with me if anyone would like to see them,)

But this board hasn't been willing to let this be discussed in public...
And the details I submitted about the Chapin renovation were blocked from being included in the minutes.

Before the referendum, there were numerous public hearings threatening explosive growth and showing how Chapin would be expanded. After the referendum, the expansion plans were changed. Where were the hearings on these changes? Where was the community input? There were none.

We've gone to great lengths to keep this information about these changes out of the public's hands...

We used parents for their votes, and then we immediately rescinded these election-year promises.

District 5 hasn't been honest with the public.

Though I strongly support the long-needed renovations at the school, and I simply can't support moving forward with such an important project until this issue has been addressed, in public, and the community is given a chance to see and respond to the changes to Chapin High.

This vote is very difficult for me. This is my home, my children go to school here and I love this community.

I renew my request to have this issue addressed in public, to give these changes a full public airing, before we take such an important vote.

Attachment 2 is included with
the minutes of the 11-14-11
meeting, at the request of Board member
Kim Murphy
pursuant to S.C. Code Ann. § 30-4-90(a)(4)
and Board Policy BEDG. The Board majority
did not approve, disapprove, or otherwise
act upon the contents of this attachment.

BOARD:
Allen Amster
Chairman
Mark S. Lutz
Vice Chairman
Steven G. Kisner
Secretary



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

BOARD:
R. Kenyon Wells
L. Clarence Batts, Jr.
Ann B. Krol, DDS
John O. Hutto, Sr., MD

November 14, 2011

The Honorable Jean Hoefler Toal, Chief Justice
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29211

Re: *Kim Murphy vs. South Carolina Department of Health and Environmental Control and District 5 of Lexington and Richland Counties*
Appeal from the Administrative Law Court
The Honorable Carolyn C. Matthews, Administrative Law Judge
Docket No. 10-ALJ-07-0562-CC

Dear Justice Toal:

The Department is filing this letter with the Court in response to the Appellant's Reply, which the Department received in the mail this day. The Department takes no position on the Appellant's motion. However, the Department does want to apprise the Court of an assertion raised by Appellant in her Reply, which is misleading and not an accurate statement of the law and the Department's position.

In her Reply, Appellant, relying upon a letter from the United States Corps of Engineers ("Corps"), asserts that the Respondent District 5 "could have moved forward with needed school renovations" by bifurcating the project "because the academic building and athletic fields have separate utility and separate purposes." Reply, pp. 6 and 7; Exhibit 1, p. 2. While the Corps may have allowed the bifurcation of the project, the bifurcation of a project for the purposes of receiving a water quality certification is prohibited under state law. South Carolina Regulation 61-101, which governs the Department's issuance of water quality certifications, expressly provides that "[i]n assessing the water quality impacts of the project, the Department will address and consider . . . the cumulative impacts of the proposed activity and reasonably foreseeable similar activities of the applicant and others." 25A S.C. Code Regs. 61-101(F)(4). Since the Chapin High School renovation project has always consisted of the renovation and additions to the school building and the renovation and additions to athletic facilities, the Department's review of the project would have included consideration of the portions of the project associated to the athletic fields.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Office of General Counsel
Columbia Office • 2600 Bull Street • Columbia, SC 29201 • Phone: (803) 898-3350 • Fax: (803) 898-3367 • www.scdhec.gov

Attachment 3 is included with
the minutes of the 11-14-11
meeting, at the request of Board member
Ed White

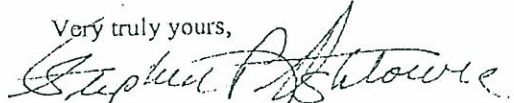
pursuant to S.C. Code Ann. § 30-4-90(a)(4)
and Board Policy BEDG. The Board majority
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See
Attached
Transcript
→

Moreover, this issue was raised during the trial. During cross-examination, the Department's project reviewer testified that if this project would have been piecemealed, she would have still reviewed the entire project and issued a water quality certification that reflected all portions of the project. Exhibit 1, Record, pp. 119 - 121. According, the Appellant's assertion that the review of the Chapin High School project could have been bifurcated is inaccurate and misleading.

* Should you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,


Stephen P. Hightower
Staff Attorney

Enclosures

cc: Robert Guild, Esquire
M. Elizabeth Crum, Esquire
Pamela A. Baker, Esquire

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Attachment 4 is included with
the minutes of the 11-14-11
meeting, at the request of Board member

Ed white
pursuant to S.C. Code Ann. § 30-4-90(a)(4)
and Board Policy BEDG. The Board majority
did not approve, disapprove, or otherwise
act upon the contents of this attachment.

EXHIBIT 1

Attachment 5 is included with
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meeting, at the request of Board member
Ed White
pursuant to S.C. Code Ann. § 30-4-90(a)(4)
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- 1 A: No.
- 2 Q: You were asked about the sewer trunk line. The
3 sewer trunk line is going to impact the stream,
4 correct?
- 5 A: Right.
- 6 Q: That's a necessary impact, isn't it?
- 7 A: Yes.
- 8 Q: And the 401 regulations don't say that you can't
9 impact the stream; isn't that correct?
- 10 A: Correct.
- 11 Q: It just wants to in a sense make sure that the
12 impacts are necessary and they're the minimal
13 that you can make them. Wouldn't that be a fair
14 characterization?
- 15 A: Yes.
- 16 Q: And in the joint public notice the impacts were
17 1,501 feet of jurisdictional stream plus another
18 .07 acres of wetlands --
- 19 A: Yes.
- 20 Q: -- isn't that correct? Are you familiar with
21 the term of "piecemealing" a project?
- 22 A: Yes.
- 23 Q: What does piecemealing of a project mean?
- 24 A: It means splitting a project into two and
25 submitting it in two different applications.

1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

Attachment 6 is included with
the minutes of the 11-14-11
meeting, at the request of Board member

ed white
pursuant to S.C. Code Ann. § 30-4-90(a)(4)
and Board Policy BEDG. The Board majority
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act upon the contents of this attachment.

1 Q: Okay. When an applicant provides the
2 Department, or I should say, when the Department
3 receives an application from an applicant where
4 the project has a large purpose, do we look at
5 associated projects that may also be part of
6 this project but maybe happen at a date in the
7 future?

8 A: Yes.

9 Q: So let's use a subdivision that there are
10 several phases. We would look at all of the
11 phases of the project, correct?

12 A: Correct.

13 Q: You heard -- I believe you were present when
14 there was questioning by the petitioner's
15 attorney -- excuse me the petitioner's attorney
16 that this project, that only the sewer trunk
17 line part of the project should be considered by
18 the Department? Do you remember that?

19 A: Yes.

20 Q: If the District had, in fact, just sent the
21 application to the Department regarding the
22 sewer trunk line, would the Department look at
23 any of the other goals that the District had
24 identified as the scope of the project?

25 A: Yes.

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Attachment 7 is included with
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pursuant to S.C. Code Ann. § 30-4-90(a)(4)
and Board Policy BEDG. The Board majority
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act upon the contents of this attachment.

1 Q: So they would look at the athletic fields,
2 correct?
3 A: Correct.
4 Q: They would look at the parking lot?
5 A: Correct.
6 Q: The road?
7 A: Correct.
8 Q: So had they done what the petitioner's attorney
9 asked, we would have to review this project as
10 if we had the entire project before us, correct?
11 A: Correct.
12 Q: And we'd have to look at the impacts, correct?
13 A: Yes.
14 Q: And isn't it true that the Department does that
15 so that people don't try to get large projects
16 in by just breaking it up into really small
17 chunks, each one maybe not having that great of
18 an impact but totally would have a significant
19 impact?
20 A: Yes.
21 Q: You were asked about a Notice of Department
22 Decision, correct?
23 A: Yes.
24 Q: Isn't it true that the Notice of Department
25 Decision is a final decision, but there's a 15

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Ed White
pursuant to S.C. Code Ann. § 30-4-90(a)(4)
and Board Policy BEDG. The Board majority
did not approve, disapprove, or otherwise
act upon the contents of this attachment.