Minutes
Board Meeting – March 1, 2021

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

Mrs. Rebecca Blackburn Hines
Mrs. Nikki Gardner, Secretary
Mrs. Jan Hammond, Chair
Mr. Matt Hogan (*Absent)*
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 (*Absent*)
Mr. Michael Guliano, Chief Instructional Officer
Dr. Michael Harris, Chief Planning and Administrative Officer
Mrs. Marty Rawls, Chief Finance 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 7:15 p.m. and offered welcoming remarks. Board member, Mr. Ed White, gave the invocation and also led the Pledge of Allegiance.

During the Superintendent's Report, Dr. Melton presented the 2020-2021 School Reentry Overview, Part XII presentation, with no new recommendations. Dr. Harris provided Redistricting Exemptions for 2021-2022. A Flexible Innovative Virtual Education (FIVE) 2021-2022 Update was provided. Lastly, a Human Resources Report was provided which highlighted teacher recruitment efforts.

During public participation, the following students spoke: Savannah Stephens and Laken Robinson. Kim Murphy spoke regarding FOIA violations. Stephanie Lipford spoke regarding reentry and teacher breaks. Debbie Goodman read a teacher's statement. Heather Tucker, Beth Hutchison and Leslie Stiles spoke regarding board decisions and board focus.

<u>Action Agenda</u>
Action as necessary or appropriate on matters discussed in Executive Session.

<u>Discussion Agenda</u>
Proposed FY 2021-2022 Capital Budget.
Discussion and Possible Action regarding the actions of a Trustee in relation to his/her relationships with current and potential District vendors.

The following board members submitted items for the record (attached): Ken Loveless, Ed White, Rebecca Blackburn Hines and Cathy Huddle.

The meeting adjourned at 10:30 p.m.

Record of Voting

School District Five of Lexington and Richland Counties Meeting of March 1, 2021	Blackburn Hines	Gardner	Hammond	Hogan	Huddle	Loveless	White
1. M. Blackburn Hines S. Huddle Approve the agenda							
M. Gardner S. Loveless I move to amend the motion to suspend the rules as stated to allow each board member one (1) minute to speak/comment on board agenda item #13.	N	X	N	A	X	X	N
Vote on original motion	X	X	X	A	X	X	X
2. M. Blackburn Hines S. Huddle Enter Executive Session to discuss: a. Selected employment items (Exhibit A) (Action) b. Selected employment items (Exhibit B) (Information Only) c. Receipt of Legal advice re: Contract for Substitutes	X	X	X	A	X	X	X
3. M. Huddle S. Blackburn Hines I move that we approve making Piney Woods Elementary School a School of Choice for the 2021-2022 school year and that we put on the agenda in the next two meetings a full review of the School of Choice program.	X	X	X	A	X	X	X
4. M. Gardner S. Blackburn Hines I move that we approve the Tier I recommendation: First grade through 12th grade with high school (9-12) having a modified model of instruction for the Flexible Innovative Virtual Education program (FIVE) for 2021-2022.	X	X	X	A	X	X	X

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

	Blackburn Hines	Gardner	Hammond	Hogan	Huddle	Loveless	White
5. M. Gardner S. Blackburn Hines Approve the minutes of the February 8, 2021 board meeting.							
M. Huddle S. Loveless I move to amend the minutes of the February 8, 2021 Board Meeting and exclude the first attachment submitted by Mr. White because the attachment exceeds the ten (10) page limit rule by seven (7) pages.	N	X	X	A	X	X	N
Vote on original motion	X	X	X	A	X	X	X
6. M. Loveless S. Gardner I move that we approve the selected employment items as discussed in Executive Session under Exhibit A.	X	X	X	A	X	X	X
7. M. Huddle S. Gardner I move that due to the issues with the daily rates of pay for some substitute teachers, payments exceeding the contract rates per Exhibit A of the contract, that we ratify the contract through June 30, 2021 per Procurement Code section 1240.1 and that furthermore since the ratification is needed we direct the superintendent to follow Procurement Code section 1240.2 "Corrective Action" and present the required information to the board at our next meeting. *(No vote taken)*	-	-	-	A	-	-	-
M. Huddle S. Gardner *(Modified Motion)* I move that we continue our existing processes as it relates to contracting for substitute teachers pending more information on that process from the superintendent or her staff at the first board meeting of April.	X	X	X	A	X	X	X
8. M. Huddle S. Gardner Adjourn at 10:30 p.m.	X	X	X	A	X	X	X

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

State of South Carolina
State Ethics Commission

CHILDS C. THRASHER, CHAIR
DONALD GIST, VICE CHAIR
BRIAN M. BARNWELL

AJ HOLLOWAY
DON JACKSON
BRANDOLYN THOMAS PINKSTON

201 EXECUTIVE CENTER DRIVE, SUITE 150
COLUMBIA, S.C. 29210

MEGHAN L. WALKER
EXECUTIVE DIRECTOR

February 22, 2021

Attachment #1, pg 1 is included with the minutes of the 3-1-2021 meeting, at the request of Board member Ken Loveless pursuant to South Carolina Code Ann. Section 30-4-90(a)(4) and Board Policy BEDG. The Board majority did not approve, disapprove, or otherwise act upon the contents of this attachment.

VIA ELECTRONIC MAIL ONLY
Kenneth B. Loveless
228 Lookout Pointes Drive
Chapin, SC 29036
ken@lovelesscontracting.com

Re: Informal Opinion Request

Dear Mr. Loveless:

Thank you for your request for an informal opinion from the State Ethics Commission (Commission). An informal opinion is the opinion of Commission staff, taking into consideration any applicable formal opinions, law, and/or judicial decisions. Please be advised that an informal opinion is not binding on the Commission. Additionally, the Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act). This opinion is based solely on the facts relayed by you and does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. A failure to disclose relevant information may void the opinion.

ISSUE

On February 18, 2021, you presented the following:

> As you know, I serve on the board of trustees for the School District 5 of Lexington-Richland Counties and had previously requested that the SC Ethics Commission issue guidance on recusal from certain matters. I sought guidance after other board members accused me during open session September 14, 2020.
>
> Some members took issue with me not recusing myself from discussions pertaining to the Piney Woods Elementary School Construction Project. However, the agenda for the September 14, 2020 meeting was set by others. The presenter was a vendor, the construction manager at risk, Contract Construction, Inc. (general contractor).

The presentation went without much discussion. I asked one question about the number of change orders received as of that date.

Next under the Discussion Agenda was an item entitled "District Construction." It was there that I was basically subjected to public trial for not having recused myself from the previous Discussion Agenda item, Piney Woods. I was dismayed at the accusations and decided to ask guidance of the Commission.

The guidance I received was provided by you as General Counsel in a letter dated September 25, 2020. Your letter provided guidance requested in response to my letter dated September 21, 2020. The letter was couched in terms of possible future events as might occur in the normal course of business for my occupation: employee and stockholder of a general contracting corporation.

No other updates or discussions of the Piney Woods school project have occurred since the September 14, 2020 meeting. I did attend a walk-through for all board members hosted by the school superintendent last month. It was and is my intention to recuse myself when any contract discussion of Contract Construction, Inc. is on the agenda. No discussion of Contract Construction, Inc. or its contract with the District has been on the agenda since December 8, 2019.

At the last school board meeting February 8, 202[1], I decided to formally recuse myself via a letter to the Board Chair Janis Hammond as follows:

> 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 with which I am employed and a stockholder, Loveless Commercial Contracting, Inc. operates as a contractor 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 related 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.

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

Yours Truly,

Kenneth B. Loveless
Vice Chairman of the Board of Trustees

In light of the above and the information provided, I ask you to formally provide rulings upon:

(1) I believe recusal is a matter of personal perspective. It is not for other members of the board to question or have a right to demand recusal. Am I correct in that statement?

(2) Provided that there are no additional projects or business ties, I believe that I have a right to end recusal when the contract relationship at the SC Law Enforcement Division Forensic Lab Project between Contract Construction, Inc. and Loveless Commercial Contracting Inc. has been completed. Am I correct in that belief?

(3) I believe that I should be allowed in the normal course of duties and responsibilities of a school board trustee to visit Piney Woods Elementary School or any other district construction site and to receive and review those projects and corresponding records as they pertain to the nature of the physical construction product which the district has or is to receive. In reference to ethics under SC Code 8-13-700. Am I correct in that belief?

LAW

Section 8-13-700 states, in part:

(A) No [public official] may knowingly use his official [office] to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated . . .

(B) No [public official] may make, participate in making, or in any way attempt to use his [office] to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A [public official] who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

Attachment #1, pg 3 is included with the minutes of the 3-1-2021 meeting, at the request of Board member Ken Loveless pursuant to South Carolina Code Ann. Section 30-4-90(a)(4) and Board Policy BEDG. The Board majority did not approve, disapprove, or otherwise act upon the contents of this attachment.

> (4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, - municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes.

Section 8-13-100(4) defines "business with which he is associated" as:

> [a] business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth more than one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

DISCUSSION

Based on the facts presented in your September 2020 request for an informal opinion, Contract Construction is a "business with which [you are] associated" for purposes of the Ethics Act. As I stated in my September 25, 2020 response, this means that whenever you are faced with a scenario in which Contract Construction has an economic interest, you must recuse yourself following the instructions in Section 8-13-700(B). Keeping that in mind, I have answered your questions below in turn:

1. I believe recusal is a matter of personal perspective. It is not for other members of the board to question or have a right to demand recusal. Am I correct in that statement?

   Recusal is mandated by law in certain circumstances, such as when you, your family members, or any individuals or businesses with which you are associated have an economic interest. It is outside the scope of the Ethics Act as to what public officials have a right to question, but you are correct that the ultimate decision to recuse belongs to the public official. If a public servant fails to properly recuse himself from circumstances that require recusal, that public servant subjects himself to a possible enforcement action by the Commission.

2. Provided that there are no additional projects or business ties, I believe that I have a right to end recusal when the contract relationship at the SC Law Enforcement Division Forensic Lab Project between Contract Construction, Inc. and Loveless Commercial Contracting Inc. has been completed. Am I correct in that belief?

   Correct. Once the conflict no longer exists, recusal is no longer required.

3. I believe that I should be allowed in the normal course of duties and responsibilities of a school board trustee to visit Piney Woods Elementary School or any other district

Attachment #1, pg.4 is included with the minutes of the 3-1-2021 meeting, at the request of Board member Ken Loveless pursuant to South Carolina Code Ann. Section 30-4-90(a)(4) and Board Policy BEDG. The Board majority did not approve, disapprove, or otherwise act upon the contents of this attachment.

construction site and to receive and review those projects and corresponding records as they pertain to the nature of the physical construction product -which the district has or is to receive. In reference to ethics under SC Code 8-13-700. Am I correct in that belief?

When disqualification is required, you should not discuss the matter or take any action on it that could be perceived as an attempt to influence the governmental decision. Section 8-13-700 does not simply prohibit voting or taking other official action, but prohibits the public official from making, participating in making, or in any way attempting to use his public office to influence the governmental decision. In fact, the Commission has held that a mere discussion in executive session by a public servant about a matter in which his wife had an economic interest violated Section 8-13-700. See Complaints 97-035 and 97-036. Therefore, you should not make site visits to the Piney Woods Elementary School construction site, nor should you review invoices or any other documents related to this project. Similar activities at other District construction sites are not prohibited as long as you are not recused from those projects.

I hope this is responsive to your request. Keep in mind that this opinion only relates to future conduct and is not intended to apply to events that may have already occurred. Thank you for contacting the Commission. If you have any questions or need anything further, please do not hesitate to contact me.

Sincerely,

Courtney M. Laster

Courtney M. Laster
General Counsel

Attachment #1, pg 5 is included with the minutes of the 3-1-2021 meeting, at the request of Board member Ken Loveless pursuant to South Carolina Code Ann. Section 30-4-90(a)(4) and Board Policy BEDG. The Board majority did not approve, disapprove, or otherwise act upon the contents of this attachment.

District Five OF LEXINGTON & RICHLAND COUNTIES

Edward White <ewhite@lexrich5.org>

Officer's Agenda Meeting Summary

1 message

Nikki Gardner <ngardner@lexrich5.org> Wed, Feb 17, 2021 at 7:30 PM
To: Janis Hammond <jhammond@lexrich5.org>
Cc: Christina Melton <csmelton@lexrich5.org>, Erin Strange <estrange@lexrich5.org>
Bcc: ewhite@lexrich5.org

This email been BLIND COPIED to all board members.

Hello board members,

At our Tuesday evening Officer's Agenda meeting we were able to take all of the submitted agenda items that we received beforehand and put them on our next few meetings. I thank each of you for agreeing to the new process and making it easier for us to prioritize concerns and also to keep track of them.

Feb 22 DRAFT of agenda will include the following along with our usual items:
1) Kelly Services contract
2) Human Resources report
3) Redistricting Exemptions
4) Capital Budget - questions from Cathy have been forwarded to Dr. Melton to address if possible before the meeting.
5) Re-entry & COVID relief funds discussion

Mar 8 DRAFT of agenda will include the following along with out usual items:
1) Legal advice regarding construction matter - requested by Ken
2) Legal advice about sewer taps - requested by Cathy
3) Possibly an emergency policy concerning leave - requested by Dr. Melton
4) Capital Budget First Reading - New CFO will be in place by this reading & this may be the time to discuss our expectations for monthly budget updates as requested by Cathy.
5) Discussion & First Reading of Sexual Harassment Policy updates - requested by Dr. Melton & administration
6) Board Meeting schedule - to be put together by Katrina Goggins for us to approve
7) Officer's Meetings & Agenda Procedure - as requested by Ed & Nikki

In order to accommodate the other agenda requests we will be holding a Board Training Workshop on Ethics facilitated by Megan Walker, Executive Director of SC State Ethics Commission. Jan will coordinate with Megan to secure a date. Agenda items will include 1) PWES & other schools inspection rights &/or violations, 2) Educating board on proper procedures and instructions in board meetings as pertaining to etiquette, 3) legal opinions on the legal liability of past actions of the board when there was possible personal benefit involved.

Items of importance still upcoming:
1) Committees to work on procurement, policies, and construction
2) Board Goals Workshop
3) Legislative Event - yearly event with our local public officials that has historically been poorly attended and was a breakfast held at the district office. Jan is hopeful we can still make this happen this year and will be coordinating a location in the evening. She will be asking for help:) Possibly the 15th or the 29th of March.

If there is anything missing on here that you have asked about please let me know. These are only draft agendas as of now and as always, I will remind everyone, the board chair has the final say on our agenda.

Thank you,
Nikki Garder

Attachment #2, pg1 is included with the minutes of the 3-1-2021 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 #3, Pg 1 is included with the minutes of the 3-1-2021 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.

Board Meeting Agenda ITEM REQUEST

Date of Submittal to Chair: 2/16/2021, 2/2/2021

Agenda Item Subject: Board Member's Demand to Supervise and Inspect PWES

Approval/Vote Requested? Y/N

Depends but probably So.

Purpose:
- Avoid liability to District.
- Avoid Compromising Contractual Rights of District.
- Ensure competent, quality assessment
- Avoid political bias.

Background:

Incidents with PWES during 2020.

Financial Impact (attach additional documents as needed):

Alternatives:

Hire 3rd Party that has credentials and free from political bias to inspect.

Recommendation:

Follow Policies for Review of Buildings as detailed by Board Chair in 2020 for the Board.

Attachment #4, pg 1 is included with the minutes of the 3-1-2021 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.

Board Meeting Agenda ITEM REQUEST

Date of Submittal to Chair: 2/16/2021, 2/2/2021

Agenda Item Subject: Requirement that Board Officers Meetings Be Open To the Public

Approval/Vote Requested? Y/N

Yes. Vote to Make Public and if that fails a vote to seek an attorney general's opinion

Purpose:

↳ Comply with current legal standards, Transparency.

Background:

Financial Impact (attach additional documents as needed):

Less than the cost of a lawsuit if the public sues to foquire compliance with open meeting laws

Alternatives:

Recommendation:

Open Board Officers Meetings Immediately to the Public.

Rebecca Blackburn Hines
Statement.

In a business environment, a professional workplace is necessary for long-term success. Interactions and relationships are of vital importance to ensure that goals and objectives are met. Leaders who behave professionally set an appropriate example by encouraging others to conduct themselves in a manner that supports the success for all. This is just as true for a school district and school board as it is for a business.

I have served on this board since November 16th, 2020. 106 days. In 106 days, this board – who has 3 brand new members, 2 members with 2 years of experience and 2 veteran members (both without much officer experience) has had 5 board meetings, 2 special called meetings, 2 board workshops, 1 conference, dealt with struggles of reentry during a pandemic, rezoned lines for an elementary school, and have fielded hundreds of emails and phone calls.

Specifically related to this discussion item on the agenda and professionalism, there have been several conversations about potential ethical concerns in regards to board members. Of note, one of the concerns that I have raised is the relationship of a board member and a vendor. I was unaware of this relationship until shortly prior to joining the board. Once on the board, I witnessed several emails requesting information which raised concerns for me. Policy changes have been made which could impact some of these ethical concerns. My concerns have been based upon fact. The fact is, we now have TWO advisory opinions that expressly state that a certain board member could not participate in conversations (or anything) relating to an ongoing project within our district. My actions have made in an earnest attempt to both inform fellow trustees of the obligation we have to maintain the public's trust, and to also protect all of my colleagues from potential infractions of this opinion that may lead to violations of ethics law.

I have made no statements outside of official meetings, and do not choose to engage on social media. This is done in attempt to meet the expectations that we are held to by board policy and out of respect for the integrity of my fellow board members.

Unfortunately, by seeking to protect our district and by doing the right thing, (which has been validated by the Ethics Commission) I am be attacked by members of this board.

Last week, my actions during recent meetings were made reference to on social media in a thinly veiled inference by a fellow board member, and my character and

Attachment #5, pg 1 is included with the minutes of the 3-1-2021 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.

integrity were called into question. I cannot, and will not stand for this; both for myself and any of my colleagues.

I have been told by a board member that I am "choosing the wrong side" by seconding motions. I have been cursed out by a board member's spouse. Instead of having reasonable conversations, a board member has taken to sending me screen shots of social media posts via text. By insinuating conversations that have not occurred. By maligning my integrity and character on social media with untrue statements. Flat out lies.

Let me be clear. I am no one's enabler. And my thoughts and opinions are not for sale. I would hope the case is the same for every other member on this board.

This public display of divisiveness does little to benefit our mission and objectives as a school board, and in fact has only led to increased hostility among our constituency. As I reflected about these events, I found myself looking to other public bodies who serve localities such as ours. Very rarely do you see representatives from our respective county and town councils engage in such behaviors publicly, with such frequency. I wish to continue encouraging all of our trustees to work together to advance the causes of our district and represent all of our constituents. We are and should be held to a higher standard because of the office we occupy, myself included.

What we cannot continue to do is engage in a petty display of divisiveness where baseless claims against one or more trustees are perpetuated by others. The public we represent deserves transparency and accountability, and the best way we can address these needs is through cooperation and an open display of trust within our own system of governance through our established board policies.

We function as a board and we all need to be better.

Attachment #5, pg 2 is included with the minutes of the 3-1-2021 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.

3/1/2021

I believe that our board and our entire community are tired of ethics concerns among board members detracting from our duty to focus on the business of our district.

Personally, in addition to obtaining an ethics opinion when asked, I think all board members with current or past relationships with district vendors whether personal, familial or through a business they are an equity. owner, should issue a written statement disclosing any such relationships.

I would also like to see all board members go on the record as to whether he or any member of their family or person or business with whom they are associated or aware of, participated in the incorporation, funding or activities of the organization Positive Voices for District 5 Success. Attached is the Articles of Incorporation for this organization filed by Erik Norton. Positive Voices for District 5 Success is the organization that sent mailers during the last election in support of two candidates for school board, including a newspaper title The Education Reporter which included an article criticizing two sitting board members. Despite clearly funding election activities, Positive Voices for District 5 Success has not filed a statement of Organization or any other reports with the SC Ethics Commission.

I believe that any board member that truly has the interests of our school district at heart, will clear up, once and for all, in writing, any past or present relationships with District Five vendors and any knowledge of or participation in the campaign mailer criticizing fellow board members.

Attachment #6, pg 1 is included with the minutes of the 3-1-2021 meeting, at the request of Board member Catherine Huddle 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.