



Stephen W. Hefner, Ed.D.
Superintendent
Mary 18, 2017



Dear [REDACTED]

This letter is written as a follow-up to questions you asked during the "Public Participation" portion of the May 8, 2017 meeting of the Trustees of School District 5 of Lexington and Richland Counties.

You asked "...I'm questioning when these votes occurred?" (It is my understanding that you were referencing the option agreements the District has on property on Amicks Ferry Road.)

Answer: There was no vote. The Option agreement has not been ratified and until due diligence is completed and the administration makes a determination as to whether or not to recommend that the board proceed to purchase the property pursuant to S.C. Code Ann. §59-19-180 there will not be a vote.

You asked "Does the CFO have the authority to sign on behalf of the school district?"

Answer: Yes.

You asked "If you're saying he has the authority, why is that?"

Answer: Section 510.1 of the District's procurement code gives the Superintendent "all rights, powers, duties, and authority relating to the procurement of supplies, construction, information technology and services for the District, and to the management, control, warehousing, sale and disposal of supplies, construction, information technology, and services for the District." Section 840.2 of the District's procurement code gives the Superintendent permission to delegate his/her authority to any designee and the Chief Procurement Officer may delegate his/her authority to any designee.

Moreover, and most importantly, the District Procurement Code makes CFO Len Richardson the District's Chief Procurement Officer because he is the "Chief Business Officer." As Chief Procurement Officer he has "primary management responsibility for procurement by the District." This primary management responsibility affords him the authority to execute a contract on behalf of the District.

Respectfully yours,

Stephen W. Hefner, Ed.D.
Superintendent

[REDACTED]

I've been reviewing a couple of District 5's Board Policies, which are equivalent to law, that relate to the current issue of the proposed new elementary school on Amicks Ferry Rd.

The policy citations are FA -- Facilities Development/ Goals and Priority Objectives... and Policy FEE - Site Acquisition.

First, whether folks are in support of or against the proposed new elementary on Amicks Ferry Rd., I believe we all support a portion of Board Policy FA. The policy states and I quote, "The Board seeks to provide the highest type of educational environment for students at the lowest possible expenditure of tax dollars." I feel certain in saying that we all support and encourage action by the Board that meets that section in the law.

Secondly, regarding the Site Acquisition policy.

I have copies of the Option Agreement for Sale and Purchase from District 5 for the purchase of a 20-acre site on Amicks Ferry Rd. and an adjoining 4-acre tract.

Excluding any kind of site or road improvement, the combined price is almost a million dollars - \$932,950 for the land plus a \$47,000 real estate commission. The Contracts were executed by District 5's Chief Financial Officer in January 2017. The contingency period ends 150 days later followed by a closing.

I understand that the matter has been discussed in Executive Session. And, I know under SC law you cannot take any action in Executive Session except to adjourn or just to leave Executive Session.

I've looked back at the votes and I spot no vote from the Board giving "contingent" approval to the administration to enter into these contracts as required by the Site Acquisition policy. Here's an excerpt:

The board will charge the district administration to begin the selection process. The district administration will do the following:

Identify and evaluate potential sites.

Perform final site selection.

Provide site recommendation to the Board.

Obtain "contingent" board approval.

Have a "Letter of Intent to Purchase" sent to the seller. This is to be followed by a "purchase and Sale Agreement"

Perform "contingent" technical evaluation.

Obtain department of education approval.

Obtain "final" Board approval.

Nowhere have I seen a vote by the Board giving "contingent" approval.

I also spot no vote by the Board giving the authority to the CFO to execute real estate contracts.

If you can't vote in Executive Session, I'm questioning when these votes occurred?

Does the CFO have the authority to sign on behalf of the school district? I can't find it.

If you're saying he has the authority, why is that? At what point did you give this authority to this executive officer to act?

The policy does not seem to have been followed here. If it has, please explain how?

I am hopeful that District 5 obtained permission from the Seller to send out these real estate contracts prior to their closing. If the sale doesn't go through, it somewhat exposed the Seller.