



***Agenda***

Board of Trustees

Regular Meeting

Location: Dutch Fork Middle School, Cafeteria

Video Livestream: <https://lexrich5.rev.vbrick.com/#/webcasts/boardmeeting>

March 1, 2021

1. Call to order at 6:00 p.m.
2. Approval of the agenda
3. Enter Executive Session to consider the following:
  - a. Selected employment items (*Exhibit A*) (Action)
  - b. Selected employment items (*Exhibit B*) (Information Only)
  - c. Receipt of Legal Advice re: Contract for Substitutes
4. Call to order at 7:00 p.m.
5. Welcoming remarks – Jan Hammond, Board Chair
6. Invocation – Ed White, Board of Trustees
7. Pledge of Allegiance – Ed White, Board of Trustees
8. Superintendent's Report (Action as necessary)
  - 2020-2021 School Reentry Overview: Part XII
  - Redistricting Exemptions 2021-2022
  - Flexible Innovative Virtual Education (FIVE) 2021-2022 Update
  - Human Resources Report / Superintendent's Goal #4
9. Approval of the minutes of the February 8, 2021 board meeting
10. Public Participation\*

**ACTION AGENDA**

11. Action as Necessary or Appropriate on Matters Discussed in Executive Session

## **DISCUSSION AGENDA**

12. Proposed FY 2021-2022 Capital Budget (*Exhibit C*)
13. Discussion and Possible Action regarding the actions of a Trustee in relation to his/her relationships with current and potential District vendors
14. Adjourn

## **INFORMATION AGENDA**

15. The next regular scheduled board meeting will be March 8, 2021 at Spring Hill High School.

*\*The Board welcomes and encourages public participation. We respectfully ask that you adhere to the procedures and the decorum provided in board policy BEDH "Public Participation at Meetings". Your comments should be limited to three minutes. Questions asked during public participation will be handled in accordance with board policy BEDH.*

**COVID-19 NOTICE:** Due to federal and state social distancing guidelines, seating capacity at our school board meeting will be limited. The district will live stream board meetings to provide virtual viewing options. Masks will be required.



**Minutes**  
**Board Meeting – February 8, 2021**

The Board of Trustees of School District Five of Lexington and Richland Counties conducted an in-person meeting at Spring Hill High School with the following members present:

Mrs. Rebecca Blackburn Hines  
Mrs. Nikki Gardner, Secretary  
Mrs. Jan Hammond, Chair  
Mr. Matt Hogan  
Mrs. Catherine Huddle  
Mr. Ken Loveless, Vice Chair  
Mr. Ed White  
Dr. Christina Melton, District Superintendent

The following staff members attended:

Mr. Todd Bedenbaugh, Executive Director of Operations  
Mrs. Katrina Goggins, Director, Office of Communications  
Mr. Michael Guliano, Chief Instructional Officer  
Dr. Michael Harris, Chief Planning and Administrative Officer  
Dr. Tamara Turner, Chief Human Resources Officer

A livestream video link was provided to the public for the meeting.

Mrs. Hammond called the meeting to order at 7:09 p.m. and offered welcoming remarks. Board member, Mr. Ken Loveless, gave the invocation and also led the Pledge of Allegiance.

During the Superintendent's Report, Dr. Melton acknowledged the first virtual Teacher Recruitment Event that took place on Saturday, February 6, 2021. Following, was the 2020-2021 School Reentry Overview, Part XI presentation, with no new recommendations. The second presentation, Flexible Innovative Virtual Education (FIVE) was a proposal for the 2021-2022 school year. The administration recommended approval of Tier I: Kindergarten through 12<sup>th</sup> grade.

During public participation, the following people spoke regarding school safety and COVID protocols: Gordon Johnstone and Peter Lauzon. Hugh Ryan spoke regarding the quarantine policy for sports. Renee Cabaup spoke regarding school safety, five day face-to-face and the need for a third instructional model. Kim Murphy spoke regarding rezoning issues.

Action Agenda

Action as necessary or appropriate on matters discussed in Executive Session.  
Approval of proposed 2021-2022 school year calendar.  
Second reading approval of revisions to Policy BDE "Board Committees".

Discussion Agenda

Financial relationship of board member with a vendor and recusal requirements.

The following board members submitted items for the record (attached): Ed White, Rebecca Blackburn Hines, Jan Hammond, Ken Loveless and Nikki Gardner.

# Record of Voting



## School District Five of Lexington and Richland Counties

Meeting of February 8, 2021

	Blackburn Hines	Gardner	Hammond	Hogan	Huddle	Loveless	White
1. M. Loveless S. Huddle Approve the agenda	X	X	X	X	X	X	X
2. M. Loveless S. Huddle Enter Executive Session to discuss: a. Selected employment items (Exhibit A) (Action) b. Selected employment items (Exhibit B) (Information Only) c. Discussion and review of the Superintendent's Goals/Expectations and the Board/Superintendent Relationship d. Legal advice regarding one construction contract e. Legal advice related to Amicks Ferry Elementary School sewer line	X	X	X	X	X	X	X
3. M. Blackburn Hines S. White I move that we approve proposed revisions to policy IE "Organization of Instruction" and policy IJNDAA "Distance, Online and Virtual Education" presented at the last meeting <b>(Motion withdrawn)</b>  M. Blackburn Hines S. Hogan I move that the board approve the Tier I recommendation for the Flexible Innovative Virtual Education program (FIVE)	X	X	X	X	X	X	X
4. M. Gardner S. Loveless Approve the minutes of the January 25, 2021 board meeting.  M. Huddle S. Gardner I move to amend the minutes of the January 25, 2021 Board Meeting to add the following after the sentence regarding Burkett, Burkett and Burkett: During the presentation, Mr. Hodges indicated they were unable to provide the review requested at the prior meeting and that doing so would require additional audit services at an estimated cost of \$20,000. The board did not request this additional work at the time.  Vote on original motion	X	X	X	X	X	X	X

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



	Blackburn Hines	Gardner	Hammond	Hogan	Huddle	Loveless	White
5. M. Loveless S. Gardner I move that we approve the selected employment items as discussed in Executive Session under Exhibit A	X	X	X	X	X	X	X
6. M. Loveless S. Blackburn Hines I make the motion that we authorize the district administration to send a letter to the Town of Chapin concerning the Amicks Ferry Rd. (Piney Woods Elementary School) sewer line matter	X	X	X	X	X	X	X
7. M. Blackburn Hines S. Hogan I move that the board approve the proposed 2021-2022 school year calendar in Exhibit C	X	X	X	X	X	X	X
8. M. Huddle S. Gardner I move that we approve the second reading of revisions to board policy BDE "Board Committees"							
M. White S. Blackburn Hines I move to amend the motion to insert a sentence in the third paragraph that says "The Board shall define the objectives of any such committee and tenure of such committee"	X	N	N	X	N	N	X
Vote on original motion	N	X	X	X	X	X	N
9. M. Huddle S. Loveless I move that we ask the SC Ethics Commission to rule on three (3) items: 1. What is the definition of recuse in the 9/25/20 letter to Mr. Loveless? 2. Given Mr. White's contributions from Contract Construction and two offices of Contract Construction should he recuse himself from matters involving Contract Construction? 3. If Mr. White is an equity partner in Nelson Mullins must he recuse himself from all matters involving customers of Nelson Mullins who also are vendors of District Five?							
M. Blackburn Hines S. Hogan Amend the motion to include a question of whether or not the SC Ethics opinion provided by Mr. Loveless precludes him from inspection of the Piney Woods Elementary School site	X	N	X	X	X	N	AB

Vote on original motion	X	X	X	X	X	X	AB
10. M. Blackburn Hines S. Hogan	X	X	X	X	X	X	X
Adjourn at 9:20 p.m.							
	Blackburn Hines	Gardner	Hammond	Hogan	Huddle	Loveless	White

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



Edward White &lt;ewhite@lexrich5.org&gt;

## Fwd: Agenda Items Request

1 message

Edward White &lt;ewhite@lexrich5.org&gt;

Tue, Feb 2, 2021 at 2:46 PM

To: Janis Hammond <jhammond@lexrich5.org>, Kenneth Loveless <kloveless@lexrich5.org>, Nikki Gardner <ngardner@lexrich5.org>, Matt Hogan <mhogan@lexrich5.org>, Rebecca Hines <rhines@lexrich5.org>, Cathy Huddle <chuddle@lexrich5.org>

Cc: Christina Melton &lt;csmelton@lexrich5.org&gt;

Bcc: ed.white@nelsonmullins.com

Attachment #1, pg. 1 is included with the minutes of the 2-8-2021 meeting, at the request of Board member Ed White

Mrs. Hammond,

I would like to make the following agenda item requests for our next meeting:

pursuant to South Carolina Code Ann. Section 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.

1. Financial Relationship of Ken Loveless with a Vendor and Recusal Requirements - this was explained in the motion I made previously in our January 25, 2021 meeting.

2. Meeting Procedure and Streamling Meetings - I would like to ask we spend no more than a minute or two on confirming minutes. If a board member has multiple edits to the minutes then perhaps the board member can bring a copy of the minutes with the edits written in for us to review in advance of the meeting and we quickly vote. I am asking that you publicly discuss and clarify whether the other board officers are allowed to call a person out of order when you are presiding as the Chair. Specifically, I would like you to address Mr. Loveless calling me out of order for "pontificating." I am aware of no such rule of order under Robert's Rules of Order. In fact, in our August 24, 2021 meeting, Mr. Loveless made this same statement as a point of order and he was ruled out of order by Mr. Cates because there was no such point of order in parliamentary procedure. You can see this discussion at time 14.57 in the link below in the video of our August 24, 2021 meeting. Additionally, I am repeatedly interrupted while speaking by Nicki Gardner while she attempts to rebut or refute my statements before I finish speaking. You need to ensure all board members follow proper board procedure and that you call all board members out of order when they fail to follow procedure. This includes the other board officers.

3. Requirement that Board Officers Meetings be Open to the Public - Someone forwarded me the attached Attorney General Opinion dated April 26, 2019 after seeing my request at the January 25, 2021 meeting to have the Board officer meetings voluntarily made public. From the statutes and cases cited in this opinion it is unequivocal that: (i) a school board is a public body, (ii) a committee of a school board is a public body, (iii) board officers are a committee because they are appointed by the board to carry out specific functions of the board (see committee definition from Oxford Dictionary), (iv) if board officers meet to discuss district business, or receive district information the meeting is a public meeting that has to be open to the public, and (v) the board officers meet with the Superintendent to discuss district information and receive district information and the meetings need to be open to the public. I understand our legal counsel was asked her opinion in real time in our January 25, 2021 meeting if the board officers meetings had to be public and she said in her opinion that answer was no. However, based on the information in this Attorney General's opinion, I disagree with that conclusion and, in fairness to her, she probably had not analyzed this issue completely. I am asking we get legal advice based on the opinion and the express language of the statute. Unless there is a specific statutory exception that applies to board officer meetings I think this is an absolute obligation of the Board. I note also this opinion states a public body cannot ignore this obligation.

4. Procurement of legal fees- I have never served on a board where the board officers retain legal counsel directly. Every board that I have served on, to my knowledge, was provided legal counsel by the Superintendent. I personally do not have a problem with the board using Andrea White as she has worked for the District and the Board many times. However, I think it is threatening to the Superintendent when board officers retain the counsel and bring counsel into the meeting and there is no coordination with the Superintendent which happened in our December 14, 2020 meeting. Who retained Andrea White for the Board? What authority did the person have to retain counsel? Who signed the engagement letter? How do the board members who are not board officers get their legal questions answered? On January 6, 2021, I sent you an email asking that the board meet with legal counsel to discuss the legal implications of Mr. Loveless' demand in his email dated January 5, 2021 to have all information in the Superintendent's possession about candidates for job positions with the district. I understand there are some legal concerns about the type of information that the district may disclose to the board and I wanted the opportunity to ask my questions directly to legal counsel at a board meeting. Instead, my request was ignored and in our board packet for the January 25, 2021 meeting, I received almost 80 pages of documents related to our CFO candidate (which I assume was the result of Mr. Loveless' demand). Are the board officers using legal counsel for their own personal requests while excluding other board member requests? If so, can the rest of us on the board retain our own counsel and have that counsel send their bills to the District. I would like to request that these answers be provided to the full board.



5. Ken Loveless' Demand to Inspect Piney Woods School - I am requesting a public discussion of Mr. Loveless' continued demands that he be allowed to oversee the construction of Piney Woods Elementary School to deal with the multitude of issues raised by his actions (his most recent requests were made in his emails of January 6, 2021 and January 20, 2021). The new board members may not be aware but we dealt with a multitude of issues last year (his actions are outside of a board member's role, create potential liability for the District, he disparages prior construction projects and prior boards involved in construction without having direct knowledge of the circumstances, the inaccurate information in his assessments, the fact he deliberately mislead the board (in a written email) about the construction project and he mislead the board and the public (in our recorded September 14, 2021 meeting) in a manner that disparaged the parties involved in the construction project). I will outline these issues and providing the information to the board in a separate email. In addition, Mr. Loveless if required to recuse himself completely from the Piney Woods project discussions pursuant to the Ethics Opinion addressed to him and dated September 25, 2020 (which is the topic for agenda request #1. above).

Please do not respond to this email as this needs to be discussed in our public meeting.

Thank you,

Ed

Time 14.57 August 24, 2020 Meeting Action Agenda Part 2, [https://www.youtube.com/watch?v=Rz4LwOK5L9M&list=PLI9eR\\_8HyUjCmiuuAscQorovwTB0vb4y5&index=7&t=1329s](https://www.youtube.com/watch?v=Rz4LwOK5L9M&list=PLI9eR_8HyUjCmiuuAscQorovwTB0vb4y5&index=7&t=1329s)

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## 2 attachments

 **AG Opinion Board Committee Meetings.pdf**  
4915K

 **Public Body SC Code 30-4-20.pdf**  
776K

Attachment #1, pg. 2 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White  
pursuant to South Carolina Code  
Ann. Section 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.





Attachment #1, pg 3 is included with the minutes of the 2-8-2021 meeting, at the request of Board member Ed White

Edward White <ewhite@lexrich5.org>

pursuant to South Carolina Code

## Board Agenda Item Request

1 message

Ann. Section 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.

Rebecca Hines <rhines@lexrich5.org>

Fri, Jan 29, 2021 at 10:54 AM

To: Janis Hammond <jhammond@lexrich5.org>, Christina Melton <csmelton@lexrich5.org>

Bcc: ewhite@lexrich5.org

Chair Hammond,

I wanted to reach out to request items on the next meeting's agenda (and to explain my thoughts as to why I would like them included). Matt called me on Wednesday morning to ask me about my thoughts, but he didn't know when the officer's meeting would be scheduled. I am also not aware of any protocol as to how to request items, so I am sending this request to you and Dr. Melton.

First, I would respectfully request that our board meeting agendas be prepared with consideration as to the length of time each meeting requires. I do believe that the additional meetings added for this year should help alleviate this issue. I understand that board members may have agenda items that they would like to bring and believe they are important; however, I am just relaying that my opinion is that items brought forth by the Superintendent should always take priority and allow for proper discussion. Also, our first three meetings have lasted beyond 11:00, which requires district staff to work extremely long hours. I know this has not been intentional; we have many important issues beyond our control that we need to address.

Second, I would respectfully request that Mr. Scott Price from the SCSBA be present at the next board meeting to discuss policy and answer questions relating to best practices prior to the vote regarding board committees. As a new board member, I do not believe it is appropriate to vote on changing policy without counsel or training on best practices for school boards. New member training does not occur until March 4th. I am not opposed or disagree that we have board policies that need to be reviewed; I just want to ensure that the correct process is followed and that the language used is consistent with state law and best practices; and, that we are being transparent as to the need for such revisions/additions in policy.

Third, I would request that a discussion item relating to any potential conflicts of interests between Mr. Loveless and Contract Construction be added to the agenda, prior to the discussion item (voted on at the Monday meeting) regarding the Superintendent's expectations. I do not wish to perpetuate any conflict between board members and previous discussions. I am not asking for any additional explanation about discussions with a previous board. I am simply concerned by the SC Ethics Advisory Opinion put into the record by Mr. Loveless in September 2020. As I believe that the intent of the board committee policy is to create committees, such as a facility committee (although I am not sure the board has had a formal discussion on this), and, with the emails sent from Mr. Loveless to Dr. Melton requesting specific information on construction at PWES, I just want to ensure that we are protecting our Trustees and the District from any unwarranted or unwanted ethics violations. In no way am I accusing any Trustee of any wrongdoing; I believe the issue can be cleared up with a simple conversation and, perhaps, advice from counsel as to the specific requirements of refusal.

Speaking of which, at the last board meeting, it was mentioned by board officers that they had been provided with counsel from attorneys regarding district matters. As I am aware, board policy BDG does required (except in unusual circumstances) the board will make all communication to the school attorney through the superintendent or board chairman. I do believe that all communication provided by a school attorney should be provided to the entire board, at the same time, in the same manner. If a school attorney responds to a request from the board, through the board chair or superintendent, any response should be given in person or through written correspondence. This would alleviate any miscommunication or inadvertent discrepancies in legal advice.

I appreciate you taking the time to consider my requests (and apologize for the long email). I am not sure when board officers are meeting, but I would again renew the request that board officers meetings be open and recorded, as I know that all of our board members believe that transparency is important.

There is no need to reply; I have bcc'd all board members to this email.

Have a wonderful weekend!

Kind regards,



2/2/2021

Lexington/Richland School Dist. 5 Mail - Board Agenda Item Request

Rebecca Blackburn Hines

--

Kind regards,  
Rebecca Blackburn Hines  
Board Trustee  
School District Five of Lexington and Richland Counties

Attachment #1, pg. 4 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White  
pursuant to South Carolina Code  
Ann. Section 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.



ALAN WILSON  
ATTORNEY GENERAL

August 26, 2019

Craig Witherspoon, Ed.D.  
Superintendent  
Richland One School District  
1616 Richland Street  
Columbia, South Carolina 29201

Attachment <sup>#1, pg. 5</sup> is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White

pursuant to South Carolina Code  
Ann. Section 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.

Dear Superintendent Witherspoon:

We understand from your letter to Attorney General Alan Wilson you seek an opinion of this Office concerning section 30-4-80(E) of the South Carolina Code (Supp. 2018). By way of background, you provide the following information as stated in your letter:

Recently, an individual made the following request: *"Please add me to your list to notify regarding times, dates, places and agenda of Richland County School District One Board public meetings including scheduled, rescheduled, or called Meetings, Work Sessions, Retreats and Committee Meetings."*

Currently, we provide notice in accordance with § 30-4-80(A) of the South Carolina Code of Laws. Further, we understand the definition of a "meeting" as defined by the state Freedom of Information Act (FOIA) criteria. However, committee meetings have not been not [sic] considered a "meeting" as outlined in § 30-4-20(D) in that they do not require "convening of a quorum of the constituent membership of a public body." Additionally, work sessions, retreats, and committee meetings may be treated as meetings but may be considered closed meetings as outlined in §30-4-70(a)(1-5).

Accordingly, you seek an opinion of this Office as to "whether 'Committee Meetings' should be considered a 'meeting' as defined by § 30-4-20(D) and whether such meetings would require notification in accordance with § 30-4-80(E), if they are not interpreted as meetings."

#### Law/Analysis

The South Carolina Freedom of Information Act (FOIA) is contained in sections 30-4-10 et seq. of the South Carolina Code (2007 & Supp. 2018). In interpreting the provisions contained in FOIA, we employ the primary rule of statutory construction, which is to "ascertain



Craig Witherspoon, Ed.D.  
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pursuant to South Carolina Code  
Ann. Section 30-4-90(a)(4)  
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and give effect to the intent of the legislature.” Kerr v. Richland Mem’l Hosp., 383 S.C. 146, 148, 678 S.E.2d 809, 811 (2009) (citations omitted) (internal quotations omitted). The Legislature aptly conveyed its intent in the preamble to FOIA, which states:

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall 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. Toward this end, provisions of this chapter must be construed 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). As our South Carolina Supreme Court stated in Brock v. Town of Mount Pleasant, 415 S.C. 625, 628, 785 S.E.2d 198, 200 (2016), “The essential purpose of FOIA is to protect the public from secret government activity.” (citations omitted) (internal quotations omitted). “FOIA is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature.” Quality Towing, Inc. v. City of Myrtle Beach, 345 S.C. 156, 161, 547 S.E.2d 862, 864–65 (2001).

In order to answer your question as to whether FOIA applies to committee meetings, we must first consider whether a committee is a public body for purposes of FOIA. FOIA defines “public” body as

any department of the State, a majority of directors or their representatives of departments within the executive branch of state government as outlined in Section 1-30-10, any state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known, and includes any quasi-governmental body of the State and its political subdivisions, including, without limitation, bodies such as the South Carolina Public Service Authority and the South Carolina State Ports Authority. Committees of health care facilities, which are subject to this chapter, for medical staff disciplinary proceedings, quality assurance, peer review, including the medical staff credentialing process, specific medical case review, and self-evaluation, are not public bodies for the purpose of this chapter.



Attachment <sup>#1, pg 7</sup> is included with the minutes of the 2-8-2021 meeting, at the request of Board member Ed White

Craig Witherspoon, Ed.D.  
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pursuant to South Carolina Code Ann. Section 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.

S.C. Code Ann. § 30-4-20 (2007) (emphasis added).<sup>\*</sup> This provision clearly states school districts are public bodies for purposes of FOIA. Furthermore, as the statute provides, any committee of a public body is likewise a public body for purposes of FOIA.

In Quality Towing, Inc., 345 S.C. 156, 547 S.E.2d 862, as cited previously, our Supreme Court considered the application of FOIA to a committee formed by the city manager for the city of Myrtle Beach to review proposals from wrecker services to provide towing services for the city. The Court conclusively determined the committee was a “public body” under section 30-4-20(a), finding

[t]he fact that the City Manager, and not the City Council, created the Committee and no council member served on the Committee, is not enough to remove the Committee from the definition of “public body” as stated in FOIA. First, it does not matter that the members of the Committee are not members of the parent body. See 1984 S.C. Op Atty Gen., No. 84-281. Second, the Committee was set up to give advice to the City Manager, and ultimately the City Council. It is clear from the minutes of the City Council meeting and the testimony of Thomas Leath, City Manager, the Committee’s selection process and recommendation went directly to the City Council.

Furthermore, the legislature amended the definition of “public body” in 1987 by adding the phrase “including committees, subcommittees, advisory committees, and the like of any such body by whatever name known.” Clearly, the legislature intended for “advisory” bodies, such as the Committee set up by the City Manager to advise him and the City Council, to be covered by the definition.

Id. at 162, 547 S.E.2d at 865. See also Op. S.C. Att’y Gen., 2013 WL 1931657 (S.C.A.G. Apr. 30, 2013) (“It is firmly established that a committee or other body formed to give advice to a government body or a public official is a ‘public body’ subject to FOIA.”). While we do not know the purpose or the function of the committee you reference in your letter, we presume this committee was created by the Richland County School District One Board of Commissioners (the “Board”).<sup>\*</sup> The Board, as the governing body for a school district, is clearly a public body under section 30-4-20(a).<sup>\*</sup> Therefore, any committee of the Board is a public body and subject to FOIA.

Section 30-4-80 of the South Carolina Code (Supp. 2018) contains the notice requirements for public bodies. As you mentioned in your letter, subsection (E) of this provision requires:

All public bodies shall notify persons or organizations, local news media, or such other news media as may request notification of the times, dates, places, and agenda of all public meetings, whether scheduled, rescheduled, or called,



Attachment <sup>#1, pg 8</sup> is included with the minutes of the 2-8-2021 meeting, at the request of Board member Ed White pursuant to South Carolina Code Ann. Section 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.

Craig Witherspoon, Ed.D.  
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and the efforts made to comply with this requirement must be noted in the minutes of the meetings.

S.C. Code Ann. § 30-4-80(E).

In your letter, you indicate the Board takes the position committee meetings are not meetings for purposes of the notice requirements under FOIA because they do not constitute a "convening of a quorum of the constituent membership" We understand you are applying the quorum requirement of the Board to the committee. We believe this interpretation is contrary to the legislative intent as evidenced by the language used in the statute.

FOIA defines "meeting" as "the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power." S.C. Code Ann. § 30-4-20(d) (2007). FOIA provides a "quorum" "unless otherwise defined by applicable law means a simple majority of the constituent membership of a public body." S.C. Code Ann. § 30-4-20(e) (2007) (emphasis added).

If a statute's language is plain, unambiguous, and conveys a clear meaning, then the rules of statutory interpretation are not needed and the court has no right to impose another meaning. The words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation.

*1 quorum of committee  
2 meet  
3 discuss to advise must be noticed as a public meeting*

Catawba Indian Tribe of S.C. v. State, 372 S.C. 519, 525–26, 642 S.E.2d 751, 754 (2007) (citations omitted) (internal quotations omitted). As we explained above, the committee itself would be considered a public body. According to the plain language used in section 30-4-20(e), the quorum requirement for a meeting covered under FOIA applies the public body. While this committee was formed by the Board, also a public body for purposes of FOIA, if the committee has a quorum of its members and the committee convenes to discuss or act upon a matter over which the committee has supervision, control, jurisdiction or advisory power then the committee must provide notice as required under section 30-4-80.

Our interpretation is consistent with prior opinions of this Office. In 2002, this Office considered whether a committee formed by the Town of Mount Pleasant must be advertised as a town council meeting when a quorum of council members attend the committee meeting. Op. S.C. Att'y Gen., 2002 WL 31341811 (S.C.A.G. Aug. 19, 2002). While this opinion addressed a slightly different issue than you pose to us, a portion of that opinion pertaining specifically to committees is relevant. Initially, we agreed with the town attorney's assessment that committees formed by the town council are public bodies for purposes of FOIA. Id.

As Mr. Young advised, "Mount Pleasant Town Council and all our committees are considered public bodies which are subject to the freedom of



Craig Witherspoon, Ed.D.  
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Attachment <sup>#1, pg. 9</sup> is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White  
pursuant to South Carolina Code  
Ann. Section 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.

information act and requirements thereof.” We agree with Mr. Young. This Office has so advised for many years, long before the FOIA was amended expressly to reflect such requirement. See e.g., Op. Atty. Gen., July 28, 1983; Op. Atty. Gen., Op. No. 91-42 (June 28, 1991); Op. Atty. Gen., Op. No. 88-5 (January 14, 1988); Op. Atty. Gen., Op. No. 84-125 (October 26, 1984); Op. Atty. Gen., Op. No. 84-64 (June 1, 1984).

Id. While addressing whether the committee meeting was a “meeting” under FOIA, we stated:

To our knowledge, no court in South Carolina has ever addressed the novel question raised here: whether, for purposes of the FOIA, notice of a full council meeting is required if the committee members, in calling a meeting of the committee, are aware that non-committee members may be in attendance and that, by such attendance, a quorum of the full body will be created where council business is discussed. The FOIA, of course, defines a “meeting” as a convening of the public body - in this instance, the committee itself - to “discuss or act upon” matters within that body’s subject matter or jurisdiction.

All committee  
has to do is  
meet to  
discuss a  
Id.  
District Matter

We made a similar finding in a 2006 opinion. Op. S.C. Att’y Gen., 2006 WL 1574910 (S.C.A.G. 2006). In that opinion, we discussed whether FOIA applied to a political party caucus of the South Carolina House of Representatives. After concluding a party caucus was public body subject to FOIA, we addressed the quorum requirement. Id. Referring to the caucus as a public body, we stated:

Such a conclusion is not dependent upon the Majority Caucus gathering in sufficient numbers to constitute a quorum of the entire House of Representatives. While in this situation, the Majority Caucus members constitute a majority of the House, and we have concluded that a social gathering of a majority of membership in certain circumstances may constitute a “meeting” of the “public body,” Op. S.C. Atty. Gen., Op. No. 83-55, (August 8, 1983), it is our opinion that the Majority Caucus is itself a “public body” for purposes of FOIA. See, Weston v. Carolina Research and Development Foundation, supra.

Id. Accordingly, we are of the opinion that so long as the committee has a quorum of its members in attendance, a meeting of the committee is a meeting for purposes of FOIA.

In regard to section 30-4-80 cited above and referenced in your letter, this Office continually advised “with very few exceptions, all meetings held by a public body are to be open to the public and media.” Op. S.C. Att’y Gen., 1989 WL 406201 (S.C.A.G. Oct. 11, 1989). Moreover, we noted the requirements under section 30-4-80 “must be liberally construed to carry

2 of 3  
Board officers  
present =  
public  
meeting



Craig Witherspoon, Ed.D.  
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August 26, 2019

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out their legislative purpose to adequately inform the public. These requirements are mandatory and may not be ignored by a public body. The section requires overt and affirmative action by the public body to fulfill the notice requirements." Id. (citations omitted). Accordingly, we advise the Board that the committees it creates to provide advice or perform any other governmental function must comply with FOIA, including the notice requirements found in section 30-4-80.

Your letter also mentions that the Board's work session, retreats, and committee meetings may be treated as meetings, but may be considered closed meeting as outline in section 30-4-70(a)(1)-(5) of the South Carolina Code (2007). Please be advised that "meeting" for purposes of FOIA is broadly defined. In Lambries v. Saluda County Council, 409 S.C. 1, 14-15, 760 S.E.2d 785, 792 (2014), our Supreme Court described meeting as follows:

"Under an open meetings law, a meeting is a gathering of a quorum or more members of a governing body at which members discuss, decide, or receive information as a group on issues relating to the official business of the body . . . A meeting is not limited to gatherings at which action is taken by a governing body. Deliberative gatherings are included as well, and deliberation in this context connotes not only collective decision-making but also the collective acquisition and exchange of facts in preparation for the final decision."

(quoting 62 C.J.S. Municipal Corporations § 308 (2011)).

In Braswell v. Roche, 299 S.C. 181, 183, 383 S.E.2d 243, 244 (1989), the Supreme Court considered whether a meeting held by the Newberry County Board of Education constituted a meeting for purposes of FOIA. The Supreme Court explained "[a]ccording to the Board, it met only to receive information from its administrative staff regarding matters over which it had 'supervision, control, jurisdiction or advisory power.' The Board denies that it convened to 'discuss or act upon' such matters." Id. at 182, 383 S.E.2d at 244. However, the Court found

the nature of items on the agenda, together with the expressed intent to "go over each piece of information," necessarily entailed Board discussion of matters over which it had "supervision, control, jurisdiction or advisory power" involving Bush River School. Therefore, this Court holds that the convening of the Board on April 7, 1987, was within the definition of a "meeting" under the FOIA as it existed on that date; and, further, that the Board violated the FOIA by failing to give public notice of the meeting.

Id. at 183, 383 S.E.2d at 244.

Board Officers  
are Committee  
Board officers  
meet to  
discuss and  
receive information



Craig Witherspoon, Ed.D.  
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August 26, 2019

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Numerous opinions of this Office also address the broad meaning of "meeting" under FOIA. In a 1983 opinion quoting a Florida Supreme Court case, we emphasized the purpose of FOIA is

to prevent at nonpublic meetings the crystallization of secret decisions to a point just short of ceremonial acceptance. Rarely could there be any purpose to a nonpublic pre-meetings conference except to conduct some part of the decisional process behind closed doors. The statute should be construed to frustrate all evasive devices. This can be accomplished only by embracing the collective inquiry and discussion stages within the terms of the statute, as long as such inquiry and discussion . . . relates to any matter on which foreseeable action will be taken.

Op. S.C. Att'y Gen., 1983 WL 142726 (S.C.A.G. Aug. 8, 1983). In that opinion, we determined that it did not matter for purposes of FOIA whether a meeting is designated as formal or inform or whether action is taken upon public business or merely discussed, the requirements under FOIA continue to apply. Id. "A public body may not ignore the requirements of the Act when it discusses public business over which it has supervision, control, jurisdiction or advisory power by holding a meeting, as defined, in an informal or social setting." Id.

Moreover, we also caution that the provisions of section 30-4-70(a) should be narrowly construed in order to further the purpose of FOIA to protect the public from secret government activity. Bellamy v. Brown, 305 S.C. 291, 295, 408 S.E.2d 219, 221 (1991). In a 1994 opinion, we discussed the use of executive sessions. Op. S.C. Att'y Gen., 1994 WL 136198 (S.C.A.G. Mar. 31, 1994).

The Act itself states that the public policy of this State favors public meetings; thus, there must be "some exceptional reason so compelling" as to override that policy and close a meeting for reasons other than those expressly stated in § 30-4-70. (And those "exceptional reasons" would be very few and very far between.)

The Freedom of Information Act is a statute remedial in nature, which must be liberally construed to carry out the purpose mandated by the legislature. See South Carolina Dep't of Mental Health v. Hanna, 270 S.C. 210, 241 S.E.2d 563 (1976). Any exceptions to the Act's applicability must be narrowly or strictly construed. News and Observer Publishing Co. v. Interim Bd. of Ed. for Wake Co., 223 S.E.2d 580 (N.C. 1976).

Id. As such, the exceptions to the open meeting requirement presented in section 30-4-70(a) should be used sparingly and only when the letter and the spirit of FOIA allow.

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Page 8  
August 26, 2019

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### Conclusion

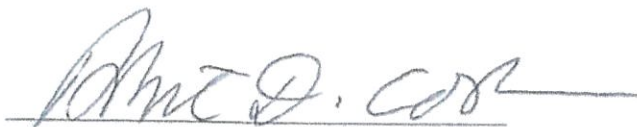
Section 30-4-80(E) of the South Carolina Code requires notice of public meetings be given to "persons or organizations, local news media, or such other news media as may request notification." Pursuant to section 30-4-20, our courts as well as this Office have consistently found that any committee formed by a public body to give advice or conduct any other governmental function is a public body and subject to FOIA. Furthermore, a meeting under FOIA is determined by the presence of a quorum of the members of the public body. Consistent with prior opinions of this Office, we continue to believe a committee formed by a public body is a public body itself and therefore, the quorum requirements are determined based on the membership of the committee, not the public body from which it was formed. Accordingly, a meeting held by a committee formed by the Board is subject to the notice provisions provided in section 30-4-80(E).

Sincerely,



Matthew Houck  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General



## WESTLAW CLASSIC

Code of Laws of South Carolina 1976 Annotated  
Title 30. Public Records

§ 30-4-60. Meetings of public bodies shall be open.

SC ST § 30-4-60 — Code of Laws of South Carolina 1976 Annotated — Title 30. Public Records (Approx. 2 pages)

Code 1976 § 30-4-60

§ 30-4-60. Meetings of public bodies shall be open.

[Currentness](#)

Every meeting of all public bodies shall be open to the public unless closed pursuant to § 30-4-70 of this chapter.

### Credits

HISTORY: 1978 Act No. 593, § 7.

### Editors' Notes

### ETHICS COMMISSION OPINIONS

Staff briefings of the Public Service Commission do not violate the open meeting rules of the Freedom of Information Act or the adjudicative responsibilities of the Code of Judicial Conduct. Op. S.C. St. Ethics Comm., SEC AO2015-001, Sept. 17, 2014.

### Notes of Decisions (13)

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Code 1976 § 30-4-60, SC ST § 30-4-60

Current through the 2020 session, subject to technical revisions by the Code Commissioner as authorized by law before official publication.

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## EXHIBIT F

### Proposed revisions to the School District Five of Lexington and Richland Counties Procurement Code

- 1) The School District Five of Lexington and Richland Counties Procurement Code shall be modified as follows:

Section 1250. Contracting for Auditing and Accounting Services. (SC Code 11-35-1250)  
1250.1 No contract for auditing or accounting services shall be awarded without the  
~~approval of the Board Approval or the Superintendent.~~

The following definition shall be added under APPENDIX A DEFINITIONS:

"Board Approval" means that a majority of the Board of Trustees shall have voted to approve the proposed contract prior to contracting. No contract requiring Board Approval may have a Term greater than 12 months (SC Code 11-35-2030.1).

- 2) The School District Five of Lexington Richland Five Code Exemptions (Procurement Code 710) shall be modified to change the words "subject to Board approval" under item #6 POLICY AND LEGAL SERVICES to "subject to Board Approval as defined in School District Five of Lexington and Richland Counties Procurement Code".

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## NOTES OF DECISIONS (23)

[In general](#)  
[Constitutional issues](#)  
[Meeting](#)  
[Public body](#)  
[Public documents](#)  
[Public record](#)

Code of Laws of South Carolina 1976 Annotated

Title 30. Public Records

Chapter 4. Freedom of Information Act (Refs &amp; Annos)

§ 30-4-20. Definitions. SC ST § 30-4-20 — Code of Laws of South Carolina 1976 Annotated — Title 30. Public Records — (Approx. 2 pages)

## Proposed Legislation

Code 1976 § 30-4-20

## § 30-4-20. Definitions.

## Currentness

(a) "Public body" means any department of the State, a majority of directors or their representatives of departments within the executive branch of state government as outlined in [Section 1-30-10](#), any state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known, and includes any quasi-governmental body of the State and its political subdivisions, including, without limitation, bodies such as the South Carolina Public Service Authority and the South Carolina State Ports Authority. Committees of health care facilities, which are subject to this chapter, for medical staff disciplinary proceedings, quality assurance, peer review, including the medical staff credentialing process, specific medical case review, and self-evaluation, are not public bodies for the purpose of this chapter.

(b) "Person" includes any individual, corporation, partnership, firm, organization or association.

(c) "Public record" includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Records such as income tax returns, medical records, hospital medical staff reports, scholastic records, adoption records, records related to registration, and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, or records which reveal the identity of the library patron checking out or requesting an item from the library or using other library services, except nonidentifying administrative and statistical reports of registration and circulation, and other records which by law are required to be closed to the public are not considered to be made open to the public under the provisions of this act; nothing herein authorizes or requires the disclosure of those records where the public body, prior to January 20, 1987, by a favorable vote of three-fourths of the membership, taken after receipt of a written request, concluded that the public interest was best served by not disclosing them. Nothing herein authorizes or requires the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of the institutions required to be made by law. Information relating to security plans and devices proposed, adopted, installed, or utilized by a public body, other than amounts expended for adoption, implementation, or installation of these plans and devices, is required to be closed to the public and is not considered to be made open to the public under the provisions of this act.

(d) "Meeting" means the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power.

(e) "Quorum" unless otherwise defined by applicable law means a simple majority of the constituent membership of a public body.

#### Credits

HISTORY: 1978 Act No. 593, § 3; 1985 Act No. 108, § 3; 1987 Act No. 118, § 2; [2002 Act No. 339, § 17](#); [2003 Act No. 86, § 7](#).

#### Editors' Notes

##### ETHICS COMMISSION OPINIONS

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#### Notes of Decisions (23)

Code 1976 § 30-4-20, SC ST § 30-4-20

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noun

1. a group of people appointed for a specific function, typically consisting of members of a larger group.  
"the housing committee"

2. LAW

a person entrusted with the charge of another person or another person's property.

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## Committee | Definition of Committee by Merriam-Webster

**Committee** definition is - a body of persons delegated to consider, investigate, take action on, or report on some matter; specifically : a group of fellow legislators ...

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February 8, 2021

Submitted by Rebecca Blackburn Hines

The agenda item, 'Discussion and review of the Superintendent's Goals/Expectations and the Board/Superintendent Relationship,' was originally on the executive session agenda for the Jan. 25 meeting. However, with a 7-0 vote, the board moved that agenda item to the Discussion Agenda. Since the board adjourned before that agenda item was handled, it carries over to the next meeting and is considered "unfinished business" under Robert's Rule of Order. Therefore, it must remain in the Discussion Agenda of tonight's meeting since it was in that section of the meeting per the vote and when the meeting adjourned.

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Rebecca Blackburn Hines  
pursuant to South Carolina Code  
Ann. Section 30-4-90(a)(4)  
and Board Policy BEDG. The Board majority  
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the order of business. If a special order is on the table, it is in order to move to take it from the table under this heading when no question is pending (17, 34).

41:21 **5. Unfinished Business and General Orders.** The term *unfinished business*,<sup>5</sup> in cases where the regular business meetings of an organization are not separated by more than a quarterly time interval (9:7), refers to questions that have come over from the previous meeting (other than special orders) as a result of that meeting's having adjourned without completing its order of business (21:7(b)) and without scheduling an adjourned meeting (9, 22) to complete it.

41:22 A *general order* (as explained under *Orders of the Day*, below) is any question which, usually by postponement, has been made an order of the day without being made a special order.

41:23 The heading of *Unfinished Business and General Orders* includes items of business in the four categories that are listed below in the order in which they are taken up. Of these, the first three constitute "Unfinished Business," while the fourth consists of "General Orders":

- a) The question that was pending when the previous meeting adjourned, if that meeting adjourned while a question other than a special order was pending.
- b) Any questions that were unfinished business at the previous meeting but were not reached before it adjourned—taken in the order in which they were due to come up at that meeting as indicated under (a) and (c).
- c) Any questions which, by postponement or otherwise, were set as

general orders for the previous meeting, or for a particular hour during that meeting, but were not reached before it adjourned—taken in the order in which the general orders were made.

- d) Matters that were postponed to, or otherwise made general orders for, the present meeting—taken in the order in which they were made.

Regarding the relationship between this heading in the order of business and general orders for particular hours, see 41:49–52.

41:24 The chair should not announce the heading of *Unfinished Business and General Orders* unless the minutes show that there is some business to come up under it. In the latter case, he should have all such subjects listed in correct sequence in a memorandum prepared in advance of the meeting. He should *not* ask, "Is there any unfinished business?" but should state the question on the first item of business that is due to come up under this heading; and when it has been disposed of, he should proceed through the remaining subjects in their proper order. If a question was pending when the previous meeting adjourned, for example, the chair might begin this heading by saying, "Under Unfinished Business and General Orders, the first item of business is the motion relating to use of the parking facilities, which was pending when the last meeting adjourned. The question is on the adoption of the motion 'That... [stating the motion].'" Later under the same heading, in announcing a general order that was made by postponing a question, the chair might say, "The next item of business is the resolution relating to proposed improvement of our newly purchased picnic grounds, which was postponed to this meeting. The resolution is as follows: 'Resolved, That... [reading the

#2, pg 2

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resolution].’ The question is on the adoption of the resolution.”

- 41:25 Any item of business (in whatever class) that is on the table can be taken from the table under this heading at any time when no question is pending (17, 34). To obtain the floor for the purpose of moving to take a question from the table at such a time, a member can rise and address the chair, interrupting him as he starts to announce the next item of business after the previous one is disposed of.
- 41:26 It should be noted that, with the exception indicated in the preceding paragraph, a subject may not be taken up under Unfinished Business and General Orders unless it has acquired such status by one of the formal processes (a), (c), or (d) listed in 41:23. If brief consultation during a meeting leads to an informal understanding that a certain subject should be “brought up at the next meeting,” that does not make it unfinished business. Instead, the matter would have to be introduced at the next meeting as new business, as explained below.
- 41:27 **6. New Business.** After unfinished business and general orders have been disposed of, the chair asks, “Is there any new business?” Members can then introduce new items of business, or can move to take from the table any matter that is on the table (17, 34), in the order in which they are able to obtain the floor when no question is pending, as explained in 3 and 4. So long as members are reasonably prompt in claiming the floor, the chair cannot prevent the making of legitimate motions or deprive members of the right to introduce legitimate business, by hurrying through the

proceedings.

- 41:28 **Optional Headings.** In addition to the standard order of business as just described, regular meetings of organizations sometimes include proceedings in the categories listed below, which may be regarded as optional in the order of business prescribed by this book.

- 41:29 After the call to order and *before the reading of the minutes*, the next two headings may be included:

- 41:30 **Opening Ceremonies or Exercises.** Opening ceremonies immediately after the meeting is called to order may include the invocation (which, if offered, should always be placed first), the singing of the national anthem, the reciting of the Pledge of Allegiance to the flag, a ritual briefly recalling the objects or ideals of the organization, or the like.

- 41:31 **Roll Call.** In some organizations it is customary at meetings to call the roll of officers in order to verify their attendance—or, sometimes in very small societies, even to call the roll of members. If there is a roll call of this nature, it should take place at the end of the opening ceremonies unless a special rule of the organization assigns it a different position in the order of business. The chair announces it by saying, “The Secretary will call the roll of officers [or “will call the roll”].”

- 41:32 **Consent Calendar.** Legislatures, city, town, or county councils, or other assemblies which have a heavy work load including a large number of routine or noncontroversial matters may find a *consent calendar* a useful tool for disposing of such items of business. Commonly, when such a

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simply announcing, "If there is no objection, we will hear our speaker's address at this time."

## Taking Up Business out of Its Proper Order

- 41:37 Any particular item of business can be taken up out of its proper order by adopting a motion to *Suspend the Rules* (25) by a two-thirds vote, although this is usually arranged by unanimous consent (4:58–63). Hence, an important committee report or an urgent item of new business can be advanced in order to assure its full and unhurried consideration. If desired, before the completion of the advanced question the regular order of business can be returned to by a majority vote—by adopting a motion to lay the pending question on the table (17).
- 41:38 To take up a motion out of its proper order—for example, to introduce an item of new business before that heading is reached—a member who has obtained the floor can say, "I ask unanimous consent to introduce at this time a resolution on financing better schools." If there is any objection, or the member anticipates that there may be, he can say, "I move to suspend the rules that interfere with the introduction at this time of..." If unanimous consent is given or if this motion is adopted by a two-thirds vote, the member is immediately recognized to introduce the resolution. If only one or two items stand ahead of the item it is desired to reach, it may be just as simple to lay the intervening items on the table individually (17), or to postpone them as they arise (14). It is

not in order to lay on the table or postpone a *class* of questions, like committee reports, or anything but the question that is actually before the assembly. (See 14:10–11, 17:3(2), 17:14.)

- 41:39 The chair himself cannot depart from the prescribed order of business, which only the assembly can do by at least a two-thirds vote. This is an important protection in cases where some of the members principally involved in a particular question may be unable to be present through an entire meeting. When such a departure from the order of business is justified, however, it is usually easy for the chair to obtain the necessary authorization from the assembly. He can say, for example, "The chair will entertain a motion to suspend the rules, and take up..."; or (for obtaining unanimous consent), "If there is no objection, the chair proposes at this time to proceed to take up..." (see also illustration under the heading *Program* above).

## Orders of the Day

- 41:40 An *order of the day*, as stated above, is a particular subject, question, or item of business that is set in advance to be taken up during a given session, day, or meeting, or at a given hour, provided that no business having precedence over it interferes. In cases where more than a quarterly time interval (9:7) will elapse before the next regular business session of the organization, an order of the day cannot be made for a time beyond the end of the present session. If the next regular business session will be held within a quarterly time interval, an order of the day cannot be made beyond the

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end of that next session. An order of the day cannot be taken up before the time for which it is set, except by reconsidering (37) the vote that established the order (so long as a reconsideration is possible), or by suspending the rules (25) by a two-thirds vote.

41:41 Orders of the day are divided into the classes of *general orders* and *special orders*. A special order is an order of the day that is made with the stipulation that any rules interfering with its consideration at the specified time shall be suspended except those relating: (a) to adjournment or recess (8, 20, 21); (b) to questions of privilege (19); (c) to special orders that were made before this special order was made; or (d) to a question that has been assigned priority over all other business at a meeting by being made *the* special order for the meeting as described in 41:57. An important consequence of this suspending effect is that, with the four exceptions just mentioned, a special order for a particular hour interrupts any business that is pending when that hour arrives. Since the making of a special order has the effect of suspending any interfering rules, it requires a two-thirds vote (except where such action is included in the adoption of an agenda or program for a session having no prescribed order of business). Any matter that is made an order of the day without being made a special order is a general order for the time named.

41:42 An item of business can be made an order of the day in the following ways:

- 1) While the question is pending, it can be postponed (14) to the specified time by a majority vote (in which case it is a general order);

or, by a two-thirds vote, it can be postponed to that time and made a special order.

- 2) A question that has not yet been brought before the assembly can be made a special order for a future time by means of a main motion adopted by a two-thirds vote. Similarly, it is possible, although less common, to make a question that is not pending a general order for a future time by a majority vote.
- 3) An agenda or program assigning a specific position or hour to the item of business can be adopted. The subject is then a general order or a special order, depending on the form of the agenda or program (see 41:58). For the vote required to adopt an agenda, see *Procedure for Adoption*, 41:61.

#### 41:43 Forms for Motions to Make General or Special

**Orders.** The forms in proposing to make a *pending* question an order of the day for a future time by means of the motion to *Postpone* are given in 14:20.

- 41:44 When a question that is *not pending* is made an order of the day, it is usually made a special order. A main motion to make a particular subject a special order can be introduced whenever business of its class or new business is in order and nothing is pending. It can be offered in this form: "I move that the following resolution be made a special order for the next meeting: '*Resolved*, That...';" or, "I offer the following resolution and move that it be made a special order for 3 P.M.: '...'" In the case of a committee report, a resolution such as this may be adopted: "*Resolved*, That the report of the committee on the revision of the bylaws be made the special order for Wednesday morning and thereafter until it has been disposed of."

Attachment #2, Pg. 5 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Rebecca Blackburn Hines  
pursuant to South Carolina Code  
Ann. Section 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.



41:45 Motions in similar forms can also be used to make a question that is not pending a general order. In this connection, however, it should be noted that a majority can thus prevent a matter from coming before the assembly until a future time, but after a majority has taken such action, nothing less than a two-thirds vote can change it unless it is reconsidered (37). If a main motion to make a question that is not pending an order of the day for a future time is introduced, any member who would prefer to consider the matter immediately should speak in debate against the motion that would make it an order of the day. If that motion is voted down, he can then introduce the subject of the proposed order as a main question.

41:46 **Relation of Orders of the Day to the Established Order of Business.** In assemblies that follow the "standard" order of business explained above, orders of the day for a given session, day, or meeting that are not set for particular hours are taken up under the headings of *Special Orders* and *Unfinished Business and General Orders* (see 41:18-26). In cases where an ordinary society has adopted its own order of business for regular meetings, it usually includes similar headings covering such orders of the day. Where an organization's order of business does not provide such headings, special orders not set for particular hours are taken up before unfinished business and general orders, or (if there are neither of these), at all events before new business. Under the same conditions, general orders are taken up after any unfinished business (that is, business pending at the adjournment of the previous meeting, if any,

and orders of the day not disposed of at the time of its adjournment), and before new business unless a later hour is specified (see below).

41:47 The most common instances of orders of the day set for particular hours occur in conventions.

41:48 In any type of assembly, in cases where orders of the day have been set for particular hours, their consideration at the proper time may cause interruption or modification of the order of business as it exists apart from these orders of the day; and different orders of the day may come into conflict. Rules governing such cases are as follows:

41:49 **Rules of precedence affecting general orders for particular hours.** As stated above, a general order that has been set for a particular hour cannot be considered before that hour unless the rules are suspended by a two-thirds vote, or unless the vote that made the general order can still be reconsidered. This is the principal effect of making a subject a general order for a particular hour. Since the making of a general order does not suspend any rules, even if it is designated for a particular hour, delay in its consideration when that hour arrives may arise from a number of causes. Even though the hour fixed for a general order has arrived, the order can be taken up only when all of the following additional conditions are fulfilled:

- a) no other business is pending;
- b) no special order interferes;
- c) no motion to *Reconsider* (37) that may then be moved or called up interferes;
- d) the category of General Orders in the prescribed order of business

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has been reached or passed; and

- e) all general orders that were made before this order was made, except any that were set for a time that has not yet arrived, have been disposed of.

As soon after the designated hour as conditions (a), (b), (d), and (e) are met, the chair announces the general order as the pending business; but as he starts to do so, any member can rise and address the chair for the purpose of moving or calling up a reconsideration.

**41:50** The rule that a general order for a particular hour does not interrupt a pending question when that hour arrives holds even when the pending question is a general order that was made later.<sup>6</sup> But if a general order for an earlier time is not reached by the time set for another general order that was made before it was, the general order that was made first is taken up in preference to the one for the earlier time.

**41:51 Example.** A motion is postponed to 4:30 P.M. Later, another motion is postponed to 4:15 P.M. If the 4:15 motion is taken up at that time (or at least before 4:30) and is not disposed of by 4:30, it continues under consideration and is not interrupted. But if the 4:15 motion is not reached by 4:30, the 4:30 motion, having been postponed first, has preference and will be taken up first. Unless something else affects the situation, the 4:15 motion in such a case will be considered after the disposal of the 4:30 motion.

**41:52** If several general orders were made for the same time, they are taken up in the order in which they were made. If several general orders were made for the same time in the same motion, they are taken up in the order in which they are listed in the motion. If all of this business is not disposed

of before adjournment, it is treated as described in **21:7** and **41:23**.

**41:53 Rules of precedence affecting special orders for particular hours.** A special order for a particular hour cannot be considered before that hour except by a two-thirds vote. But when the designated hour arrives, the special order automatically interrupts any business that may be pending except: (a) a motion relating to adjournment or recess; (b) a question of privilege; (c) a special order that was made before the special order set for the present hour was made; or (d) *the* special order for a meeting, as described below. The chair simply announces the special order at the proper time, as shown in **14:22**.

**41:54** With the exception of *the* special order for a meeting, when special orders that have been made at different times come into conflict, the one that was made first takes precedence over all special orders made afterward, which rank in the order in which they were made. This rule holds even when special orders made later have been set for consideration at earlier hours. No special order can interfere with one that was made earlier than itself. If several special orders have been made at the same time for the same hour, they rank in the order in which they are listed in the motion by which they were made. If they were made at the same time for different hours, it is implied that the vote on each one will be taken when the hour for the next one arrives, and the same rules apply as those for taking up topics in an agenda (see **41:65**).

**41:55 Example.** Assume that a special order has been made for 3

Attachment #2, pg. 7 is included with the minutes of the 2-8-2021

meeting, at the request of Board member Rebecca Blackburn Hines

pursuant to South Carolina Code

Ann. Section 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.



assembly, by a two-thirds vote or by unanimous consent (4:58-63), can adopt a motion to "suspend the rules and take up" the desired question or, equivalently, "to pass" one or more items or classes of subjects in the order of business. After a question taken up out of its proper order by such a suspension of the rules has been disposed of, the regular order of business is resumed at the point where it was left off (see 25).

- 14:12 Postponement of a Subject That the Bylaws Set for a Particular Session.** A matter that the bylaws require to be attended to at a specified session, such as the election of officers, cannot, in advance and through a main motion, be postponed to another session. It can be taken up at any time when it is in order during the specified session (that is, either as originally convened or at any adjournment of it); and it can be postponed to an adjourned meeting in the manner explained above, after first adopting, if necessary, a motion to *Fix the Time to Which to Adjourn*. The adjourned meeting, as already stated, is a continuation of the same session. The procedure of postponing such a matter to an adjourned meeting is sometimes advisable, as in an annual meeting for the election of officers on a stormy night when, although a quorum is present, the attendance is abnormally small. If the matter has actually been taken up during the specified session as required, it also may be postponed beyond that session in accordance with the regular rules for the motion to *Postpone*. It is usually unwise to do so, however, unless completing it during the session proves impossible or impractical.

#### 14:13 Time at Which a Postponed Question Is Taken Up

**Again.** A postponed question becomes an *order of the day* for the session, day, meeting, or hour to which it is postponed. It cannot be taken up *before* the time for which it is set, except by reconsidering (37) the vote on the motion to *Postpone*, or by suspending the rules by a two-thirds vote. The postponed question is taken up either at the specified time or later, as follows:

- 14:14** Orders of the day consist of *general orders* and *special orders*. If the motion to *Postpone* does not make the postponed question a special order, it becomes a general order, which cannot interrupt pending business even if the time for which it is set has arrived or passed. By a two-thirds vote, however, a question can be postponed and made a special order, giving it priority over general orders as well as the ability to interrupt pending business. If it is desired to reserve an entire meeting—or as much of it as necessary—for the consideration of a single subject, a matter can be made the special order for a meeting (see 41:57).
- 14:15** When set for a session, day, or meeting but not for a particular hour, special orders and general orders usually have their established places in the order of business (see 41:18-26 and 41:46).
- 14:16** The full rules regarding the priority of orders of the day, and their relation to each other and to the order of business, are given in 41.
- 14:17** When the appointed time has been reached for a postponed question to be taken up, and as soon as no other business of a higher priority interferes, the chair states the question as pending. (For examples, see 14:22, 41:19, and

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41:24.) Therefore, no further motion is normally needed to bring the question before the assembly; however, if the chair fails to state the question at the correct time, any member may then demand that the postponed question be taken up as ordered, by making a *Call for the Orders of the Day* (18).

#### 14:18 Effect on Motions Adhering to a Postponed Question.

When a main motion is postponed, one or more of the subsidiary motions to *Postpone Indefinitely*, *Amend*, and *Commit* or incidental motions for *Division of a Question* and *Consideration by Paragraph or Seriatim* may be pending. All such adhering motions are postponed with the main question, and when consideration of that question is resumed at the specified time, the business is in the same condition, so far as possible, as it was immediately before the postponement, with the exceptions noted in the next paragraph. Similarly, when a main motion is postponed, it also carries with it any adhering debatable appeals (24) or adhering points of order (23) that the chair has submitted to the judgment of the assembly and that are then debatable. (No question can be postponed while an *undebatable* appeal or point of order is pending.)

#### 14:19 Effect on Subsequent Debate and Methods of Voting.

When consideration of a postponed question is resumed at a later session, any orders limiting or extending the limits of debate or for the *Previous Question* that were adopted at the original session are exhausted (see 15:18, 16:11–12), and debate takes place according to the regular rules. But when consideration is resumed at the *same* session—even on another day, as may happen in a convention—all such

applicable orders remain in effect. Except for the effect of an unexhausted order limiting or closing debate as just stated, when a question is taken up on a *different day* from the one on which it was postponed, the right of members to debate it begins over again, as if the question had not previously been debated; that is, each member can again speak twice to each debatable question, regardless of whether the member had already done so before the postponement (see 43). For the rules relating to the exhaustion of an order prescribing the method of voting on a question, see 30:7.

## Form and Example

14:20 The form used in making this motion depends on the desired object:

- a) Simply to postpone the question to the next meeting, when it will have priority over new business: "I move to postpone the motion [or "that the question be postponed"] to the next meeting."
- b) To specify an hour before which the question will not be taken up (unless by a two-thirds vote or through reconsideration), and when it will come up automatically as soon as no business is pending and any remaining matters that have priority over it have been disposed of: "I move that the resolution be postponed until 3 P.M." [or "... until 9 P.M. at the meeting scheduled for February 15"].
- c) To postpone consideration of a motion until after a certain event in a meeting, when it will immediately be taken up (unless a special order intervenes): "I move to postpone the question until after the address by our guest speaker."
- d) To ensure that the question will come up at the next meeting and will

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not be crowded out by other matters: "I move that the question be postponed to the next meeting and be made a special order." (Two-thirds vote required for adoption.)

- e) To ensure that the matter will come up at precisely a certain hour, even if it interrupts pending business: "I move that the resolution be postponed and be made a special order for 3 P.M. tomorrow." (Two-thirds vote required for adoption.)
- f) To postpone a subject—such as a revision of the bylaws—to an adjourned meeting at which the entire time can be devoted to it if necessary, a motion to *Fix the Time to Which to Adjourn* must first be made and adopted, and then the motion to *Postpone* may be made in this form: "I move that the question be postponed and made the special order for the adjourned meeting set for next Tuesday evening." (Two-thirds vote required for adoption.)

14:21 Assume that a controversial resolution is pending at a convention and that many of the delegates who are most interested and best informed on the subject will not be able to be present until tomorrow.

**MEMBER A (obtaining the floor):** I move to postpone the resolution until eleven o'clock tomorrow morning. (Second.)

**CHAIR:** It is moved and seconded to postpone the resolution until eleven o'clock tomorrow morning. [Pause.]

**MEMBER B (after obtaining the floor and stating that in his opinion further consideration of the resolution should under no circumstances be delayed beyond 11 A.M. the next day):** I move to amend the motion to postpone, by adding "and make it a special order." (Second.)

**CHAIR:** It is moved and seconded to amend the motion to postpone the resolution until eleven o'clock tomorrow morning by adding "and make it a special order." [Debate, if any.] The question is on amending the motion to postpone by adding "and make it a special order." Those in favor of the amendment, say *aye*.... Those opposed, say *no*.... The ayes have it and the amendment is adopted. The question now is on the motion, as amended, to postpone the resolution until eleven o'clock tomorrow morning and make it a special order. This motion now requires a two-thirds vote. [Pause.] Are you ready for the question? [Pause. No further debate.] Those in favor of the motion to postpone the resolution until eleven o'clock tomorrow morning and make it a special order will rise.... Be seated. Those opposed, rise.... Be seated. There are two thirds in the affirmative and the motion is adopted. The resolution is a special order for 11 A.M. tomorrow. The next item of business is...

14:22 If the amendment to make a special order is rejected, the chair proceeds in the usual manner to take a voice vote on the *unamended* motion to postpone. If the motion to postpone is not adopted, he again states the question on the resolution. But if the resolution *has* been made a special order for the following day at 11 A.M., as in the above example, then at the appointed time the chair says:

**CHAIR:** It is now eleven o'clock. The following resolution was made a special order for this time: "*Resolved*, That..." The question is on the adoption of the resolution....

Attachment #2, pg. 10 is included with the minutes of the 2-8-2021 meeting, at the request of Board member Rebecca Blackburn Hinal pursuant to South Carolina Code Ann. Section 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.

Kenneth B. Loveless  
228 Lookout Pointes Drive  
Chapin, SC 29036

Mrs. Janis Hammond  
Chairperson of the Board of Trustees  
School District Five of Lexington-Richland Counties  
1020 Dutch Fork Road  
Irmo, SC 29063

Re: Recusal of Kenneth B. Loveless on certain matters

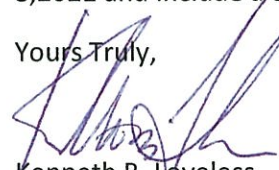
Dear Mrs. Hammond:

In accordance with the requirements of SC Code Section 8-13-700(B)(1), I am advising you, as Chairperson of the Board of Trustees for School District Five of Lexington and Richland Counties, of my affiliation with Contract Construction, Inc. My affiliation with Contract Construction, Inc. is that the company which I am employed and a stockholder, Loveless Commercial Contracting, Inc. operates as a subcontractor on the S.C. Law Enforcement Division Forensics Lab project, Columbia, SC. The association began on March 12, 2020 and will end at the completion of the construction project.

Please be advised that effective immediately, I will recuse myself from any and all votes, deliberations, and other actions on any matter that comes before the Board of Trustees relating to Contract Construction, Inc.

Please publish my statement to the Board and the public at the Board's next meeting on February 8, 2021 and include a copy of this statement with the minutes of that meeting.

Yours Truly,



Kenneth B. Loveless

Vice Chairman of the Board of Trustees

School District Five of Lexington-Richland Counties

Attachment #3, pg. 1 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Jan Hammond  
pursuant to South Carolina Code  
Ann. Section 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.



February 8, 2021

To everyone listening, please accept my sincerest apologies. As evidenced by the amount of time wasted at the previous board meeting, the ambush style attacks of the September 14, 2020 board meeting and the promise of future attacks, the record must be set straight. This situation is about a group of past and present board members trying to keep another board member from doing his duty: reviewing a school under construction. I asked to be able to review the Piney Woods Elementary School project accompanied by the District Project Representative and fellow board member Nikki Gardner. I also had questions which I posed to Dr. Melton during March, 2020.

I have always been told that "You don't retire FROM something; you retire TO something". At present, I am spending 60% of my time with efforts toward serving the public as trustee on the school board.

My wife Jondy and I are giving back to the community. We take immense pride in our ability to donate time and treasure. In short, we enjoy seeing the positive effects wrought from our efforts.

I neither take a salary from the district nor have I received reimbursement for hotel, mileage or per diem charges related to travel required by the position. Neither Jondy nor I receive social security because here-to-fore, we have not needed it.

Our goal is to die penniless. We are busy donating to reach our goal. We are neither motivated by money nor influence as opponents on this board prefer to paint us.

Having heard our goals, do the claims that Mr. Ed White levelled at me: "Mr. Loveless put the business of the district on the street!" make any sense? He accused me of that during the board meeting September 14, 2020.

The small business corporation with whom I am employed and stockholder, Loveless Commercial Contracting, Inc. has about 50 employees all from the Midlands. We have three profit centers. One acts as general contractor, two are subcontractors to general contractors in the capacity of industrial scale concrete subcontractors. Since I am near retirement, we moved a few years back to the profit center style business plan. Each profit center is headed by an independent manager who develops, bids and builds his own projects.

I researched company records to find the following information:

The S.C. Law Enforcement Division Forensic Lab Project was bid by one of our profit center managers, Trey McDaniel. It was bid in the normal course of business without direct input or participation from me. It was bid on October 23, 2019 to 14 general contractors: M.B. Kahn, J.M. Cope, Gleeson Constructors, EE Reed, Contract Construction, Hogan Construction Group, Poettker Construction, Edcon, Inc., Mashburn Construction, Leitner Construction, IAP-GSP, Thomas Construction, M. Dillon Construction and Cleveland Construction. There were other subcontract bidders in our trade, Concrete Construction. Loveless earned the right to do the work on this project through competitive bidding.

Cleveland Construction protested the general contract bid over an alleged licensing irregularity connected with Contract Construction and its electrical contractor listed bidder.

Contract Construction issued a Letter of Intent to contract in an email to Trey McDaniel during November, 2019. I was unaware of the email. Contract Construction issued the Letter of Intent without



legal authority to do so because it had not been awarded the contract at that point in time. In fact, it was almost three months later that Contract Construction stated in another email dated January 24, 2020 that it expected to be awarded a contract pending the expiration of Cleveland's appeal rights. Contract Construction stated that it expected to receive its Notice to Proceed effective February 3, 2020.

Had Cleveland Construction been successful with its protest and therefore, the award, Loveless might have been working with Cleveland, not Contract Construction.

Loveless received a subcontract agreement for review from Contract Construction dated February 11, 2020. Loveless received an executed subcontract on March 12, 2020.

In relationship to Elementary School # 13 (Piney Woods Elementary School), I have researched district records and found the following:

- A) Contract Construction was selected as Construction Manager-at-Risk by the Selection Review Committee chaired by Robert Gantt on September 18, 2018 prior to my election to the board.
- B) At the December 10, 2018 board meeting, Jan Hammond introduced a motion to delay construction at the Amick's Ferry site until an alternate site already purchased by the board could be explored. I vote "YES" to that motion. At the same meeting, I voted "NO" to the motion to approve the Contract for Construction to Contract Construction, Inc. I also voted "NO" to approve \$30 million in 8% bonds to build Amick's Ferry.
- C) At the September 9, 2019 board meeting I introduced and voted "YES" to a motion to have discussions about the Early Site Work Guaranteed Maximum Price moved from executive session to open session. Further, I voted "NO" to the motion that Contract Construction's Early Site Work Guaranteed Maximum Price be approved.
- D) At the December 9, 2019 board meeting, I introduced and voted "YES" to restrict the total outlay on the project to the lesser of \$30 million in 8% bonds approved at the December 10, 2018 meeting or the architect's stated and required budget of total construction cost at \$24 million plus soft costs. Finally, I voted "NO" to the motion to approve Contract Construction's Guaranteed Maximum Price for the Building which put the total construction costs at more than \$26.6 million, greater than the budget of \$24 million.

In summary, I voted against the wishes of Contract Construction, Inc. a total of seven times. All the motions were voted before the S.C. Law Enforcement Division Forensic Lab Project was awarded. The last vote occurred December 9, 2019. Loveless Commercial Contracting, Inc. had no contractual relationship until March 12, 2020 which is over three months after the last vote. I was not aware of the status of any of the above until after the contract for review dated February 11, 2020 had been received.

The same the board member who has now made me the target of his accusations, made accusations in public at the September 14, 2020 board meeting. It is obvious that he was working in consort with Contract Construction, Inc. against me for political gain. Once the accusations were made, I then in September, 2020 contacted Courtney Laster, General Counsel of the S.C. State Ethics Commission. As advised, I have since recused myself from any board actions to be taken on matters affecting Contract Construction, Inc.

I would like to say that I now realize that I should have recused myself earlier in time but I was not aware of the facts until after the September 14, 2020 board meeting. Second, I was a board member



with about one year's experience. Board members who were and are on the board for multiple terms including Mr. White's 17 years did nothing to discuss with me any perceived ethics liability before the September 14, 2020 meeting. For the discussion in the September 14, 2020 board meeting other board members were obviously made aware of the situation by Contract Construction. Instead of speaking with me they chose to attack me in public. At least one former board member and others made potentially slanderous attacks against Loveless Commercial Contracting, Inc. by expressing untrue and misleading statements about confidential company information.

Why are board members doing this? As Ed White wrote Dr. Melton on February 5, 2021: "This is a part of a larger conversation about individual board members trying to assume responsibility for inspecting construction projects as opposed to third-party independent experts who have a legal responsibility directly to the district."

This accusation is also way off target. No one has attempted to do as Mr. White has alleged.

Quite the contrary: the public expects its trustees to review a project in which it has invested more than \$32 million in tax dollars.

The larger questions I believe is: "What relationships are past and present trustees attempting to hide? What is it they don't want us to see?"

To those on this board trying to escribe false motives while wasting valuable time holding Perry Mason style mock prosecutions, you should remember: represent the people, not your own ambitions. In a fiduciary sense, we make certain that the community's needs are met, not our own. I am on this board to represent and advocate for those who have no voice, the students. That said, I do not understand how reckless spending and cozy relationships with vendors helps educate students.



Attachment #4, pg. 3 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ken Loveless  
pursuant to South Carolina Code  
Ann. Section 30-4-90(a)(4)  
and Board Policy B:DG. The Board majority  
did not approve, disapprove, or otherwise  
act upon the contents of this attachment.





Attachment #5, P91 is included with the minutes of the 2-8-2021 meeting, at the request of Board member Ed White

pursuant to South Carolina Code Ann. Section 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.

Edward White <ewhite@lexrich5.org>

## Requirement that Ken Loveless Recuse Himself from any Discussions about Contract Construction

1 message

Edward White <ewhite@lexrich5.org>

Mon, Jan 25, 2021 at 9:13 AM

To: Janis Hammond <jhammond@lexrich5.org>, Nikki Gardner <ngardner@lexrich5.org>, Cathy Huddle <chuddle@lexrich5.org>, Matt Hogan <mhogan@lexrich5.org>, Rebecca Hines <rhines@lexrich5.org>, Kenneth Loveless <kloveless@lexrich5.org>, Christina Melton <csmelton@lexrich5.org>  
Bcc: ed.white@nelsonmullins.com

Mrs. Hammond,

I am writing in reference to Mr. Loveless' request that he assume the role of inspecting and critiquing Piney Woods Elementary School with Nicki Gardner on behalf of the District.

If you recall, Mr. Loveless obtained a contract through his personal company to do work with Contract Construction sometime in the early part of 2020. Mr. Loveless never disclosed this financial relationship to the Board but was questioned about it in the Board's September 14, 2020 meeting at which time Mrs. Hutchinson raised the question of whether that financial relationship created an ethical problem. On September 25, 2020 Mr. Loveless obtained an Ethics Opinion (the "Opinion") from the South Carolina Ethics Commission based on Mr. Loveless bidding on second project with Contract Construction. The Opinion is addressed directly to Mr. Loveless and he put a copy of the letter on the minutes of our September 25, 2020 Board meeting..

While the Opinion concludes there is no outright prohibition for Mr. Loveless' company to enter into a contract with Contract Construction (while it is a vendor to the District), the Opinion is also very clear that Mr. Loveless, as a Board member, is required to recuse himself pursuant to Section 8-13-700(B) of the SC Code of Laws (the "Code") from any matters the District has with Contract Construction.

As cited in the Opinion, Section 8-13-700(B) of the Code clearly states that no public official may make, participate in making, "or in any way attempt to use his office to influence a governmental decision" involving the matter with which he has a financial relationship. Simply stated, Section 8-13-700(B) requires that Mr. Loveless recuse himself from any conversations or communication with the Board or the District involving Contract Construction and the Piney Woods School.

Section 8-13-700(B) of the Code also provides that (i) Mr. Loveless is required to prepare a written statement of his financial relationship with Contract Construction and deliver it to you (as the Board Chair) to put into the minutes of the Board, and (ii) that you, as the Board Chair are required to make sure that Mr. Loveless recuses himself from any discussions or votes pertaining to Contract Construction. I am not aware of any written statement Mr. Loveless submitted to put on the minutes of our Board meeting.

Technically, for Mr. Loveless to have properly complied with his recusal obligation he should have disclosed his financial relationship to the Board at the time his company first entered into the financial relationship with Contract Construction by submitting his written statement to the Board Chair and then he should have recused himself from all discussions or votes concerning the Piney Woods School. This means that if Mr. Loveless' company entered into its contract with Contract Construction prior to March 24, 2020 that Mr. Loveless should have never submitted his letter of March 24, 2020 to the Superintendent making allegations about the quality of the work of Contract Construction at the Piney Woods School site (which is a public document included on the minutes of the June 15, 2020 Board meeting) and he should have never participated in the discussions of the Piney Woods project in our September 14, 2020 Board meeting.

Even if Mr. Loveless was unaware of his ethical obligations at the time his company entered into its financial relationship with Contract Construction, he clearly should have known of his obligations after his receipt of the Opinion on September 25, 2020. This means that after September 25, 2020 Mr. Loveless should have immediately submitted his written statement of his company's financial relationship with Contract Construction to you as the Board Chair to put be into the minutes for public disclosure and he should have ceased any further efforts for him to personally be allowed to inspect and approve the construction of Piney Woods School. In other words, if Mr. Loveless company still has a financial relationship with Contract Construction then he is not in compliance with the Opinion (i) if he failed to submit his written disclosure to you to put into the Board minutes and (ii) because of his recent email requests to Dr. Melton and the Board



that he and Nicki Gardner be given the actual plans to the Piney Woods school and the two of them be allowed to make trips to the school to inspect the construction.

I also shared the Opinion with my law partner, James Burns, who is an expert in the South Carolina Ethics laws and is a former past Chairman of the South Carolina Ethics Commission. After reviewing the Opinion, Mr. Burns' opinion is that Mr. Loveless is required to recuse himself from any discussions with the Board or District about the Piney Woods construction project and, you as the Board Chair, have an affirmative obligation to make sure he recuses himself.

I have attached a copy of the Opinion below.

My request is that you confirm whether Mr. Loveless has submitted his written disclosure about his company's financial relationship with Contract Construction. As Board members we are all entitled to know the start date and ending date of all contracts that Mr. Loveless' company has with Contract Construction. If Mr. Loveless has not prepared the written statement, then I would request you require him to do so prior to arriving at our meeting tonight and you publicly announce to the Board and the public (i) the starting and end dates of all financial relationships Mr. Loveless' company has with Contract Construction, (ii) that Mr. Loveless has to recuse himself from all communications or discussions the Piney Woods school, and (iii) you publicly notify him that he cannot supervise or inspect the construction. I am asking that you make these statements to in the public meeting to ensure transparency for the public, including the South Carolina Ethics Commission if it ever has to investigate whether Mr. Loveless is in compliance with his obligations in the Opinion.

I have other broader concerns about Mr. Loveless, or any Board member, attempting to personally supervise our construction projects based on the actual precedents established by Mr. Loveless with the Piney Woods School which I will detail in a separate email prior to our next meeting and to request we specifically evaluate the role of board members in construction review projects based on the actual experiences with the Piney Woods School.

As a reminder, please do not respond to this email. Our conversations on this topic need to be in our public meeting tonight.

Thank you,

Ed



**Ken Loveless Ethics Opinion dated September 25, 2020[477].pdf**

1489K

Attachment #5, pg. 2 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White

pursuant to South Carolina Code  
Ann. Section 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.

Ed White

Attachment <sup>#5, pg. 3</sup> is included with the minutes of the 2-8-2021 meeting, at the request of Board member Ed White

pursuant to South Carolina Code Ann. Section 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.

----- Forwarded message -----

From: **Kenneth Loveless** <[kloveless@lexrich5.org](mailto:kloveless@lexrich5.org)>

Date: Fri, Feb 5, 2021 at 10:52 AM

Subject: Re: Ken Loveless Letter dated May 24 , 2020 Alleging Problems PWES

To: Christina Melton <[csmelton@lexrich5.org](mailto:csmelton@lexrich5.org)>

Cc: Edward White <[EWhite@lexrich5.org](mailto:EWhite@lexrich5.org)>, Janis Hammond <[jhammond@lexrich5.org](mailto:jhammond@lexrich5.org)>, Cathy Huddle <[chuddle@lexrich5.org](mailto:chuddle@lexrich5.org)>

Dr.Melton, As a part of the requested report of the accumulation of costs that you may attribute to my requests, please note that under board policy BEDGA you had (have since I have never have received a formal reply) the duty to to respond in terms of the following passage:" If, on the other hand,the requests are determined by the superintendent to be unusual in nature, by reason of their content, subject matter, or volume/size, then they should be rendered by the superintendent to the fully seated board. The superintendent will require that such requests be made in writing. Upon affirmative action by the board, all requested information and available written documents once again will be provided as expeditiously as possible and at no cost to the individuals involved. "

Please note that I was and am in no way responsible for any accumulated costs because I was not informed that there were or are potential costs and because the above policy was not followed in that the matter was not brought to the fully seated board for a vote before any alleged expenditures were made. Respectfully submitted. Ken Loveless

On Fri, Feb 5, 2021, 10:26 AM Christina Melton <[csmelton@lexrich5.org](mailto:csmelton@lexrich5.org)> wrote:

Mr. White,

This is to confirm receipt of your email and request. I'll forward this to staff ; however, I cannot offer assurance that we will have this information in time for Monday's meeting if that is your expectation. We will do our best but I do not know how readily available this information may be due to staffing changes.



**Christina S. Melton, Ed.D.**

**Superintendent**

School District Five of Lexington & Richland Counties

office: 803.476.8169 or 803.476-8116

[www.lexrich5.org](http://www.lexrich5.org)



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On Fri, Feb 5, 2021 at 8:14 AM Edward White <[ewhite@lexrich5.org](mailto:ewhite@lexrich5.org)> wrote:

Dr. Melton,

Can you compile a summary of the additional costs the District incurred to address the allegations that Mr. Loveless made about PWES in the attached letter and the accusations he made about the concrete slips for the project. I would like to see a summary of actual expenditures for consultants and other advisors to reveiw and respond to these allegations and attend the September 14, 2020 meeting to address these allegations.

I would also like to see a estimate of time the District personnel had to respond to these allegations as well.

Thank you,

Ed



## Ed White

---

----- Forwarded message -----

From: **Kenneth Loveless** <[kloveless@lexrich5.org](mailto:kloveless@lexrich5.org)>

Date: Wed, Jan 20, 2021 at 7:06 PM

Subject: Re: Requesting answers

To: Christina Melton <[csmelton@lexrich5.org](mailto:csmelton@lexrich5.org)>, Janis Hammond <[jhammond@lexrich5.org](mailto:jhammond@lexrich5.org)>, Nikki Gardner <[ngardner@lexrich5.org](mailto:ngardner@lexrich5.org)>, Rebecca Hines <[rhines@lexrich5.org](mailto:rhines@lexrich5.org)>, Cathy Huddle <[chuddle@lexrich5.org](mailto:chuddle@lexrich5.org)>, Edward White <[EWhite@lexrich5.org](mailto:EWhite@lexrich5.org)>, Matt Hogan <[mhogan@lexrich5.org](mailto:mhogan@lexrich5.org)>

Dr. Melton, are you going to answer me? I have requested access which would involve much more than the facile group visit shown as scheduled for 1/28/21. I certainly plan to attend. However, I have on numerous occasions requested a deeper dive into the subject. Are you going to answer me? Respectfully submitted, Ken Loveless

On Wed, Jan 6, 2021, 2:21 PM Kenneth Loveless <[kloveless@lexrich5.org](mailto:kloveless@lexrich5.org)> wrote:

Dr. Melton,

I have asked several times that a meeting between Director of Facilities, Clay Cannon Nikki Gardner and I at PWES be arranged. The purpose is that we be allowed to see and study contract documents with an eye toward compliance. Once a protocol has been established we would like to be able to meet Mr. Cannon as many times as it takes to complete our review. We will need access to all documents indicated in the Contract for Construction.

I once again ask for this to be arranged.

Please let us know as soon as possible when this can be arranged.

Thank you in advance,

Kenneth B. Loveless, Vice Chair

Attachment #5, pg. 4 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White

pursuant to South Carolina Code  
Ann. Section 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.

## Ed White

**From:** Edward White <[ewhite@lexrich5.org](mailto:ewhite@lexrich5.org)>  
**Sent:** Monday, February 8, 2021 2:24 PM  
**To:** Ed White  
**Subject:** Fwd: Ken Loveless Letter dated May 24 , 2020 Alleging Problems PWES

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Attachment #5, Pg. 5 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White  
pursuant to South Carolina Code  
Ann. Section 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.

◀External Email▶ - From: [ewhite@lexrich5.org](mailto:ewhite@lexrich5.org)

----- Forwarded message -----

From: **Kenneth Loveless** <[kloveless@lexrich5.org](mailto:kloveless@lexrich5.org)>  
Date: Fri, Feb 5, 2021 at 12:36 PM  
Subject: Re: Ken Loveless Letter dated May 24 , 2020 Alleging Problems PWES  
To: Edward White <[EWhite@lexrich5.org](mailto:EWhite@lexrich5.org)>  
Cc: Christina Melton <[csmelton@lexrich5.org](mailto:csmelton@lexrich5.org)>, Janis Hammond <[jhammond@lexrich5.org](mailto:jhammond@lexrich5.org)>, Nikki Gardner <[ngardner@lexrich5.org](mailto:ngardner@lexrich5.org)>, Rebecca Hines <[rhines@lexrich5.org](mailto:rhines@lexrich5.org)>, Matt Hogan <[mhogan@lexrich5.org](mailto:mhogan@lexrich5.org)>, Cathy Huddle <[chuddle@lexrich5.org](mailto:chuddle@lexrich5.org)>

Dr. Melton, I agree that Mr. White that thus should put this off until another day. I disagree with his premise: is about one board member who is attempting abridge another board member's rights and duties under the law. That is the conversation. He is a tax attorney trying who in the past has acted as the board's legal authority. He does not like it that a new board majority has deposed him.

On Fri, Feb 5, 2021, 11:35 AM Edward White <[ewhite@lexrich5.org](mailto:ewhite@lexrich5.org)> wrote:  
Dr. Melton,

No need to try to have this for Monday. Sometime in the near future will be fine.

This is part of a larger conversation about individual board members trying to assume responsibility for inspecting construction projects as opposed to third-party independent experts who have a legal responsibility directly to the District.

One aspect of that analysis is to understand the economic and non-economic cost and to the District to assess detailed assessments by individual board members.

Thank you,

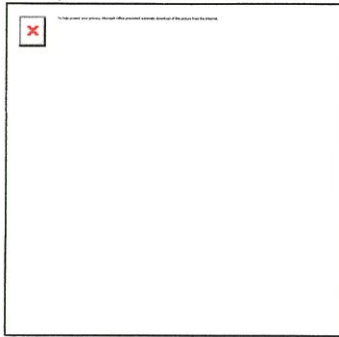
Ed

On Fri, Feb 5, 2021 at 10:26 AM Christina Melton <[csmelton@lexrich5.org](mailto:csmelton@lexrich5.org)> wrote:

Mr. White,

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**Christina S. Melton, Ed.D.**

***Superintendent***

School District Five of Lexington & Richland Counties

office: 803.476.8169 or 803.476-8116

[www.lexrich5.org](http://www.lexrich5.org)



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On Fri, Feb 5, 2021 at 8:14 AM Edward White <[ewhite@lexrich5.org](mailto:ewhite@lexrich5.org)> wrote:

Dr. Melton,

Can you compile a summary of the additional costs the District incurred to address the allegations that Mr. Loveless made about PWES in the attached letter and the accusations he made about the concrete slips for the project. I would like to see a summary of actual expenditures for consultants and other advisors to review and respond to these allegations and attend the September 14, 2020 meeting to address these allegations.

I would also like to see a estimate of time the District personnel had to respond to these allegations as well.

Thank you,

Ed

Attachment #5, pg. 6 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White  
pursuant to South Carolina Code  
Ann. Section 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.

## Ed White

**From:** Edward White <[ewhite@lexrich5.org](mailto:ewhite@lexrich5.org)>  
**Sent:** Monday, February 8, 2021 2:24 PM  
**To:** Ed White  
**Subject:** Fwd: Ken Loveless Letter dated May 24 , 2020 Alleging Problems PWES

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

◀External Email▶ - From: [ewhite@lexrich5.org](mailto:ewhite@lexrich5.org)

Attachment #5, pg. 7 is included with the minutes of the 2-8-2021 meeting, at the request of Board member Ed White

pursuant to South Carolina Code Ann. Section 30-4-90(a)(4) and Board Policy B1EDG. The Board majority did not approve, disapprove, or otherwise act upon the contents of this attachment.

----- Forwarded message -----

From: **Kenneth Loveless** <[kloveless@lexrich5.org](mailto:kloveless@lexrich5.org)>

Date: Fri, Feb 5, 2021 at 12:36 PM

Subject: Re: Ken Loveless Letter dated May 24 , 2020 Alleging Problems PWES

To: Edward White <[EWhite@lexrich5.org](mailto:EWhite@lexrich5.org)>

Cc: Christina Melton <[csmelton@lexrich5.org](mailto:csmelton@lexrich5.org)>, Janis Hammond <[jhammond@lexrich5.org](mailto:jhammond@lexrich5.org)>, Nikki Gardner <[ngardner@lexrich5.org](mailto:ngardner@lexrich5.org)>, Rebecca Hines <[rhines@lexrich5.org](mailto:rhines@lexrich5.org)>, Matt Hogan <[mhogan@lexrich5.org](mailto:mhogan@lexrich5.org)>, Cathy Huddle <[chuddle@lexrich5.org](mailto:chuddle@lexrich5.org)>

Dr. Melton, I agree that Mr. White that thus should put this off until another day. I disagree with his premise: is about one board member who is attempting abridge another board member's rights and duties under the law. That is the conversation. He is a tax attorney trying who in the past has acted as the board's legal authority. He does not like it that a new board majority has deposed him.

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This is part of a larger conversation about individual board members trying to assume responsibility for inspecting construction projects as opposed to third-party independent experts who have a legal responsibility directly to the District.

One aspect of that analysis is to understand the economic and non-economic cost and to the District to assess detailed assessments by individual board members.

Thank you,

Ed

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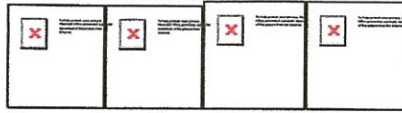
**Christina S. Melton, Ed.D.**

***Superintendent***

School District Five of Lexington & Richland Counties

office: 803.476.8169 or 803.476-8116

[www.lexrich5.org](http://www.lexrich5.org)



***Pursuing Excellence for Tomorrow's Challenges***

On Fri, Feb 5, 2021 at 8:14 AM Edward White <[ewhite@lexrich5.org](mailto:ewhite@lexrich5.org)> wrote:

Dr. Melton,

Can you compile a summary of the additional costs the District incurred to address the allegations that Mr. Loveless made about PWES in the attached letter and the accusations he made about the concrete slips for the project. I would like to see a summary of actual expenditures for consultants and other advisors to review and respond to these allegations and attend the September 14, 2020 meeting to address these allegations.

I would also like to see a estimate of time the District personnel had to respond to these allegations as well.

Thank you,

Ed

Attachment #5, pgs is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White

pursuant to South Carolina Code  
Ann. Section 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.

## Ed White

**From:** Edward White <ewhite@lexrich5.org>  
**Sent:** Sunday, February 7, 2021 3:43 PM  
**To:** Ed White  
**Subject:** Fwd: Visit PWES

Attachment #5, pg. 9 is included with the minutes of the 2-8-2021 meeting, at the request of Board member Ed White  
pursuant to South Carolina Code Ann. Section 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.

◀External Email▶ - From: ewhite@lexrich5.org

----- Forwarded message -----

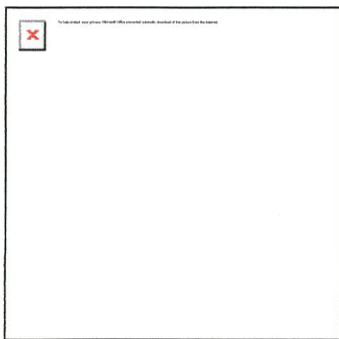
From: **Christina Melton** <csmelton@lexrich5.org>  
Date: Mon, Nov 23, 2020 at 8:39 PM  
Subject: Fwd: Visit PWES  
To: Erin Strange <estrangle@lexrich5.org>  
Cc: Clayton Cannon <cwcannon@lexrich5.org>, Len Richardson <lrichard@lexrich5.org>

### Board Members:

*In accordance with Board Policy BEDGA, "all board members will be appropriately advised of all requests (by board members) as well as the responses." Therefore, the email response below is being blind copied and shared with all members of the Board of Trustees.*

During my visit to Piney Woods Elementary last Friday, I spoke with Ryan and Mrs. Paschal about an upcoming site visit. Mrs. Strange has this item for me to discuss with Board Officers when we meet. We are coordinating the available personnel needed on site for this to be a successful visit while weighing other upcoming events for the Board.

Mr. Richardson and Mr. Cannon, this information is FYI since you were not in attendance for my last site visit.



### Christina S. Melton, Ed.D.

#### Superintendent

School District Five of Lexington & Richland Counties  
office: 803.476.8169 or 803.476-8116

[www.lexrich5.org](http://www.lexrich5.org)



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----- Forwarded message -----

From: **Clayton Cannon** <cwcannon@lexrich5.org>  
Date: Mon, Nov 23, 2020 at 1:05 PM  
Subject: Fwd: Visit PWES  
To: Christina Melton <csmelton@lexrich5.org>  
Cc: Len Richardson <lrichard@lexrich5.org>



----- Forwarded message -----

From: **Kenneth Loveless** <[kloveless@lexrich5.org](mailto:kloveless@lexrich5.org)>

Date: Mon, Nov 23, 2020 at 12:35 PM

Subject: Visit PWES

To: Clayton Cannon <[cwcannon@lexrich5.org](mailto:cwcannon@lexrich5.org)>, Nikki Gardner <[ngardner@lexrich5.org](mailto:ngardner@lexrich5.org)>

Clay, We would like to schedule a visit with you to the site.

Please give us a few dates when that might be arranged.

Thanks

Ken

--



## Clay Cannon, PE, LEED AP

### *Director of Facilities Operations*

School District Five of Lexington & Richland Counties

1020 Dutch Fork Road, Irmo, SC 29063

office: 803.476.8123

[www.lexrich5.org](http://www.lexrich5.org)



*Pursuing Excellence for Tomorrow's Challenges*

Attachment #5, pg. 10 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Ed White

pursuant to South Carolina Code  
Ann. Section 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.

**Michael Montgomery, Attorney**

On 06/17/2013 Board Member White voted to approve a no-bid vendor award for legal services to Michael Montgomery specifically (not the firm) as detailed on Exhibit 1.

From 2016 to 2018, Board member White received free legal services\* from attorney Montgomery for his personal lawsuit against a former school board member as detailed on Exhibit 2.

On 8/24/2020 Board member White voted to approve a no-bid vendor award for legal services to Montgomery Willard LLC over objections from fellow board member that he should recuse himself due to his personal relationship with Montgomery as detailed on Exhibit 3.

Per the district's published disbursement registers the district paid Attorney Montgomery \$484,618 up until he resigned in late 2020.

**Board Member White voted to 2 times to approve a no-bid contract for an attorney from whom he received a gift of free legal services no doubt worth thousands of dollars. Also SC Ethics filings for 2016, 2017 and 2018 do not include any gifts reported from Montgomery.**

\* During the 9/28/2020 board meeting ([https://www.youtube.com/watch?v=9jlq-lmaCsc&list=PLI9eR\\_8HyUjDcA-8QP92TUwEoj-eDUk\\_J&index=6](https://www.youtube.com/watch?v=9jlq-lmaCsc&list=PLI9eR_8HyUjDcA-8QP92TUwEoj-eDUk_J&index=6) - the 17:50 mark) Montgomery states that he personally represented two members of the school board pro bono (without charge) in their litigation with a former board member. He was referring to Board Member White and former Board Chair Gantt's personal lawsuit against former Board Member Kim Murphy (case 2016CP4005431 in the Richland County Court of Common Pleas).

Attachment #6, pg. 1 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Nikki Gardner  
pursuant to South Carolina Code  
Ann. Section 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.



Attachment #6, pg 2 is included with the minutes of the 2-8-2021 meeting, at the request of Board member Nikki Gardner

pursuant to South Carolina Code Ann. Section 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.

SCHOOL DISTRICT FIVE  
OF  
LEXINGTON AND RICHLAND COUNTIES

Meeting of June 17, 2013

Exhibit 1

	B A U M G A R D N E R	G A N T T	L O V E L E S S		T U R N E R	W A T S O N	W H I T E
new policy IKD "Honor Rolls"; replace current policies IHE "Promotion and Retention" and IDDB "Academic Assistance Programs" with new policy IKE "Promotion and Retention of Students"; replace current policy IKB "Contemporary Issues" with new policy IMB "Teaching About Controversial/Sensitive Issues"; add new policy IMDB "Flag Displays"; and add new policy IMDC "Religious Observances and Displays" (Exhibit F)							
7. M. Watson S. Loveless  Give second and final reading of the FY 2013-2014 general fund budget in the amount of \$158,457,021 and that the general fund operating millage be set at 229.27 mills for FY 2013-2014 (Exhibit G)  M. Turner S. Baumgardner  I move to amend the current motion to read as follows: that we approve the proposed budget that includes the addition of SROs, as well as an expanded 4K program, and that we exclude from the proposed budget any money that was included to increase board members' pay and that we pass this budget without a tax increase  M. White S. Watson  Amend that we set the annual board stipend at \$9,600 with an automatic CPI adjustment each year  Vote on original motion	X	No	No		X	No	No
	No	X	X		No	X	X
	X	X	X		No	X	X
8. M. Watson S. Loveless  <u>Approve adding attorneys to the approved attorney list (Exhibit H)</u>  M. Baumgardner S. Watson  Amend Exhibit H as follows: The Liberty Institute, Legal Counsel be added to the Board approved attorneys list	X	X	X		X	X	<u>X</u>

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

**SCHOOL DISTRICT FIVE OF LEXINGTON AND RICHLAND COUNTIES  
APPROVED ATTORNEYS' LIST**

**Approved August 17, 2006**

- Nicholson, Davis, Frawley, Anderson, Ayers, LLC
- Duff, White & Turner, LLC
- Richardson, Plowden, Carpenter, and Robinson
- Moore, Taylor & Thomas, P.A.
- Childs & Hallagan, P.A.
- Haynsworth, Sinkler, Boyd, P.A.
- McNair Law Firm, P.A.

**Proposed May 20, 2013**

- Michael H. Montgomery, Montgomery Willard, LLC
- Rosen, Rosen & Hagood, LLC
- Orr, Elmore & Ervin, LLC

Attachment #6, pg. 3 is included with  
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meeting, at the request of Board member  
Nikki Gardner  
pursuant to South Carolina Code  
Ann. Section 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.



**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

Robert Gantt and Edward K. White, Respondents,

v.

Samuel J. Selph as Director, and Marjorie Johnson, Adell  
Adams, E. Peter Kennedy, Sylvia Holley and Jane  
Emerson as the Members of the Board of Voter  
Registration and Elections of Richland County, The  
Board of Voter Registration and Elections of Richland  
County, and Kim Murphy, Defendants,

Of whom Kim Murphy is the Appellant.

Appellate Case No. 2016-002134

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Appeal from Richland County  
Jean Hoefer Toal, Circuit Court Judge

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Opinion No. 27807  
Submitted January 16, 2018 – Filed May 30, 2018

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**AFFIRMED**

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Brian C. Gambrell, of The Law Offices of Jason E.  
Taylor, P.C., of Columbia, for Appellant.

Michael H. Montgomery, of Montgomery Willard, LLC,  
of Columbia, for Respondents.

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Attachment #6, pg. 4 is included with  
the minutes of the 2-4-2021  
meeting, at the request of Board member  
Nikki Gardner  
pursuant to South Carolina Code  
Ann. Section 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 3

Mr. Len Richardson presented the list of attorneys (Exhibit D) who answered the Request for Qualifications (RFQ 2020-016) and met all qualifications.

Attachment #6 pg 5 is included with the minutes of the 2-8-2021 meeting, at the request of Board member Nikki Gardner

### DISCUSSION AGENDA

The meeting was adjourned at 9:25 p.m.

### INFORMATION AGENDA

The following were included in the board packet as "Information Only": Board Policy EF "Food Services"; Temporary Administrative Rule EB-R "Maintaining Healthy Environments"; and, Temporary Administrative Rule EEA-R "Student Transportation".

pursuant to South Carolina Code Ann. Section 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.

The next regular scheduled board meeting will be September 14, 2020. Location to be determined.

### Record of Voting



### School District Five of Lexington and Richland Counties

Meeting of August 24, 2020

	Cates	Gantt	Gardner	Hammond	Hutchison	Loveless	White
1. M. Hutchison S. Gardner Approve the agenda	X	X	X	X	X	X	X
2. M. Hutchison S. Hammond Enter Executive Session to consider selected employment items, Exhibit A, Action, and Exhibit B, Information	X	X	X	X	X	X	X
3. M. Hutchison S. Gardner Approval of the minutes from the August 10, 2020 board meeting	X	X	X	X	X	X	X
4. M. Hutchison S. Hammond Action as necessary on appropriate matters discussed in Executive Session to approve selected employment items as shown in Exhibit A	X	X	X	X	X	X	X
5. M. Loveless S. White Approve item number 12 the naming of Elementary School #13 as shown in Exhibit C	X	X	X	X	X	X	X

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



Attachment #6, pg. 6 is included with the minutes of the 2-8-2021 meeting, at the request of Board member Nikki Gardner pursuant to South Carolina Code Ann. Section 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 3 cont

	Cates	Gantt	Gardner	Hammond	Hutchison	Loveless	White
6. M. Hutchison S. Gardner Approve the administration's recommendation to approve the attorney firms listed in our packet shown on Exhibit D							
M. Loveless S. Hammond Copies of South Carolina Code of Laws 8-13-1342 (2018) as attached, is now being handed to fellow board members. SC Ethics Commission filings indicate that the board members have taken contributions from law firms on the district provided proposed list of attorneys prior to participation tonight. I therefore make the motion to table any action on this agenda item until the SC Ethics Commission and the state attorney general rule after submission by request of attorneys other than on list, upon the lawfulness of any proposed action.	N	N	X	X	N	X	N
M. Gardner S. Hammond Amend motion to strike Montgomery Willard, LLC from Property/Real Estate	-	-	-	-	-	-	-
M. Gardner S. Hammond Revise amended motion to strike Montgomery Willard, LLC from Business/Corporate instead of Property/Real Estate	N	N	X	X	N	X	N
Vote on original motion	X	X	N	N	X	N	X
7. M. Hutchison S. Gardner  Adjourn at 9:25 p.m.	X	X	X	X	X	X	X

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

### **Business/Corporate**

- Halligan, Mahoney, Williams, Smith, Fawley & Reagle, PA
- Haynesworth, Sinkler, Boyd
- Montgomery Willard, LLC
- Richardson Plowden, Attorneys at Law
- White & Story, LLC

### **Student Affairs**

- Duff, Freeman, Lyon Attorneys and Counselors at Law
- Halligan, Mahoney, Williams, Smith, Fawley & Reagle, PA
- White & Story, LLC

### **Personnel/Employment**

- Halligan, Mahoney, Williams, Smith, Fawley & Reagle, PA
- Haynesworth, Sinkler, Boyd
- Montgomery Willard, LLC
- Richardson Plowden, Attorneys at Law
- White & Story, LLC

### **Property/Real Estate**

- Haynesworth, Sinkler, Boyd
- Montgomery Willard, LLC
- Richardson Plowden, Attorneys at Law

### **Bond**

- Burr Forman McNair

Attachment #6, pg.7 is included with  
the minutes of the 2-8-2021  
meeting, at the request of Board member  
Nikki Gardner  
pursuant to South Carolina Code  
Ann. Section 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 C

### MEMORANDUM

To: Members of the Board of Trustees

Through: Christina S. Melton, Ed. D., Superintendent  
Todd Bedenbaugh, Executive Director of Operations

From: Clay Cannon, Director of Facilities Operations

Date: February 17, 2021

Re: Proposed FY2022 Five (5) Year Capital Budget Plan

A handwritten signature in dark ink, appearing to read 'Todd Bedenbaugh', is written over the 'Through' line of the memorandum.

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The Proposed Five (5) Year Capital Budget Plan will be presented.

**Administrative Consideration:** The five year proposal is based on the projected amount of funds available at the current millage rate. Although this is a five year plan, an updated proposal will be presented annually for Board approval. However, approval of the proposed Five (5) Year Capital Plan is requested, so staff can continue to allocate labor and effort towards the accomplishment of the overall plan.

**Recommendation:** The administration recommends the proposed Five (5) Year Capital Budget Plan proceed to first reading.

CC/tl