



Mark Bounds &lt;mbounds@lexrich5.org&gt;

**FW: Requests for Information Under the Freedom of Information Act**

1 message

**Ken Loveless** <ken@lovelesscontracting.com>  
To: "mbounds@lexrich5.org" <mbounds@lexrich5.org>

Tue, May 17, 2016 at 11:25 AM

completed  
6/20

Mr. Bounds,

I would like to make one additional request for information under the Freedom of Information Act as follows:

Please provide the name and any information in your possession for or pertaining to the grading/sitework/civil contractor or subcontractor who did the original construction work for the Oak Point Elementary School.

Please let me know that you received this request.

Thanks

Kenneth B. Loveless

**From:** Ken Loveless  
**Sent:** Friday, May 13, 2016 4:45 PM  
**To:** Mark Bounds <mbounds@lexrich5.org>  
**Subject:** RE: Requests for Information Under the Freedom of Information Act

Thanks. Please get them to me when you can. Ken

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Mark Bounds <mbounds@lexrich5.org>  
**Date:** 5/13/16 10:03 AM (GMT-05:00)  
**To:** Ken Loveless <ken@lovelesscontracting.com>  
**Subject:** Re: Requests for Information Under the Freedom of Information Act

Ken,



Mark Bounds &lt;mbounds@lexrich5.org&gt;

**RE: FW: Requests for Information Under the Freedom of Information Act**

1 message

**Ken Loveless** <ken@lovelesscontracting.com>  
To: Mark Bounds <mbounds@lexrich5.org>

Wed, May 25, 2016 at 2:44 PM

A handwritten blue circle containing the number 4.

Mr. Bounds:

Please consider these as a further requests under the Freedom of Information Act: "Please describe the role(s) that Mr. Michael Montgomery is allowed to act with respect to the board. Was he approved by the board as general counsel in all respects? Or was he approved by the board as counsel related only to construction projects under the bond referendum and litigation related to those construction projects? Or was he approved for some other set or sets of tasks not mentioned above? Please list the limiting factors to which he must adhere in his role(s) as counsel in these regards. Also, under whose authority may he act? In other words, who can compel Mr. Montgomery to act when there are questions among the board members as to propriety of the administration's prior actions? Is it only by vote of the full board that Mr. Montgomery may act? Is it by action of the board chair alone that he is compelled to act?"

Thanks

Kenneth B. Loveless

Handwritten blue text that says "completed 6/20".

**From:** Mark Bounds [mailto:mbounds@lexrich5.org]  
**Sent:** Wednesday, May 25, 2016 11:31 AM  
**To:** Ken Loveless <ken@lovelesscontracting.com>  
**Subject:** Re: FW: Requests for Information Under the Freedom of Information Act

Ken,

Below is the link to our School Board Policy on **School Attorney/Legal Services**. It states "the board, by majority vote, may designate attorneys to counsel the board and administration on legal matters involving the district's welfare." Michael Montgomery is on the list of attorneys which was approved by the Board. The list of approved attorneys is attached.

[http://policy.microscribepub.com/cgi-bin/om\\_isapi.dll?clientID=1860917286&depth=2&infobase=lex5.nfo&softpage=PL\\_frame](http://policy.microscribepub.com/cgi-bin/om_isapi.dll?clientID=1860917286&depth=2&infobase=lex5.nfo&softpage=PL_frame)

Best,

Mark

On Mon, May 23, 2016 at 4:28 PM, Ken Loveless <ken@lovelesscontracting.com> wrote:

May 31, 2016

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

Mr. Loveless,

This is our initial response to your Freedom of Information (FOI) request dated May 9, 2016.

For the last several weeks, we have been reviewing our records and files to determine all the documents or records which match your request. Your request is extensive and covers an extended period of time. As of the date of this letter, we have not completed our review. We have found numerous documents and records concerning your requested topics and we are continuing to review our files, so that we can provide all appropriate documents to you.

We anticipate completing our search in the next two to three weeks and will provide a full response to you at that time. I apologize for the delay. Please feel free to contact me at (803) 476-8118 or [mbounds@lexrich5.org](mailto:mbounds@lexrich5.org) should you have any questions.

Sincerely,

Mark A. Bounds  
Chief Information Officer

FOI Response

--- DRAFT ---

June 20, 2016

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

Looks good  
to me  
~~SAH~~  
6-20-16

Mr. Loveless,

The following information is provided in response to your Freedom of Information (FOI) request dated May 9, 2016 and the additional FOI requests you made via email on May 13, 2016 and May 25, 2016.

Request 1. – Official approved duties, responsibilities and allowed courses of action of the Board Chair of the Board of Trustees.

The specific duties and responsibilities of the Board Chair are found in Board Policy BD (Organization of the School Board) and the corresponding Board Rule AR BD-R (Organization of the School Board). These documents are attached at TAB 1. Additional policies on School Board operations can be found on the District Five website under “Board of Trustees” – “Board Policies” – “Board Policy Manual” – “School Board Governance and Operations.”

Request 2. – The official list of qualifications and persons allowed to make purchases or to otherwise financially bind for the District and the types of purchases and limitations of purchases to cause the District to be bound by purchases which those persons are empowered to make.

The School District Five of Lexington and Richland Counties, *Procurement Code* provides guidance and instructions concerning all purchasing actions within the District. The District also maintains a list of procurement code exemptions. The Procurement Code and exemption list are attached at TAB 2.

Request 3. Occurrences and actions at the time of and following the time of discovery of latent construction defects at Oak Pointe Elementary School.

A complete review was conducted to locate any documents referencing constructional defects at Oak Pointe Elementary School. The following documents are provided at

TAB 3:

- A – Floor plan and pictures of the Oak Pointe Elementary foundation repairs
- B – Various documents including the Purchase Order and Purchase Order revision for “repair interior/exterior due to foundation settling”
- C – Email exchanges concerning this topic

Request 4. Occurrences and actions at the time of and following the time of discovery of the requirements to replace the metal siding at Chapin High School.

A complete review was conducted to locate any documents referencing replacement of metal siding at Chapin High School. The following documents are provided at TAB 4:

- A – Various documents including M.A.R. Construction Request for Qualification, schematics and drawings and the Request for Proposal
- B – Email exchanges concerning this topic
- C – The contract between District Five and M.A.R. Construction to “Replace Metal Siding at Chapin High School”
- D – The Media Release issued by District Five on this topic

Request 5. Financial compilations, reviews or audits prepared by and signed by independent certified professionals completed for the sole purpose of accounting for the 2008 Bond Referendum.

The District’s Comprehensive Annual Financial Report (CAFR) is the official document which provides financial compilations, reviews and audits conducted by independent and certified accounting professional. This includes all financial actions related to the 2008 Bond Referendum. There was not a separate audit for the “sole purpose” of accounting for the 2008 Bond Referendum. The link to the CAFR is below:

<http://www.lexrich5.org/departments.cfm?subpage=21171>

Request 6. Please provide the name and any information in your possession for or pertaining to the grading/sitework/civil contractor or subcontractor who did the original construction work for the Oak Pointe Elementary School.

A complete review was conducted to locate any document referencing grading and sitework for Oak Pointe Elementary School. The documents are organized chronologically where practical. Documents are attached at TAB 6.

- A – 2004-2005 documents
- B – 2006 documents
- C – 2007 documents
- D – Construction reports from 2005 through 2007
- E – Miscellaneous, undated pictures and drawings

Request 7. Please describe the role(s) that Mr. Michael Montgomery is allowed to act with respect to the board. Was he approved by the board as general counsel in all respects? Or was he approved by the board as counsel related only to construction projects under the bond referendum and litigation related to those construction projects? Or was he approved for some other set or sets of tasks not mentioned above? Please list the limiting factors to which he must adhere in his role(s) as counsel in these regards. Also, under whose authority may he act? In other words, who can compel Mr. Montgomery to act when there are questions among the board members as to propriety of the administration's prior actions? Is it only by vote of the full board that Mr. Montgomery may act? Is it by action of the board chair alone that he is compelled to act?

Board Policy BDG (School Attorney/Legal Services) provides that once an attorney is appointed to advise the Board, "A decision to seek legal advice or assistance on behalf of the school system may be made by the superintendent or the board." The corresponding rule AR BDG-R (School Attorney/Legal Services) further states, "A decision to seek legal advice and assistance on behalf of the district may be made by the board or the superintendent." This policy and rule are attached at TAB 7.

While we determined that we would not charge a fee for fulfilling this FOI request, collecting and reviewing your requested documentation took more than twenty professional staff hours. More than 500 pages of documents were copied to complete this request. Please feel free to contact me at (803) 476-8118 or [mbounds@lexrich5.org](mailto:mbounds@lexrich5.org) should you have any questions.

Sincerely,

Mark A. Bounds  
Chief Information Officer

June 20, 2016

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

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Mark A. Bounds  
Chief Information Officer