

LEXINGTON COUNTY SCHOOL DISTRICT ONE
Board Meeting Minutes
January 18, 2022

The Lexington County School District One Board of Trustees held a meeting on Tuesday, January 18, 2022, in the Lexington County School District One's Central Services Building One located at 100 Tarrar Springs Road in Lexington, South Carolina. The meeting was livestreamed on the Lexington One YouTube channel and a video of the meeting has been uploaded to the YouTube channel and LexOne video website. It is also on the Board Meeting Agendas and Minutes webpage.

Board Members: Chair Anne Marie Green, Jada Garris, Dr. Kyle Guyton (acting secretary), Kathy Henson, Tim Oswald, and Vice Chair Dr. Brent Powers. Mike Anderson was not present.

1.0 Call to Order 6:30 p.m. Executive Session

Chair Green called the meeting to order.

2.0 Executive Session

Chair Green called for a motion to enter into executive session to discuss employment recommendations, and to receive legal advice concerning a potential claim, including as it may relate to legal confidentiality requirements, and other matters covered by and/or concerning the attorney-client privilege and relationship. The motion was made, seconded and approved.

Motion	Second	Action
Powers	Oswald	Approved Unanimously

The Board of Trustees adjourned to the boardroom for executive session.

3.0 Adjourn Executive Session

Chair Green called for a motion to adjourn executive session and return to general session of the January 18, 2022, board meeting. A motion was made, seconded and approved.

Motion	Second	Action
Powers	Oswald	Approved Unanimously

4.0 Call to Order General Session of the January 18, 2022 Board of Trustees Meeting

4.1 Notification of Compliance with S.C. Freedom of Information Act

Chair Green called to order the general session of the January 18, 2022, board meeting at 7:00 p.m. The district is in compliance with S.C. Freedom of Information Act by notifying the media of the date, time and place of the meeting. The district tapes the meeting for accuracy in preparing the minutes. Ms. Kathy Henson led the Pledge of Allegiance.

5.0 Approval of Agenda

Chair Green called for a motion to approve the agenda as presented. A motion was made, seconded and was approved.

Motion	Second	Action
Powers	Oswald	Approved Unanimously

6.0 Approval of Board Meeting Minutes

6.1 Minutes of the December 14, 2021 Board Meeting

Minutes of the December 14, 2021 board meeting were included for approval. Chair Green asked for any additions or corrections to the minutes, other than those that had already been received. Hearing none, the minutes were accepted as presented.

6.2 Discussion by Legal Counsel of the Attorney General Opinion regarding Addition to Minutes

Mr. Dave Duff, of Duff, Freeman and Lyon, L.L.C, General Counsel for Lexington One, addressed the board on the South Carolina Attorney General's opinion issued on January 4, 2022 regarding the addition of documents to the minutes of the meeting under the South Carolina Freedom of Information Act. Mr. Duff reported that it is the AG Office's opinion that FOIA Section 30-4-90(a)(4) does not permit a public body to preempt a member of the public body from including information in the written minutes of the meeting by a majority vote or adoption of policy. Minutes are public records and so is information included in the minutes at a member's request. However, the AG Opinion also states that under FOIA exemptions certain information can be redacted or excluded from what is added to the minutes. Mr. Duff's opinion also is that attachments should relate to something that was discussed or included in the agenda of the meeting. Furthermore, the redacted document in question is properly and lawfully redacted under the personal privacy exemption. Mr. Duff counseled that the information redacted is related to the performance of an employee and should be redacted from the document. Ms. Garris believed that the email should not be redacted as it had been released previously to a citizen under the Freedom of Information Act with no redactions and parts of that email are already attached to the July 20, 2021 minutes.

6.3 Amendment to Minutes of the July 20, 2021 Board Meeting

During the October 19, 2021 board meeting the board tabled the motion to amend the minutes of the July 20, 2021 board meeting. Chair Green called for a motion to take from the table the motion to amend the minutes of the July 20, 2021 board meeting.

Secondary Motion	Second	Action
Guyton	Garris	Approved Unanimously

Ms. Garris read the original motion. Per policy BCBH, the minutes will include supporting materials where such information serves to clarify matters on which action is considered or taken, and because the approved minutes of the July 2021 board meeting reflect that Jada Garris' email to the board was included; she made a motion to amend the minutes of the July 20, 2021 board meeting to include one of her emails to the board as requested during the July 20th board meeting. The motion was approved. (*Document is included in the January 18 minutes.*)

Main Motion	Second	Action
Garris	Guyton	3 in favor; 2 opposed (Oswald, Powers)

Discussion: Ms. Garris' motion was to include the unredacted email. A motion would need to be made to amend Ms. Garris motion to include the redacted email. There was discussion about including an email with employee information and if the board had an obligation to protect employees from public scrutiny and that it sets precedent for the future. No motion to amend Ms. Garris's motion was made.

7.0 Reports and Action Items, if Needed, from Executive Session

Employment Recommendations for the 2021-2022 Academic Year

Chair Green called for a motion to approve two certified recommendations for the 2021-2022 academic year. A motion was made to approve the two recommendations as presented. The motion was seconded and approved.

Motion	Second	Action
Oswald	Henson	Approved Unanimously

Discussion: Ms. Devona Price, Chief Human Resources Officer, reported that the virtual Teacher Recruitment Fair was scheduled for January 22, 2022 and recruiting is actively underway for the 2022-2023 school year.

There were no administrative recommendations.

Chair Green called for a motion to accept the newly hired support staff report as presented by administration. A motion was made, seconded and approved.

Motion	Second	Action
Oswald	Powers	Approved Unanimously

There were no employment recommendations presented for the 2022-2023 academic year.

Receipt of Legal Advice Concerning a Potential Claim, Including as It May Relate to Legal Confidentiality Requirements, and Other Matters Covered by and/or Concerning the Attorney-Client Privilege and Relationship

No information was discussed.

8.0 Honors and Achievements

Chair Green, Superintendent Gregory Little, and school board members recognized honorees present to receive state and national awards. Lake Murray Elementary School was recognized as a 2021-2022 Special Olympics National Banner Unified Champion School. Chair Green indicated that January was school board recognition month. Prior to the meeting all school board members signed a School Board Ethical Principles statement.

9.0 Citizens’ Participation

Chair Green read the guidelines for Citizens Participation.

Debbie Myers, resident of Lexington, SC, addressed the board on citizens’ rights and responsibilities and handling COVID over the last two years.

Michelle Feagin, resident of Lexington, SC, addressed the board on handling COVID over the last two years.

Danielle Bowers, Lexington, SC, parent of high school, middle and elementary school students, addressed the board on quarantine protocol.

Lorene Robbins, Lexington, SC, grandparent of an elementary student, addressed the board about a quarantine situation for her granddaughter and building cleaning protocols.

Katherine Reynolds, Lexington, SC, homeschool parent, addressed the board on school bus cameras and safety.

Stephanie Berquist, Lexington, SC, virtual school parents, addressed the board about school board seats.

Sarah Mayle, Lexington, SC, parent of elementary and middle school parents, addressed the board on rezoning and supports the move of French immersion to Lakeside Middle School including the current 6th grade class currently at Meadow Glen Middle School.

Kimberly Reen, Lexington, SC, parent of a middle school student, addressed the board on rezoning and supports the move of the French immersion to Lakeside Middle School.

Nieman Reen, Lexington, SC, middle school student, addressed the board on rezoning and wants to go to Lakeside Middle School and is waiting for a decision so he can try out for the correct football team.

Murry Kinard, resident of Lexington, SC, addressed the board about Lexington One being the finest district and the growth in Lexington is due to the school district; and, he thanked the board, superintendent and staff.

Holly Waldrip, Lexington, SC, parent of elementary and middle school students, addressed the board on rezoning and supports the move of the French immersion program to Lakeside Middle School including the current 6th grade class currently at Meadow Glen Middle School.

Katie McCown, Lexington, SC, high school, middle and elementary school parent, addressed the board on vaccinations, quarantine protocols and wants ESSER funds returned to the government.

Summer Adams, Lexington, SC, parent of middle and high school students, addressed the board on separating from DHEC quarantine policy and wants ESSER funds returned to the government.

Rebekah Godfrey, Lexington, SC, parent of elementary and high school students, addressed the board on all the district's COVID protocols since the beginning of the pandemic and separating from DHEC.

Leesue Kim, Lexington, SC, parent of high school student, addressed the board on quarantine policy and virtual instruction.

Debbie Heim, Lexington, SC parent of high school students, addressed the board on the procurement audit procedures.

10.0 Action Items

10.1 Student Travel Request(s) — Mary Gaskins, Chief Academic Officer

Chair Green called for a motion to approve three student travel requests. The motion was made, seconded and approved.

Motion	Second	Action
Henson	Oswald	3 in favor; 2 recusals

Discussion: Ms. Gaskins reviewed the student travel requests. They have been reviewed and are in compliance with board policy. Ms. Garris and Dr. Guyton recused themselves from the Gilbert High School HOSA trip because of a family member participating. Approval for all three trips was presented in one motion. Those two members recused themselves from voting on the motion as a whole.

10.2 Policy JJIE, JJIE-R — Student Drug Testing Program — Jeff Caldwell, Chief Student Services Officer

Chair Green called for a motion to suspend Policy JJIE and JJIE-R Drug Testing Program. Ms. Henson said that under the guidance of Policy BDH which gives the Board the right to temporarily suspend Board policies due to extreme emergencies, she moved that the Board approve the administration's request to temporarily suspend Policy JJIE - Student Drug Testing Program and JJIE-R Administrative Rule, due to COVID-19. This suspension will be in effect until the Lexington County COVID spread rate returns to Moderate Spread.

Motion	Second	Action
Henson	Powers	Approved Unanimously

Discussion: Mr. Caldwell reminded the board they had suspended this policy for first semester and he is requesting continuation of the suspension for second semester until the community spread goes back down to moderate level. This request is due to the significant rise in community spread, the inherent nature of how the drug tests are conducted (via mouth swab) and the burden on school nurses while they are dealing with such a high volume of COVID cases.

10.3 Board Meeting Date Changes for June 2022 — Kathryn McPhail, Chief Communications Officer

Chair Green called for a motion to change the June board meetings. Mr. Oswald moved that the board replace the June 7 and June 21, 2022 board meetings with a single meeting on June 14, 2022. The motion was seconded and approved.

Motion	Second	Action
Oswald	Henson	Approved Unanimously

Discussion: Ms. McPhail explained the rationale for making this change due to a conflict for senior administrators for the June 21 meeting. There is a South Carolina Association of School Administrators (SCASA) conference that several senior administrators would be attending for professional development. There is a

possibility that the administration would need to call for a special meeting for hiring considerations or budget considerations.

10.4 Letter of Request to the Department of Health and Environmental Control (DHEC) to Alter COVID Quarantine Policy— Dr. Kyle Guyton, Board Member

Chair Green called for a motion that the board approve the letter of request to DHEC to alter the COVID Quarantine Policy. The motion was made, seconded and approved.

Motion	Second	Action
Henson	Oswald	Approved Unanimously

Discussion: Ms. Henson read the letter that she and Dr. Guyton drafted and they gave rationale for asking DHEC to adapt close contact guidelines to reduce quarantine time for students. This is to alleviate the impact of learning loss that students have experienced. There was discussion about sending the letter to the governor, as well as the DHEC director and each member of the DHEC board of directors separately.

The board took a brief break (Motion: Guyton, Second: Henson).

11.0 Superintendent’s Report

11.1 Report — Superintendent’s Update — Superintendent Gregory D. Little, ED.D.

Superintendent Little gave a COVID impact update. With the high rate of community spread and current status of employees out for a COVID related absence he expected the next couple weeks of staff shortages. He discussed the change in DHEC guidance that allows asymptomatic staff members to return to work if they wear a mask. The district will continue to make school by school decisions. He thanked Human Resources for the extreme amount of work involved in employee contact tracing. Ms. Price addressed the support her team is providing to staff and updated the board on the Covid Related Absence (CRA) leave. Approximately 42% of staff has used some CRA leave and 2.4% have exhausted CRA leave. Natalie Osborne-Smith, Leadership Development and Continuous Improvement Director, gave an update on one change to the Safe Return to In-person and Continuity of Services Plan. Under the plan, the district is required to do periodic reviews. There has been one change based on the most recent review. During high spread, elementary schools will shift to small group pods within the classroom and use a typical instructional model for related arts and recess. Lunch and arrival/dismissal plans will be modified. Schools have some autonomy based on their size and building space to be able to implement. Advisory groups were surveyed for feedback. Dr. Little informed the board that Instruction Services has been revising the format for board visits and he will release this information to the board soon. It will be more flexible and informative for board members. His office continues to schedule other tours such as new facilities and special events.

11.2 Report — E-learning at a Glance — Thomas Rivers, ED.D, Chief Technology and Innovation Officer

Dr. Rivers gave an update on e-learning. He reviewed the reasons we use e-learning including the continuity of teaching and learning when the district or school needs to make a shift for such things as inclement weather or COVID or other. This allows the district the ability to preserve the weather make-up days. He shared the internet access dashboard which indicates level of connectivity at home and how it is utilized to determine hotspot needs. He reviewed the student and staff protocols used on an inclement weather day. All teachers are required to post a Week-at-a-Glance (WAG) to provide a plan to students. He reviewed suggestions for parents on preparing their students for e-learning. If there is a longer need to be virtual such as school shift due to COVID synchronous learning is provided as well as asynchronous. He took questions and comments from the board.

11.3 Report — Lexington One Online Learning Academy (LOOLA) — Chris Rabon, Director of Personalized Learning Pathways and Nicole Mitchell, Director of Elementary Schools

Mr. Rabon and Ms. Mitchum gave an update on LOOLA. They reviewed second semester enrollment and staffing. Special education self-contained and K-5th grade have 332 students and 17 teachers, middle school has 190 students and 10 full-time teachers and high school has 260 students, 15 adjunct high school teachers (teach LOOLA classes and separate in-person sections), 3 full-time teachers and 2 counselors who support Alternative Education Services and LOOLA. Mr. Rabon highlighted first semester accomplishments and he shared photos

and video of teachers' work space and a typical LOOLA learning day. Registration will open soon for next year. Current LOOLA students will declare first and then registration will open for all other students currently in grades 5 through 11.

11.4 Report — Operations Update — Matt Warren, Operations Director

Mr. Warren started by announcing that the district has partnered with Dominion Energy to participate in its EnergyWise program which provides initiatives in energy saving and the opportunity to reduce electric bills. To date, the district has been approved to receive \$138,402 in rebates. He gave an update on bond referendum projects. He reviewed projects at Gilbert Middle School, White Knoll High School Performing Arts Center, the new transportation facility site, Gilbert High School Performing Arts Center and athletic facility, Old Cherokee Road work near Lakeside Middle School and progress on the school. Building plan progress can be tracked on the Lexington One website.

11.4.1 Report — Lakeside Middle School Branding — Casey Calhoun, Principal

Mr. Justin Cegelis, Lexington Middle School Assistant Principal spoke on behalf of Principal Calhoun. He revealed the mascot developed and voted on for Lakeside Middle School. Proposals for the new mascot were generated through student Advocacy groups. Each Advocacy group used research applicable to the community to come up with suggestions. The new mascot will be the Lakeside Raiders. This was presented by a 6th grade Advocacy group and they connected it to the Doolittle Raiders who used Lake Murray for training exercises during World War 2. This received school-wide acceptance. The Lakeside Raiders logos are in a navy blue and bright green color palate. Mr. Cegelis also indicated the school would open as an Expeditionary Learning (EL) model school.

12.0 New Business

12.1 Second Reading — Lakeside Middle School Zoning Proposal — Jeff Salters

Mr. Salters presented the second reading of the Lakeside Middle zoning proposal. He reviewed the rationale used when drawing new attendance lines and the need to balance the enrollment size for Lakeside Middle and Meadow Glen Middle. Administration is presenting no changes in attendance lines from first to second reading. There have been 55 feedback responses generated from community meetings and the feedback request form. Recommendations are based on the majority of feedback. There is a grandfather option for any current 7th grade students to remain at MGMS if they are rezoned to LMS; however parents would need to provide transportation. Chinese immersion will remain at MGMS and French immersion will be relocated to LMS. There is a French immersion cohort of rising 8th grade students that were surveyed and 23 of the 25 students responded and want to stay at MGMS. Administration recommends letting this cohort remain at MGMS for their 8th grade year. The third and final reading of the proposal will be presented at the February 15, 2022 board meeting at which time the board will vote on the proposal.

12.2 First Reading — 2022–23 Board of Trustees Meetings Calendar — Kathryn McPhail

Ms. McPhail reviewed the proposed 2022-2023 board of trustees meeting calendar. She reviewed the proposed schedule. Regular board meetings are typically held on the third Tuesday of each month with four exceptions due to holidays or requests by administration. There are five special meetings or workshops proposed for agenda items such as the strategic plan workshop, superintendent's evaluation, human resources employment approvals and various other needs. The second and final reading of the proposal will be presented at the February 15, 2022 board meeting at which time the board will vote on the proposal. There was discussion about possibly changing meetings that are scheduled the day after a holiday.

12.3 Executive Session Placement — Jada Garris, Board Member

The board agreed to postpone this item to the February 15, 2022 board meeting.

13.0 Items for Board Information (for information only)

13.1 Monthly General Fund Financial Report — December 2021

13.2 Monthly General Fund Budget Transfers — December 2021

13.3 Monthly Capital Projects Report — December 2021

13.4 Monthly Unauthorized Procurements Report — December 2021

14.0 Adjourn

Chair Green called for a motion to adjourn. A motion was made, seconded and approved. The meeting was adjourned at 11:10 pm.

Motion	Second	Action
Henson	Garris	Approved unanimously

Respectfully submitted:

Prepared by:

R. Kyle Guyton/RKH
Acting Secretary

Tracy Halliday/TAH
Executive Administrative Assistant

Additional request by board member for inclusion with the July 20, 2021 board meeting minutes as referenced in Item 9.9.

PAGE 1 OF 2

From: Jada Garris <jadagarris@aol.com>
Date: Thu, Jun 24, 2021 at 12:03 AM
Subject: [External to LCSD1] Request for agenda item
To: Anne Marie Green <amgreen@lexington1.net>

Anne Marie,

Please add my request for information regarding the June 21, 2021 email to Mr. Salters to the July 20, 2021 agenda so that the board can discuss the information I have requested. Once Mr. Salters provides me with an estimate on the time to gather these materials, I will know at that time which items I wish to ask the board to consider. However, I wanted to give you plenty of notice so that my request would be put on the agenda. Of the items I requested, I asked Mr. Salters to let me know what items were unavailable electronically or do not currently exist. I was very intentional in choosing items to ask for and in doing so I tried to ensure that those were easily accessible and available in electronic format.

I'm not sure why Dr. Little thought it was a good idea to merge the roles of COO and CFO in the midst of \$365 worth of capital projects. And I'm not sure why the board "trusted" him to do that. But, here we are and the effects will be felt for years to come.

I appreciate that Mr. Salters has overseen or been a part of managing close to \$1 Billion dollars "with a B" worth of referendum work in this district. Along the way, he has had little to no oversight. With the roles of COO and CFO now being combined, there are zero checks and balances. He compiles the specs, puts the jobs out to bid, chairs the committees that select the firms, signs the contracts, and writes the check.

During the 2008 referendum:

- Meadow Glen schools were each built to hold 200 students less than voters were told. Those campuses now have portables.
- The bus office in Gilbert is too small, by Mr. Salters own admission.

Fast forward ten years. We are only halfway through this referendum that passed in 2018 and we have added portables to school sites, have projects running behind schedule, and are over budget on at least two projects with more to come.

Per Mr. Salters, "Our district has an outstanding reputation in the state with vendors, state agencies, and others we work with because of our reputation for following law, policy, process and procedures. The reason that exists is because we have always tried to do things the right way and had a supportive board that trusts the administration to do that."

Trying to do things the right way and doing them the right way are two very different things. This district may have had an outstanding reputation of following the law ten years ago, but anyone that thinks this still holds true is fooling themselves. In the recent past, can you remember a legislator coming to speak to the board on behalf of their constituents who feared reprisal?

Here's some additional background on why I'm asking for these documents:

Long before coming on the board, I emailed Mr. Salters with questions day after day about the projects in this referendum. I was told that they provided the public everything they had. I had concerns about allowing MB Kahn to assign a dollar amount to a project without any supporting documents. This \$6.5 million "scope

PAGE 2 OF 2

disconnect” proved what I knew all along - it is dangerous to trust a builder to give dollar figures without supporting documentation.

In reviewing some documents, I have discovered that the schedules and reports that are provided to Lexington One by contractors are identical to monthly reports provided to boards in other districts. Those “fancy” monthly reports, that I have requested, that we saved \$3 million by not hiring a construction manager to produce, according to Mr. Salters, are being provided to the district, but not the board. They aren’t provided in a pretty PowerPoint, but the information is there.

Since board members serve on the Architectural Selection and CM-R committees and evaluate architects and builders, they need to be knowledgeable about architects and builders’ work performance. That means having access to schedules and construction documents. If there is a known contractor who is always over budget and doesn’t finish jobs on time, then their evaluation should reflect that.

Want to know why I’m interested in contingency logs for all projects? The following is what I found when looking through the contingency log for ONE school:

Approved changes include:

mortar color +\$16,000

Bid Omission +\$186,820

Remove and replace column caps +\$36 789

And then there are items such as these:

Delete mobile media center shelving (approved) - \$21,625

Request to add teacher cabinets (rejected) - \$82,800

Items that would directly benefit our students and staff such as more shelving and storage space were either removed or rejected while items that had to do with aesthetics were approved. Boards in other districts are involved in capital projects and change orders because they know every decision directly impacts the bottom line AND the students and staff. A bid omission for \$186,000? Oops.

What if the board were presented a list of needs and then prioritized those?

1) We could have saved tens of thousands of dollars for a facilities study because the needs would have been known.

2) The board would have known that PMS and GES were in such deplorable condition that they needed maintenance BEFORE they needed to be replaced.

3) The board would have known that the transportation office was akin to a “third world”.

I have attended, watched or participated in every meeting from 2016-2020 during which time TWENTY EIGHT activity buses were added to the fleet and not once were those mentioned to the board. Who has been determining the priorities? Who decided that TWENTY EIGHT activity buses and a new middle school on 378 were more important than replacing a school with mold and asbestos? Was the board aware that students and staff throughout the district were working and learning in these conditions? If not, then why not?

Anne Marie Green <amgreen@lexington1.net>

To: Dr. Brent Powers, Gregory Little, Jada Garris, Jeff Salters, Kathryn Mcphail, Kathy Henson, Mike Anderson, Richard Guyton, TIM OSWALD, Tracy Halliday

Thu, Jun 24 at 7:18 AM

FYI as we begin preparing agenda for 7/20/2021 meeting

(The full text of the previous email was included.)

Attachment #2 (27 pages) is included with the minutes of the January 18, 2022 board meeting, at the request of Board member Jada Garris pursuant to South Carolina Code Section 30-4-90(a)(4). The Board majority did not approve, disapprove or otherwise act upon the contents of this attachment.

Board member request for inclusion with the January 18, 2022 board meeting minutes.

----- Forwarded Message -----

From: Jada Garris <jadagarris@aol.com>

To: Jeff Salters <jsalters@lexington1.net>

Cc: Dr. Greg Little <glittle@lexington1.net>

Sent: Monday, June 21, 2021, 09:42:49 AM EDT

Subject: Re: [External to LCSD1] Transportation Facility

Please see my response in red.

As for the rest of the information below, It will take staff a long time to pull all of the other information you are asking for in this email. We are right in the middle of budget, summer payrolls, opening the new fiscal year in our finance system, ESSER planning and a number of other critical tasks that occur during the summer. I'm happy to ask staff to work extra hours if the board needs this information but I need direction to do that.

If you are able to provide the amount of time estimated to produce each request, that will better help the board decide which requests are a priority.

What items are not available electronically? What items do not currently exist and would have to be produced? I was very intentional in choosing items to ask for and in doing so I tried to ensure that those were easily accessible and available in electronic format.

The questions that I have asked are questions that all members should be asking.

We are providing you with a monthly budget to actual summary for all referendum projects. If we exceed the budget, we bring a request to you to approve additional funds(Lakeside Middle/Transportation). But the district doesn't bring a request to the board to approve remaining funds when a project comes in under budget, although this should be taking place, according to the ballot. We are bound by law to do the work listed in each school in the facilities study and we know that and are doing that. I have overseen or been a part of managing close to \$1 Billion dollars worth of referendum work successfully in this district in my time here. We are only halfway through this referendum that passed in 2018 and we have added portables to school sites (that the board is unaware of), have projects running behind schedule, and are over budget on at least two projects with more to come. I appreciate your interest in detail and we are working to provide the board with as much information as we can on a regular basis to help you explain how money is being used. Additionally, we are in the middle of preparing our capital expenditure plan for the upcoming year outside the referendum to

share with the board for review as well. That will be shared prior to our bond sale this fall.

I want you to understand that we literally spend hours a day responding to email requests for information related to our work. You may not appreciate the impact that has on staff on a regular basis, but it is significant. I appreciate the work your staff does. This confirms what I've been saying all along - the website is ineffective and there is a lack of communication from the board and the district office. The board was quick to form a committee to campaign for the referendum, yet when it comes time to provide some accountability, they can't answer questions because they don't have the answers. Yet, they have no problem with your staff spending hours each day responding to requests for information. A bond referendum committee to keep the community informed on how projects are progressing would be beneficial for ALL. I literally spend hours each day responding to requests as well. 365 days a year, 7 days a week. There is not a day that goes by that someone doesn't reach out to me for information. Our district has an outstanding reputation in the state with vendors, state agencies, and others we work with because of our reputation for following law, policy, process and procedures. The reason that exists is because we have always tried to do things the right way and had a supportive board that trusts the administration to do that. We all want the same thing I think - to provide the best educational environment and experience we can for our students in the most cost effective and efficient manner possible. I think a person's point of view has great influence on how "the best" educational environment and experience is defined. Items that would directly benefit our students and staff such as more shelving and storage space were either removed or rejected while items that had to do with aesthetics were approved. Again, I'm happy to respond to this and spend the hours it will take of staff time doing it if this is the board's direction.

On Friday, June 18, 2021, 07:43:44 AM EDT, Jeff Salters <jsalters@lexington1.net> wrote:

I have attached 3 schedules for your reference. We update this on a regular basis. This schedule was created by us in the beginning of the referendum as a reference for our work to help cash flow bond sales and give our contractors an idea of how to staff up to be ready for our work. There are many factors that go into a project and there may be a number of reasons one isn't happening when it was scheduled to start. The construction market we are in right now is very volatile. COVID-19 has wrecked the construction industry with pricing increases and material delivery delays, as an example. These are real issues and may result in us choosing to shift projects out until the market settles more if we have flexibility to do that. In some cases, we don't.

As for the rest of the information below, It will take staff a long time to pull all of the other information you are asking for in this email. We are right in the middle of budget, summer payrolls, opening the new fiscal

year in our finance system, ESSER planning and a number of other critical tasks that occur during the summer. I'm happy to ask staff to work extra hours if the board needs this information but I need direction to do that.

We are providing you with a monthly budget to actual summary for all referendum projects. If we exceed the budget, we bring a request to you to approve additional funds(Lakeside Middle/Transportation). We are bound by law to do the work listed in each school in the facilities study and we know that and are doing that. I have overseen or been a part of managing close to \$1 Billion dollars worth of referendum work successfully in this district in my time here. I appreciate your interest in detail and we are working to provide the board with as much information as we can on a regular basis to help you explain how money is being used. Additionally, we are in the middle of preparing our capital expenditure plan for the upcoming year outside the referendum to share with the board for review as well. That will be shared prior to our bond sale this fall.

I want you to understand that we literally spend hours a day responding to email requests for information related to our work. You may not appreciate the impact that has on staff on a regular basis, but it is significant. Our district has an outstanding reputation in the state with vendors, state agencies, and others we work with because of our reputation for following law, policy, process and procedures. The reason that exists is because we have always tried to do things the right way and had a supportive board that trusts the administration to do that. We all want the same thing I think - to provide the best educational environment and experience we can for our students in the most cost effective and efficient manner possible. Again, I'm happy to respond to this and spend the hours it will take of staff time doing it if this is the board's direction.

On Wed, Jun 16, 2021 at 9:45 PM Jada Garris <jadagarris@aol.com> wrote:

Good afternoon,

I've had a chance to review all of my notes and make some additional notes. Below are the questions/comments. Thanks!

This is the list of items I mentioned during our phone call that I would like to see:

Cost of Gilbert bus lot office and paving (separately)

The original schedule that you gave me a copy of a while back

An updated schedule

GMP contracts and amendments for all projects.

GMP reconciliations for completed projects.

Contingency logs for all projects.

Contracts that were added to projects - such as retaining wall at RBHS, or possibly the breezeway at LHS. If I'll be unable to see the cost and funding source of the breezeway at LHS from GMP documents or contingency logs, please provide the document that details those expenditures.

In addition:

- Complete Milone and MacBroom Growth Study that includes all information.
- MB Kahn Facilities study - full book that includes all information. Also, all studies related to needs assessments. I'd like to see how capacity was increased at Meadow Glen schools and the additional ventilation projects that were mentioned in the Safe Return to School Plan.
- Can you run a detailed report for Centerville that would show all line items for the expenditures related to that job? For example, a report that would show where \$1,385 was spent in April 2021. When we were talking, you said the GMP doesn't show the cost of inspections, the architect, the traffic impact study and a couple of other things. I'd like to see all of the costs incurred on a specific job so that I can narrow down what to ask for going forward.
- Please provide the documents MB Kahn provided to the district that would explain their estimate of \$3 million.
- The specifications for the \$9.5 million facility.

Questions:

- What costs are not included in the \$1.5 and \$2 million cost for the ECCs? What is the anticipated completion date for the drawings for the Gilbert ECC?
- Did MB Kahn include offsite improvements in their budgets for schools they quoted for the referendum?
- What are Otis' job duties?
- Who is "value engineering" the transportation facility? What recommendations are being discussed?
- During the last meeting, you said there was \$7.5 million in capital. Do you track these funds separately from 8% money, bond referendum, and money that is transferred out of the general fund and into the capital account each year? Is the money that is transferred out of the general fund and into the capital account:

- separate from the capital account you referred to last Tuesday night that has \$7.5million

- separate from bond referendum funds

- separate from 8% money

- What has been paid to the architect for the plans at the transportation facility? How much it would cost to make changes to those plans?

Comments:

- Please consider reducing the # of maintenance bays to 2. And possibly the number of wash bays to 2 (depending on the cost). A good question to ask is how often drivers wash their buses. I can't speak for the drivers in town, but in Gilbert and Pelion four wash bays would not be needed. Keep in mind drivers hang around the lot for most of the day, so they would be able to take turns washing their bus.

- There was no input from bus drivers (or supervisors, really) when planning the new transportation facility. Mr. Kurts *showed* the plans to supervisors, but it's my understanding they were told that information was for their eyes only.

- Please consider showing the current plans to drivers and gathering feedback. I'm sure only a few bus drivers have seen the current plans.

- CDL classes have less than 30 (I'm being generous) students. A 100-person classroom is not needed.

- However, a kitchen/break area would be nice. I understand that a full kitchen may not be possible due to regulations, etc. but there are drivers who never go home after they arrive at 5-6 am. Either because they live too far away or the cost of gas makes it inefficient to run home after the morning route, back to the lot for a kindergarten route, back home after the kindergarten route and then back to the lot again for an afternoon route.

- Also, I don't see the conference room being used at the same time as the classroom, so in my opinion, that is not needed. Parents do not visit bus lots. The conference room would only be used for supervisor meetings and those only occur a few times throughout the year.

- What is the cost of the diesel fueling station? Fuel trucks travel to bus lots to refuel the buses. No bus lot in Lexington One has a fueling station. The Lexington bus lot has ACCESS to the State Department's fueling station.

- What would be the cost savings if the building were not brick?
- Am I understanding that the lot will hold 200 buses? If not, how many buses can be parked there? If so, you may want to consider increasing the size of the lot. I know that is expensive, but given the number of buses that will be parked there compared to the number of buses the lot will hold, and the number of activity buses being added to the district's fleet, there will not be room for growth in 2-3 years.
- Maybe space can be flexed for classroom/conference.

Funding sources

What are your thoughts on these funding sources?

- Sell house behind LMS
- 8% money
- Leftover funds from PMS
- FY 2020's surplus
- Land on Calks Ferry
- Other land that might never be used

PAGE 1 OF 2

From: Jada Garris <jadagarris@aol.com>

Date: Thu, Jun 24, 2021 at 12:03 AM

Subject: [External to LCSD1] Request for agenda item

To: Anne Marie Green <amgreen@lexington1.net>

Anne Marie,

Please add my request for information regarding the June 21, 2021 email to Mr. Salters to the July 20, 2021 agenda so that the board can discuss the information I have requested. Once Mr. Salters provides me with an estimate on the time to gather these materials, I will know at that time which items I wish to ask the board to consider. However, I wanted to give you plenty of notice so that my request would be put on the agenda. Of the items I requested, I asked Mr. Salters to let me know what items were unavailable electronically or do not currently exist. I was very intentional in choosing items to ask for and in doing so I tried to ensure that those were easily accessible and available in electronic format.

I'm not sure why Dr. Little thought it was a good idea to merge the roles of COO and CFO in the midst of \$365 worth of capital projects. And I'm not sure why the board "trusted" him to do that. But, here we are and the effects will be felt for years to come.

I appreciate that Mr. Salters has overseen or been a part of managing close to \$1 Billion dollars "with a B" worth of referendum work in this district. Along the way, he has had little to no oversight. With the roles of COO and CFO now being combined, there are zero checks and balances. He compiles the specs, puts the jobs out to bid, chairs the committees that select the firms, signs the contracts, and writes the check.

During the 2008 referendum:

- Meadow Glen schools were each built to hold 200 students less than voters were told. Those campuses now have portables.
- The bus office in Gilbert is too small, by Mr. Salters own admission.

Fast forward ten years. We are only halfway through this referendum that passed in 2018 and we have added portables to school sites, have projects running behind schedule, and are over budget on at least two projects with more to come.

Per Mr. Salters, *"Our district has an outstanding reputation in the state with vendors, state agencies, and others we work with because of our reputation for following law, policy, process and procedures. The reason that exists is because we have always tried to do things the right way and had a supportive board that trusts the administration to do that."*

Trying to do things the right way and doing them the right way are two very different things. This district may have had an outstanding reputation of following the law ten years ago, but anyone that thinks this still holds true is fooling themselves. In the recent past, can you remember a legislator coming to speak to the board on behalf of their constituents who feared reprisal?

Here's some additional background on why I'm asking for these documents:

Long before coming on the board, I emailed Mr. Salters with questions day after day about the projects in this referendum. I was told that they provided the public everything they had. I had concerns about allowing MB Kahn to assign a dollar amount to a project without any supporting documents. This \$6.5 million "scope

PAGE 2 OF 2

disconnect” proved what I knew all along - it is dangerous to trust a builder to give dollar figures without supporting documentation.

In reviewing some documents, I have discovered that the schedules and reports that are provided to Lexington One by contractors are identical to monthly reports provided to boards in other districts. Those “fancy” monthly reports, that I have requested, that we saved \$3 million by not hiring a construction manager to produce, according to Mr. Salters, are being provided to the district, but not the board. They aren’t provided in a pretty PowerPoint, but the information is there.

Since board members serve on the Architectural Selection and CM-R committees and evaluate architects and builders, they need to be knowledgeable about architects and builders’ work performance. That means having access to schedules and construction documents. If there is a known contractor who is always over budget and doesn’t finish jobs on time, then their evaluation should reflect that.

Want to know why I’m interested in contingency logs for all projects? The following is what I found when looking through the contingency log for ONE school:

Approved changes include:

mortar color +\$16,000

Bid Omission +\$186,820

Remove and replace column caps +\$36 789

And then there are items such as these:

Delete mobile media center shelving (approved) - \$21,625

Request to add teacher cabinets (rejected) - \$82,800

Items that would directly benefit our students and staff such as more shelving and storage space were either removed or rejected while items that had to do with aesthetics were approved. Boards in other districts are involved in capital projects and change orders because they know every decision directly impacts the bottom line AND the students and staff. A bid omission for \$186,000? Oops.

What if the board were presented a list of needs and then prioritized those?

1) We could have saved tens of thousands of dollars for a facilities study because the needs would have been known.

2) The board would have known that PMS and GES were in such deplorable condition that they needed maintenance BEFORE they needed to be replaced.

3) The board would have known that the transportation office was akin to a “third world”.

I have attended, watched or participated in every meeting from 2016-2020 during which time TWENTY EIGHT activity buses were added to the fleet and not once were those mentioned to the board. Who has been determining the priorities? Who decided that TWENTY EIGHT activity buses and a new middle school on 378 were more important than replacing a school with mold and asbestos? Was the board aware that students and staff throughout the district were working and learning in these conditions? If not, then why not?

Anne Marie Green <amgreen@lexington1.net>

To: Dr. Brent Powers, Gregory Little, Jada Garris, Jeff Salters, Kathryn Mcphail, Kathy Henson, Mike Anderson, Richard Guyton, TIM OSWALD, Tracy Halliday

Thu, Jun 24 at 7:18 AM

FYI as we begin preparing agenda for 7/20/2021 meeting

(The full text of the previous email was included.)

On Friday, October 15, 2021, 08:41:15 AM EDT, Jada Garris <jadagarris@aol.com> wrote to Anne Marie Green:

Good morning,

Could you please share the legal advice received from Dave Duff and the bond attorney regarding my request for inclusion on Tuesday night's agenda?

Thanks!

Anne Marie Green <amgreen@lexington1.net>

To: Dr. Brent Powers, Jada Garris, Kathy Henson, Mike Anderson, Richard Guyton and 1 more...

Cc: Gregory Little

Fri, Oct 15, 2021 at 10:14 AM

Anne Marie Green has sent you an email via **Gmail confidential mode:**

Jada Garris <jadagarris@aol.com>

To: Anne Marie Green

Fri, Oct 15 at 1:15 PM

Good morning,

Could you please share the legal advice received from the bond attorney regarding my request for inclusion on Tuesday night's agenda? Also, why was Mr. Duff's advice not shared with the board 8 days ago when Mr. Duff sent the email? As a reminder, I am still awaiting information regarding legal advice that I asked about on September 17th, September 19th, September 26th, and October 11th:

Have you received legal advice, either by way of Dr. Little or through your own request regarding anything related to the agenda or agenda items since June 2021? If so, please share that information with the board.

Thanks!

On Monday, October 18, 2021, 08:05:30 PM EDT, Anne Marie Green <amgreen@lexington1.net> wrote:

I had a phone conversation with Theo Dubose, our bond attorney, to discuss the implications of a board member asking to include their personal assessments of the CFO and his performance by way of an attachment to official meeting minutes. He understood my concern but was confident that it would not impact future bond ratings. He explained that boards sometimes have a member that wants to include personal opinion and unsupported statements in meeting minutes and that bond rating companies will not consider that in their evaluation. He did thank me for checking with him.

As I have indicated before, I frequently touch base with Mr Duff regarding our agendas to ensure that we are in compliance with law and policy. There are numerous applicable laws and policies that must be weighed together frequently in many matters. Since I became board chair, we have had quite a few unusual requests and more community engagement than ever before. It's important that we are careful and consider all legal and policy-related guidelines and requirements. It is vital as board chair that I exercise due diligence in consulting our attorney, and likewise for Dr Little to consult our attorney, when preparing agendas for our meetings. I do not keep a record of my contacts with Mr Duff - most of our conversations are via phone. You are welcome to call him yourself and ask him for a record of our conversations.

AM

On Mon, Oct 18, 2021 at 8:19 PM Jada Garris <jadagarris@aol.com> wrote Anne Marie Green:

So why did you tell me that you talked to the bond attorney and criticisms of the CFO in the minutes could impact our future bond ratings if that wasn't true?

On Monday, October 18, 2021, 08:49:52 PM EDT, Anne Marie Green <amgreen@lexington1.net> wrote:

I called the bond attorney because of concerns about criticisms of the CFO affecting bond ratings. The district's bond rating is one of the most important things in our care as trustees. Public criticism of the finance department and CFO by a trustee can put the credibility and stability of our finance department in question.

Jada Garris <jadagarris@aol.com>

To: Anne Marie Green

Mon, Oct 18 at 8:59 PM

You didn't answer my question:

So why did you tell me that you talked to the bond attorney and criticisms of the CFO in the minutes could impact our future bond ratings if that wasn't true?

To be clear, although this has been stated in board minutes and was stated on the record during the meeting in July: I asked to add the email between myself and the board to the minutes in order to provide context to my request to Jeff Salters. YOU decided to make this about Jeff Salters' job performance, not me.

On Thu, Oct 28, 2021 at 2:01 PM Jada Garris <jadagarris@aol.com> wrote to Anne Marie Green:

Good afternoon,

What is the status of the advice requested by Dr. Guyton on the amendment of the minutes that was tabled?

Anne Marie Green <amgreen@lexington1.net>

To: Jada Garris

Cc: Dr. Brent Powers, Gregory Little, Kathy Henson, Mike Anderson, Richard Guyton, TIM OSWALD

Thu, Oct 28 at 2:48 PM

I talked with Dave Duff last week on the day after our meeting and discussed with him the board's action. He was busy until Tuesday of this week but circled back to me then to talk more about it. He is going to draft 2 letters -- 1 to the AG and 1 to SCSBA (Kyle stated both in his motion). Dave told me to look for a draft at the end of the week or early next week.

I asked him to include 2 questions about the statement in FOIA in the request letter ("*any other information that any member of the public body requests be included or reflected in the minutes*"):

1) how does that single statement apply to the specific context of our meeting and the item being discussed?
and

2) how do other laws that bear on us, including other provisions of the FOIA law, apply in the context of that statement?

I will forward the drafts of the letters to the board when Dave has them ready and prior to sending them to the AG and SCSBA. The board does not need to vote to authorize sending the letters because we did that when we approved Kyle's motion. However, as the request is being sent on behalf of the board, you should have an opportunity to review the language in the letters.

Thanks,
AM

Page 1 of 1



November 17, 2021

The Honorable Alan Wilson
Attn: Opinions Division
P.O. Box 11549
Columbia, S.C. 29211

Dear Attorney General Wilson:

As Chair of the Board of Trustees of Lexington County School Board One, I am requesting an opinion from the Office of the S.C. Attorney General regarding a provision of the S.C. Freedom of Information Act (FOIA). Specifically, the Board seeks an opinion regarding the proper meaning and application of Section 30-4-90(a)(4) of the FOIA concerning the ability of one member of a public body—in this case, a member of the school board—to have included in the body’s meeting minutes, without Board majority consensus, information and/or documents that the individual member insists be included in the minutes. Section 30-4-90 reads as follows:

SECTION 30-4-90. Minutes of meetings of public bodies.

- (a) All public bodies shall keep written minutes of all of their public meetings. Such minutes shall include but need not be limited to:
- (1) The date, time and place of the meeting.
 - (2) The members of the public body recorded as either present or absent.
 - (3) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken.
 - (4) *Any other information that any member of the public body requests be included or reflected in the minutes.* (Emphasis added.)

As further information, Lexington County Board Policy BCBH “Minutes” states, in addition, that the minutes will include the following:

copies of attachments and supporting materials where such attachments are *essential to and serve to clarify proposals and matters on which action is considered or taken*; attachments should be identified as to: type attachment (policy proposal, informational report, contractual terms, salary schedules, school calendar, etc.) date of meeting, type meeting (regular or special), code for policy or regulation, presenter, purpose. (Emphasis added.)

The situation that prompted this request is as follows: a Board member has requested that a prior month’s meeting minutes be amended to include an email that the Board member authored. The email was referred to by the member at the prior month’s meeting, and the member requested it be added to the minutes. However, the email was inadvertently omitted when the minutes were approved the following month. The member now seeks to amend the approved minutes to include the email.

The Board Chair, other members of the Board, and the District Superintendent, are concerned that the email contains the requesting Board member's negative assessments of the performance of a named District employee. The Board member's opinion regarding this employee's job performance is not shared by a majority of the Board, and the employee's performance has not been the subject of any Board consideration or action.

One concern is that inclusion in Board meeting minutes of the email in question, which notes one Board member's negative view of the performance of an employee, intrudes on the role and function of the Administration under the direction of the Superintendent. This principle of distinct roles of the Board, its individual members, and the Administration is embodied in several provisions of Board policy, including Policy BC ("It is the responsibility of each board member to do the following: . . . Understand that the basic function of a school board is policymaking, not administration, and accept the responsibility of learning to discriminate intelligently between these two functions") and Policy BDD (Board will "[a]llow the superintendent to administer the schools," and will "[c]ommunicate with staff members through the superintendent"; Superintendent will "[a]dminister effectively and provide the professional educational leadership necessary. All district employees are responsible directly or indirectly to the superintendent"). Copies of the cited Board policies are enclosed.

A further concern is that inclusion in Board minutes (a public record) of the email in question, containing one member's negative views of an employee's job performance, appears to be in conflict with the letter and/or spirit of other FOIA provisions, including Section 30-4-40(a)(2) (personal privacy exemption, when no determination of performance shortcoming has been made), Section 30-40-70(a)(1) (executive session privilege for discussion of employee performance matters). In other situations, in which one member requests inclusion of information and/or documents in the body's minutes, additional FOIA provisions may be implicated, such as Section 30-4-40(a)(7) (attorney-client privilege exemption), the waiver of which would belong to the entire Board.

The Board requests an opinion regarding the following questions:

1. Is the ability of a public body's member under Section 30-4-90(a)(4) to request that information or documents be included in the meeting minutes of the body without limitation, or may a public body impose reasonable limitations on a member's ability to request inclusions in or additions to the minutes, based on the import of other applicable FOIA provisions and/or the body's written policy, such as those cited to above?
2. Whether a majority of the members of a public body can deny an individual member's request to include in the body's meeting minutes information or documents that the Board majority believes to be inconsistent with or in violation of Board policy, FOIA provisions, or other laws or legal requirements, such as those cited above.

Thank you for your consideration of this request for the opinion and guidance of your office regarding these matters.

Respectfully,

Anne Marie Green
Board Chair
Lexington County School District One
amgreen@lexington1.net



November 17, 2021

Ms. Stephanie Lawrence
Director of Policy & Legal Services
South Carolina School Boards Association
111 Research Drive
Columbia, SC 29203

Ms. Lawrence,

Please see the attached Opinion Request that the Lexington School District One Board of Trustees One is submitting to the South Carolina Attorney General. The Board of Trustees asks that the SCSBA also review the information and questions cited in the letter and provide the Association's opinion on this matter.

We appreciate your response.

Respectfully,

Anne Marie Green
Board Chair
Lexington County School District One
amgreen@lexington1.net

Attachment: South Carolina Attorney General Opinion Request Letter

cc: Mr. Scott Price, Executive Director

From: Jada Garris <jadagarris@aol.com>
Date: Sat, Nov 13, 2021 at 12:43 PM
Subject: [External to LCSD1] Attorney General Request
To: Anne Marie Green <amgreen@lexington1.net>

I am really appalled by your request to the Attorney General. The request is one-sided, lacks **very important, relevant** information that could sway the opinion of the Attorney General and, in at least one instance, contains information that is false. I hope your intention is not to sway the opinion by omitting facts. Meanwhile, you and Dave Duff continue to act as if he is the attorney and you are the client. He has yet to respond to my requests for this letter and you didn't provide the letter to the board when it was provided to you, as you said you would.

You need to state that the email in question is one of two emails - the first one is already included.

You need to state that the minutes say the emails are attached - but only one email is attached to the minutes.

You need to provide both emails and Dave Duff's redacted email and ask if a board member's request for inclusion can be redacted by vote of the board when the email in question is considered a public document under FOIA.

There are several other facts and questions that need to be included, but those are just the obvious.

Seeking legal advice while providing leading questions and misleading representation of the emails is conduct unbecoming of a board member, especially the Board Chair. Perhaps you could also tell the AG that board members have concerns that an officer of the board has lied, withheld information, and colluded with staff members to intrude on the role and function of the board in several instances, but specifically in this instance in an effort to keep this email out of the minutes and ask him to elaborate on SECTION 59-19-60 (Removal of trustees; vacancies.), advising if this type of conduct rises to the level which subjects trustees be removed from office. Why can't you just do what is right? What is it about Greg Little that makes you lie for him? This has to be exhausting. I wish I were more sympathetic, but I can't find it in me, especially when a good deal of your time is spent working against me. How much time have you spent with Dave Duff and Greg Little fighting the bad guys since becoming Board Chair? Have you ever thought about this?

What about the kids? Crowded classrooms, more portables being added, and misplaced priorities - all of those things mentioned in the referenced email are still happening while "you and other board members" are busy being distracted.

Thanks,
Jada

Anne Marie Green <amgreen@lexington1.net>
To: Jada Garris
Cc: Dr. Brent Powers, Gregory Little, Kathy Henson, Mike Anderson, Richard Guyton, TIM OSWALD
Mon, Nov 15 at 4:19 PM
Jada,

I completely disagree with your characterizations and accusations.

Respectfully,
Anne Marie

Anne Marie Green <amgreen@lexington1.net>

To: Jada Garris

Thu, Jan 13 at 9:18 AM

Dave is coming to discuss the AG's opinion with the board. That will occur during the agenda item where we will vote to amend the minutes of the July meeting.

Jada Garris <jadagarris@aol.com>

To: Anne Marie Green

Fri, Jan 14 at 12:38 PM

Jay Bender is coming to discuss the AG's opinion with the board as well. This will occur during the agenda item where we will vote to amend the minutes of the July meeting.

Mr. Bender has asked that he be compensated in the same fashion as Mr. Duff, since the board did not vote to employ Mr. Duff to come to the meeting.

Thanks

Jada

Jada Garris <jadagarris@aol.com>

To: Dr. Greg Little

Fri, Jan 14 at 12:41 PM

FYI

Begin forwarded message:

On Friday, January 14, 2022, 12:38 PM, Jada Garris <jadagarris@aol.com> wrote:

Jay Bender is coming to discuss the AG's opinion with the board as well. This will occur during the agenda item where we will vote to amend the minutes of the July meeting.

Thanks

Jada

Jada Garris <jadagarris@aol.com>

To: Tracy Halliday, Dr. Greg Little, Anne Marie Green

Fri, Jan 14 at 2:34 PM

Tracy,

Attached are the corrections.

Dr. Little and Anne Marie,

I don't think it was in the best interest of the board to have Dave Duff call Jay Bender and tell him he would not be allowed on the agenda Tuesday night. If the board is really interested in receiving sound legal advice regarding FOIA, they would welcome Jay Bender with open arms.

Do we have a contract with Mr. Duff or his firm? What about the other attorneys that we receive advice from? Do we have a contract with those attorneys? Based on the information I have, we do not.

Please explain how Mr. Duff is the board's attorney more so than Jay Bender or Andrea White, who has also provided information to the board.

If Mr. Bender is not allowed to speak on Tuesday night this will not be a good look for the board or the district.

Jada Garris <jadagarris@aol.com>

To: Anne Marie Green

Bcc: Other members

Fri, Jan 14 at 2:37 PM

Could you provide the contract for Mr. Duff that says he is "the board's attorney"?

Mr. Duff is not on the agenda, either. The agenda item says "legal counsel" but does not list any names.

It was a bad, bad move to have Dave Duff call Jay Bender - the most well-known, well-respected attorney in the state of SC when it comes to FOIA - and basically tell Mr. Bender his opinion is not welcome.

What are you scared of? What would getting a second opinion harm?

Jada Garris <jadagarris@aol.com>

To: Anne Marie Green

Fri, Jan 14 at 2:44 PM

This is time sensitive so please respond as soon as you are able. Thank you.

Anne Marie Green <amgreen@lexington1.net>

To: Dave Duff, Jada Garris

Cc: Dr. Brent Powers, Gregory Little, Kathy Henson, Mike Anderson, Richard Guyton and 1 more...

Fri, Jan 14 at 3:05 PM

Mr Duff has been the attorney for Lex 1's board for many years.

Mr Duff can tell you the true nature of his conversation with Mr Bender. My understanding is that it was cordial and professional and that their interpretations of the AG's opinion were consistent.

The agenda for Tuesday's meeting has been finalized. We've already made several changes in the last 24 hours to accommodate your requests. Staff still has work to do to get it ready for publication and to put the board packet together. Dr Little is gone for the day and as the Superintendent is responsible for setting the agenda for meetings, with the board chair's input, it is not possible to make additional late changes to the agenda.

I am not afraid of anything because I have done absolutely nothing wrong.

AM

Jada Garris <jadagarris@aol.com>

To: Anne Marie Green

Fri, Jan 14 at 3:10 PM

You did not answer these questions from the original email:

Could you provide the contract for Mr. Duff that says he is "the board's attorney"? What would getting a second opinion harm?

Mr. Duff is not on the agenda, either. The agenda item says "legal counsel" but does not list any names.

According to Mr. Bender, their interpretations of the AG's opinion was NOT consistent. But why are we debating your understanding of a conversation between two attorneys?

Why not allow them both to give their opinion to the board?

Jada Garris <jadagarris@aol.com>

To: Anne Marie Green

Sat, Jan 15 at 5:10 PM

Anne Marie,

- Please explain how you've "made several changes in the last 24 hours to accommodate (my) requests"? The ONE item you changed on the agenda to accommodate my request is an item that I've been asking about since I came on the board. You've had over a year as board chair to add that item (executive session placement) on the agenda. The fact that you waited 24 hours before an agenda was finalized to finally honor my request was no fault of mine.

I look forward to your response to the questions that remained unanswered:

- Could you provide the contract for Mr. Duff that says he is "the board's attorney"?
- What would getting a second opinion harm?
- Why not allow them both (Mr. Duff and Mr. Bender) to give their opinion to the board? I don't know Jay Bender. I got his contact information from his website and reached out to him. Since Mr. Duff is of the opinion that information

from a public document should be redacted according to FOIA, and, according to you, both Mr. Duff and Mr. Bender's interpretations of the AG's opinion are consistent, (although inconsistent with the AG), I'm asking you to explain your reasons for not allowing Mr. Bender to discuss the AG's opinion under Agenda Item 6.2 Discussion by Legal Counsel of the Attorney General Opinion regarding Addition to Minutes.

Allowing a discussion by Mr. Bender and Mr. Duff does not change the agenda in any way. Doing so would require no additional work from staff, the chair or the superintendent.

And while "Mr. Duff has been the attorney for Lex 1's board for many years," that doesn't preclude the board from consulting additional legal counsel. During Cindy's tenure, she once accused me of violating FOIA when I blind copied board members in an email. She refused to provide me with the legal advice given to her, nor would she provide me with the advice she sought from the attorneys, but according to her, she received the advice of "Dave Duff, Dr. Tiffany Richardson (SCSBA), Scott Price (SCSBA) and Jay Bender". She said she reached out to Jay Bender because "he has an in depth knowledge of the laws regarding FOIA."

So, again, I need answers as to why Mr. Duff and Mr. Bender, both of whom have counseled Lexington One in the past and neither of which have a contract, are not allowed to discuss the Attorney General's opinion with the board. In addition, I'd like to know who directed Mr. Duff to call Mr. Bender and tell him he would not be allowed to speak during the meeting?

Thanks so much,
Jada

On a side note:

Given the direction of the district since the superintendent's evaluation, including, but not limited to, the recent uptick in school violence and threats and the lack of any real action to subside those, along with there being some confusion as to our expectations of Dr. Little vs. Dr. Little's understanding of our expectations (based on a recent email from him), I think it's appropriate that we schedule a meeting as a board to have these discussions.

Dave Duff <dduff@dfl-lawfirm.com>

To: jadagarris@aol.com

Monday, January 17, 2022, 12:23:22 PM EST

Cc: Anne Marie Green

Jada, I had no choice but to say good bye to you and hang up the phone on your call to me a short while ago, because you were going round and round asking the same questions (which I repeatedly answered) of why did I call Jay Bender?; why did I tell Jay he couldn't come to tomorrow's board meeting?; how do I know I am legal counsel to the district?; why isn't Jay Bender legal counsel to the district? I answered each of your questions several times. I stated to you that Jay and I have know each other for years and are on friendly terms even though we may disagree on some legal points; we have each called the other many times over the years to discuss matters of interest and which may pertain to both of us; I told you I did not tell Jay not to come to the meeting – he told me that he told you that he would come to meeting if he were on the agenda – I told him he is not on the agenda (he is not legal counsel to the district); I told you our firm and predecessor firms have been counsel to the district and the board for many years and no one (other than you) has ever suggested we are not. There was no point in going over again and again the same questions and me giving you the same answers.

I will see you at tomorrow's board meeting and will attempt to answer any further questions you may have in a proper board meeting setting.

Have a nice day,
Dave

David T. Duff
Duff Freeman Lyon
P.O. Box 1486
Columbia, SC 29202

Jada Garris <jadagarris@aol.com>

To: Anne Marie Green

Mon, Jan 17 at 3:50 PM

If Jay Bender comes to the meeting tomorrow night will he be allowed to discuss the Attorney General's opinion in Item 6.2?

Thanks,

Jada

Anne Marie Green <amgreen@lexington1.net>

To: Jada Garris

Cc: Dr. Brent Powers, Gregory Little, Kathy Henson, Mike Anderson, Richard Guyton, TIM OSWALD

Mon, Jan 17 at 3:55 PM

Mr Bender is not our attorney, so he is not on our agenda to speak. He is not a resident in the Lexington, so he is not eligible to speak during Citizens Participation. As with anyone in the greater Lex 1 community, he is welcome to email the board his thoughts and suggestions as a private citizen.

Jada Garris <jadagarris@aol.com>

To: Anne Marie Green

Mon, Jan 17 at 4:06 PM

Please answer this question: If Jay Bender comes to the meeting tomorrow night will he be allowed to discuss the Attorney General's opinion in Item 6.2?

Mr. Duff is no more our attorney than Mr. Bender, unless you can provide a contract that states otherwise. Mr. Duff was unable to provide any documentation that states he is the board's attorney. Mr. Duff is not on our agenda to speak, either. The agenda says "Discussion by Legal Counsel of the Attorney General Opinion regarding Addition to Minutes". Legal Counsel is just that, a term that refers to an attorney. Mr. Duff didn't fully disclose all of the questions that I asked him when I called him. He hung up on me when I asked him how he could give himself direction to call another attorney and tell them they are not on the agenda when he's not on the agenda, either.

Thanks,

Jada

Jada Garris <jadagarris@aol.com>

To: Dr. Greg Little

Fri, Jan 21 at 10:51 AM

Could you please provide a list of firms that we contract with for legal counsel?

Also, please provide any RFP requesting and any contract pertaining to legal representation, legal counsel, retaining legal counsel, attorneys, firms, etc.

I am seeking to determine how Dave Duff and/or Duff Freeman and Lyon are contracted and/or retained by Lexington One as the board's attorney.

Thanks,

Jada

Gregory Little <glittle@lexington1.net>

To: Jada Garris

Tue, Jan 25 at 4:14 PM

We don't have a contract with our attorneys. Legal services are exempt per the procurement code. We have had long-standing relationships with:

Duff, Freeman & Lyon

Halligan Mahoney & Williams

Davis Frawley Attorneys at Law

Other attorneys are assigned by SCBIT for cases that go through our carrier. We don't assign those.



ALAN WILSON
ATTORNEY GENERAL

January 04, 2022

Anne Marie Green
Board Chair
Lexington County School District One
P.O. Box 1869
Lexington, SC 29071-1869

Dear Ms. Green:

Attorney General Alan Wilson has referred your letter to the Opinions section. Your letter states the following:

As Chair of the Board of Trustees of Lexington County School Board One, I am requesting an opinion from the Office of the S.C. Attorney General regarding a provision of the S.C. Freedom of Information Act (FOIA). Specifically, the Board seeks an opinion regarding the proper meaning and application of Section 30-4-90(a)(4) of the FOIA concerning the ability of one member of a public body-in this case, a member of the school board- to have included in the body's meeting minutes, without Board majority consensus, information and/or documents that the individual member insists be included in the minutes.

...

One concern is that inclusion in Board meeting minutes of the email in question, which notes one Board member's negative view of the performance of an employee, intrudes on the role and function of the Administration under the direction of the Superintendent. This principle of distinct roles of the Board, its individual members, and the Administration is embodied in several provisions of Board policy, including Policy BC ("It is the responsibility of each board member to do the following: . . . Understand that the basic function of a school board is policymaking, not administration, and accept the responsibility of learning to discriminate intelligently between these two functions") and Policy BDD (Board will "[a]llow the superintendent to administer the schools," and will "[c]ommunicate with staff members through the superintendent"; Superintendent

will “[a]dminister effectively and provide the professional educational leadership necessary. All district employees are responsible directly or indirectly to the superintendent”). Copies of the cited Board policies are enclosed.

A further concern is that inclusion in Board minutes (a public record) of the email in question, containing one member's negative views of an employee's job performance, appears to be in conflict with the letter and/or spirit of other FOIA provisions, including Section 30-4-40(a)(2) (personal privacy exemption, when no determination of performance shortcoming has been made), Section 30-40-70(a)(1) (executive session privilege for discussion of employee performance matters). In other situations, in which one member requests inclusion of information and/or documents in the body's minutes, additional FOIA provisions may be implicated, such as Section 30-4-40(a)(7) (attorney-client privilege exemption), the waiver of which would belong to the entire Board.

The Board requests an opinion regarding the following questions:

1. Is the ability of a public body's member under Section 30-4-90(a)(4) to request that information or documents be included in the meeting minutes of the body without limitation, or may a public body impose reasonable limitations on a member's ability to request inclusions in or additions to the minutes, based on the import of other applicable FOIA provisions and/or the body's written policy, such as those cited to above?
2. Whether a majority of the members of a public body can deny an individual member's request to include in the body's meeting minutes information or documents that the Board majority believes to be inconsistent with or in violation of Board policy, FOIA provisions, or other laws or legal requirements, such as those cited above.

Law/Analysis

As is discussed more fully below, it is this Office's opinion that the S.C. FOIA, S.C. Code §§ 30-4-10 et seq., does not permit a public body to preempt a member of the body from including information in the written minutes of its public meetings by majority vote or through adoption of policy. See S.C. Code § 30-4-90(a)(4). However, these minutes are public records from which a public body may exempt certain enumerated categories of information from disclosure. See S.C. Code § 30-4-40. Additionally, certain information within a public document is required to be closed to the public. See S.C. Code Ann. § 30-4-20(c). The information which

may be exempt from disclosure or is otherwise required to be closed to the public can be redacted or separated prior to disclosing the rest of the document. S.C. Code Ann. § 30-4-40(b).

This Office has not identified a decision from our state courts interpreting section 30-4-90(a)(4). As a matter of first impression, we will rely on the rules of statutory construction to analyze the questions presented. The primary rule of statutory construction is to “ascertain 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). The South Carolina Supreme Court has held that when the meaning of a statute is clear on its face, “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.” 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); see also Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (holding that where a statute's language is plain and unambiguous, “the text of a statute is considered the best evidence of the legislative intent or will.”). “A statute as a whole must receive a practical, reasonable and fair interpretation consonant with the purpose, design, and policy of lawmakers.” State v. Henkel, 413 S.C. 9, 14, 774 S.E.2d 458, 461 (2015), *reh'g denied* (Aug. 5, 2015).

The S.C. FOIA explicitly states the General Assembly's findings and purpose as follows:

[I]t 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 § 30-4-15 (emphasis added). Our state courts have repeatedly stated that the “essential purpose of the FOIA is to protect the public from secret government activity.” Bellamy v. Brown, 305 S.C. 291, 295, 408 S.E.2d 219, 221 (1991); see also Glassmeyer v. City of Columbia, 414 S.C. 213, 219, 777 S.E.2d 835, 839 (Ct. App. 2015). To that end, our courts have held the S.C. 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 light of the S.C. FOIA's mandate of liberal construction in favor of access, this Office's policy has long favored the disclosure of public records and access to public meetings. See 1988 S.C. Op. Att'y Gen. 131 (May 26, 1988) (“This is consistent with the basic principle and the policy of this Office that the FOIA should always be liberally construed.... Any doubt should always be resolved in favor of disclosure.”). With these

principles in mind, this opinion next addresses relevant portions of the S.C. FOIA to determine legislative intent.

Section 30-4-90 establishes requirements for information that must be included in public meeting minutes.

- (a) All public bodies shall keep written minutes of all of their public meetings. Such minutes shall include but need not be limited to:
- (1) The date, time and place of the meeting.
 - (2) The members of the public body recorded as either present or absent.
 - (3) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken.
 - (4) Any other information that any member of the public body requests be included or reflected in the minutes.

S.C. Code Ann. § 30-4-90 (emphasis added). The plain language of subsection (a)(4) allows “any member of the public body” to have information included within the minutes. “Any” is commonly understood to include one or more of a group.¹ Given the Legislature’s stated intent to allow the public to access meetings and to learn and report on the activities of public officials, it seems consistent with its design to interpret subsection (a)(4) to permit one or more members of a public body to request to include information in the minutes without being subjected to majority vote requirements. Under this construction a minority of a public body could include information demonstrating its reasons for opposition to action taken by the body within the minutes. Allowing publication of information at a single member’s request is broadly consistent with Legislature’s expressed intent that public business be conducted in an open and public manner.

While a member’s request to include information in meeting minutes of public bodies is not generally subject to majority vote, these minutes are still public records and some information therein may be subject to listed exemptions from disclosure or otherwise be closed to the public. For instance, subsection (b) of 30-4-90 declares that minutes are public records and “shall be available within a reasonable time after the meeting except where such disclosures would be inconsistent with § 30-4-70 [governing closed meetings or executive sessions].” This subsection presupposes that fully disclosing all information recorded within meeting minutes may conflict with other provisions of the S.C. FOIA, specifically when a public body closes a

¹ See The American Heritage Dictionary 61 (3rd ed. 1993) (Any is defined as “one, some, every, or all without specification.”); see also Merriam-Webster Online, <https://www.merriam-webster.com/dictionary/any> (“one or some indiscriminately of whatever kind”); Dictionary.com, <http://www.dictionary.com/browse/any> (“one, a, an, or some; one or more without specification or identification.”).

meeting to the public. Moreover, the statutory definition of “public record” recognizes multiple categories of information that are “required to be closed to the public” including where required by other law. S.C. Code § 30-4-20(c).² Finally, section 30-4-40 lists nineteen categories of information which a public body may elect to exempt from disclosure. The South Carolina Supreme Court explained, in the context of the exemption for information of a personal nature, a public body must first find an exemption applies and then decide whether or not to disclose the information anyway.

Under FOIA, “A public body may but is not required to exempt from disclosure the following information: ... Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy.” S.C. Code Ann. § 30-4-40(a)(2). A public body must make two decisions before invoking this exemption. First, the public body must determine whether the information requested is personal and whether disclosure would constitute an unreasonable invasion of personal privacy. Second, if so, the public body must determine whether to disclose the information.

2

(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.

S.C. Code Ann. § 30-4-20 (emphasis added).

S.C. Lottery Comm'n v. Glassmeyer, 433 S.C. 244, 251, 857 S.E.2d 889, 893 (2021). If a public body finds that an exemption applies to information in a public record and elects not to disclose, the public body must “separate the exempt and nonexempt material and make the nonexempt material available.” S.C. Code Ann. § 30-4-40(b); Evening Post Pub. Co. v. Berkeley Cty. Sch. Dist., 392 S.C. 76, 82, 708 S.E.2d 745, 748 (2011) (“The determination of whether documents or portions thereof are exempt from FOIA must be made on a case-by-case basis, and the exempt and non-exempt material shall be separated and the nonexempt material disclosed.”). This decision to prevent disclosure according to an exemption in section 30-4-40 is subject to majority vote. In contrast, when information is required to be closed by law, a majority vote is unnecessary.

Finally, the questions in your letter suggest that a public body’s policy documents may provide another basis to prohibit a member’s request to include certain information in the minutes. To the extent that a body’s policies are consistent with the S.C. FOIA and other law, they can provide additional authority for the body’s decision not to disclose the information.

Conclusion

It is this Office’s opinion that the S.C. FOIA, S.C. Code §§ 30-4-10 et seq., does not permit a public body to preempt a member of the body from including information in the written minutes of its public meetings by majority vote or through adoption of policy. See S.C. Code § 30-4-90(a)(4). However, these minutes are public records from which a public body may exempt certain enumerated categories of information from disclosure. See S.C. Code § 30-4-40. Additionally, certain information within a public document is required to be closed to the public. See S.C. Code Ann. § 30-4-20(c). The information which may be exempt from disclosure or is otherwise required to be closed to the public can be redacted or separated prior to disclosing the rest of the document. S.C. Code Ann. § 30-4-40(b). This Office strongly supports transparency and disclosure under FOIA and has consistently advised for decades: when there is a doubt disclose.

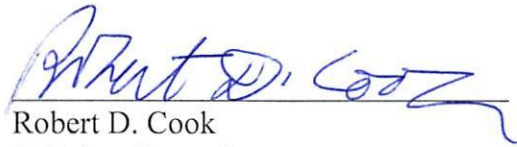
Sincerely,



Matthew Houck
Assistant Attorney General

Anne Marie Green
Page 7
January 04, 2022

REVIEWED AND APPROVED BY:

A handwritten signature in blue ink, appearing to read "Robert D. Cook", written over a horizontal line.

Robert D. Cook
Solicitor General



policy ^{and} legal services

December 2, 2021

Anne Marie Green, Board Chair
Lexington County School District One
amgreen@lexington1.net

Dear Ms. Green,

I hope this letter finds you well and back from a great Thanksgiving Holiday. It is my understanding that you have sought an opinion from the Office of the South Carolina Attorney General regarding a provision of the South Carolina Freedom of Information Act (FOIA). You have also requested that the South Carolina School Boards Association review the questions cited in your correspondence to the Attorney General and provide an opinion on same.

More specifically, you have asked whether Section 30-4-90(a)(4) of the Act allows a member of a public body to request that information or documents be included in meeting minutes without limitation. You have also asked whether the majority of members of a public body can deny an individual member's request to include information or documents in meeting minutes where the majority believes them to be inconsistent with or in violation of board policy.

From my review of your letter, this inquiry follows a situation where one of your board members requested that a prior month's meeting minutes be amended to include email correspondence which discusses that member's negative assessment of a named district employee's performance. You are concerned that including this information in board minutes may be violative of board policy and/or in conflict with other provisions of FOIA which allow for personal privacy, executive session, or attorney-client emptions and privileges.

Thank you for your willingness to seek further guidance on this issue. Although not law, Attorney General opinions tend to be well researched and can be very instructive in matters such as this. Respectfully, we think it most appropriate to allow the Attorney General's office to issue an opinion on the questions raised. Once received, we will be happy to review the opinion and provide further comment, if needed.

Best Regards,

A handwritten signature in black ink that reads "Stephanie N. Lawrence". The signature is written in a cursive, flowing style.

Stephanie N. Lawrence, Esq.
SCSBA, Director of Policy and Legal Services

cc: Scott Price, SCSBA Executive Director