

**SPECIAL MEETING OF THE
SUFFOLK CITY SCHOOL BOARD
Tuesday, December 15, 2020 (5:00 PM)**

Due to the COVID-19 pandemic, this meeting was held at CCAP and electronically while practicing social distancing.

Upon roll being taken, the following persons were present:

Phyllis Byrum, *Chair*
Dr. Judith Brooks-Buck, *Vice-Chair*
Karen Jenkins
Lorita Mayo
Tyron Riddick

Also Present: Wendell M. Waller, School Board Attorney
Dr. John B. Gordon III
Tarshia L. Gardner, Clerk
Keesha Hicks, Deputy Clerk

Attendance via Electronic Device: (upon Board approval):²
David Mitnick

Attendance via Electronic Device: (upon Board Approval):³
Sherri Story

5:00 P.M. – OPENING OF SPECIAL SCHOOL BOARD MEETING

The School Board Meeting was called to order by Chair Byrum.

-Meeting Attendance Via Electronic Device (David Mitnick):²

Attorney Waller read the following motion for Member Mitnick to attend the meeting by electronic device:

A MOTION IS NEEDED PURSUANT TO VIRGINIA CODE SECTION 2.2-3708.2. TO ALLOW BOARD MEMBER DAVID MITNICK TO PARTICIPATE IN TONIGHT’S CLOSED MEETING AND OPEN MEETING OF THE SCHOOL BOARD THROUGH ELECTRONIC COMMUNICATION MEANS FROM THE SCHOOL ADMINISTRATION BUILDING DUE TO A TEMPORARY MEDICAL CONDITION THAT PREVENTS HIS PHYSICAL ATTENDANCE AT TONIGHT’S MEETING.

Vice Chair Brooks-Buck moved, and Member Jenkins seconded the motion, to approve the attendance by means of electronic device for Member David Mitnick for medical reasons.

Upon a roll call vote, the vote was: Aye: 5 Nay: 0 Absent: 1 (Story). The motion Passed. 5 to 0.

² According to Virginia Code Section 2.2-3708.2(A)(2) requires approval by the public body before a member can participate in a meeting through electronic communication means. The School Board voted to allow Board Member Mitnick to participate via electronic communication means due to a medical condition at the opening of the public meeting at 5:00 p.m. Mr. Mitnick participated in the closed meeting and public meeting remotely from the School Administrative Offices, 7th floor conference room.

-Meeting Attendance Via Electronic Device (Sherri Story):³

Attorney Waller read the following motion for Member Story to attend the meeting by electronic device:

A MOTION IS NEEDED PURSUANT TO VIRGINIA CODE SECTION 2.2-3708.2. TO ALLOW BOARD MEMBER SHERRI D. STORY TO PARTICIPATE IN TONIGHT'S OPEN MEETING OF THE SCHOOL BOARD THROUGH ELECTRONIC COMMUNICATION MEANS FROM THE SCHOOL ADMINISTRATION BUILDING DUE TO PERSONAL CONCERNS REGARDING COVID-19 AND NEW COVID RESTRICTIONS ON GROUP GATHERINGS BUT IS DENIED PARTICIPATION IN THE CLOSED MEETING BECAUSE OF HER UNWILLINGNESS TO FOLLOW PROTOCOL TO PROTECT THE CONFIDENTIALITY OF CLOSE MEETING DISCUSSIONS.

Vice-Chair Brooks-Buck moved, and Member Jenkins seconded the motion, to approve the attendance by means of electronic device for Member Sherri Story for personal concerns regarding Covid-19 and new Covid restrictions as presented.

Upon a roll call vote, the vote was: Aye: 5 Nay: 1 (Mitnick). The motion Passed. 5 to 1

**There was a pause in the meeting to allow Member Story to join the meeting.*

MOTION TO GO INTO A CLOSED MEETING

Before reading the Motion for Closed Meeting, Attorney Waller indicated that Member Story objected to the directive to surrender her cell phone as she entered into the meeting area of Closed Meeting given by the Board Chair. At this time, Member Story was given the opportunity to state her objection to the ruling of the Chair and then the Board can take up the issue.

Member Story indicated that she objected to the ruling because you cannot ask her to turn in her personal property and that you must have a warrant to confiscate someone property. She stated who has the authority to do that here? She stated you cannot seize her phone as it is her personal property any more than you can take her wallet or purse. She said she didn't know where this came from and it was not discussed beforehand. She indicated that she signed the document that she was not recording the meeting but stated you cannot have her phone or any of her personal property.

Attorney Waller indicated that since Member Story is appealing the Chair's ruling it now comes before the full board and that the Board would need to act on the request made by Chair Byrum to direct Member Story to surrender her cell phone or any electronic recording devices if she is to participate in the Closed Meeting.

The Board Chair called for a motion.

³ According to Virginia Code Section 2.2-3708.2(A)(2) requires approval by the public body before a member can participate in a meeting through electronic communication means. The School Board voted to allow Board Member Story to participate in the Open Meeting via electronic communication means due to personal concerns regarding Covid-19 and new covid restrictions on group gatherings at the opening of the public meeting at 7:00 p.m. Ms. Story participated in the public meeting remotely from the School Administrative Offices, 6th floor conference room.

Vice Chair Brooks-Buck asked if all Board Members were asked to turn in their phones. Member Riddick and Member Mitnick agreed that all were asked.

Vice Chair Brooks-Buck then asked if all members complied and turned in their phones. Members agreed that they turned in their phones with the exception of Member Story.

Vice Chair Brooks-Buck moved, and Member Riddick seconded the motion to continue with the rule as the Chair recommended that all Board Members turn in their phones and move forward with the Closed Meeting.

During the vote (Members Jenkins, Mayo had voted), Member Mitnick asked if there was a seconded and the Clerk indicated that Member Riddick seconded the motion. Member Story then stated that she did not hear a time for discussion. Member Riddick stated that that was what they were doing when the motion was made and seconded. He stated that he didn't recall anyone trying to speak and that we are mid vote. Vice Chair Brooks-Buck indicated that the question had been called. Member story stated "no it wasn't."

The Board Chair stated that the vote is in progress. The Clerk continued with the vote with Member Mitnick.

When the Clerk called on Member Story for her vote, she voted "No" and stated her reason. She said she was voting "No" because "Dr. Buck said it was voluntary but now it's mandatory. Although Members volunteered to do it, I didn't volunteer and now you're making it mandatory so I vote "No"."

The Clerk continued with the vote.

Upon a roll call vote, the vote was: Aye: 6 Nay: 1 (Story) Absent: 0. The motion Passed. 6 to 1.

Board Chair Byrum asked Attorney Waller for a motion to continue.

Attorney Waller read the following Motion to go into a Closed Meeting.

A motion is needed to go into a Closed Meeting to discuss the following item and subject pursuant to Section 2.2-3711 of the Code of Virginia (1950) as amended:

- Consultation with legal counsel employed by the School Board regarding a specific legal matter requiring the provision of legal advice by counsel and more specifically as it relates to the investigative report of the Hostile Work Environment Complaint filed against Board Member Sherri D. Story.

All of which is authorized by Section 2.2-3711 A.8 of the Code of Virginia (1950), as amended.

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Member Riddick stated that he wanted to set the narrative straight before voting for the motion. He indicated that Board Members were all asked to comply with the directive and that there wasn't any special circumstances for any Board Member. All Members had the same stipulation which was to turn in their phones and that as the Chair, it was her right to set this directive and all were told to comply with those exact guidelines. He indicated that Dr. Buck

may have used the wrong wording because it wasn't voluntary, all had to comply. Member Riddick then made a motion.

Member Riddick moved, and Vice-Chair Brooks-Buck seconded the motion to move forward with the motion and accept what Attorney Waller read for us to go into Closed Session.

Upon a roll call vote, the vote was: Aye: 6 Nay: 1 (Story) Absent: 0. The motion Passed. 6 to 1.

Member Story indicated that she voted no because she believed that the meeting was not properly advertised to the public according to FOIA and it doesn't comply with FOIA. She also believes that the meeting is not the same as was voted on in the resolution and what the meeting is for, as it was called, is not the same as was voted on in the meeting on Thursday. She said for both of these reasons, she's voting "No". It's not in compliance with FOIA.

Dr. Gordon, the Clerk, Deputy Clerk, and Mr. Littlefield exited the room so that the Board could go into Closed Session.

RE-OPENING OF PUBLIC MEETING

The Special School Board Meeting was called to order by Board Chair Byrum.

CERTIFICATION OF CLOSED MEETING

Attorney Waller read the Certification of the Closed Meeting.

A RESOLUTION OF CERTIFICATION OF THE CLOSED MEETING OF DECEMBER 15, 2020 PURSUANT TO SECTION 2.2-3712 OF THE CODE OF VIRGINIA (1950), AS AMENDED

WHEREAS, the School Board of the City of Suffolk convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia (1950), as amended, requires a certification by the School Board that such closed meeting was conducted in conformity with Virginia law.

NOW THEREFORE, BE IT RESOLVED that the School Board of the City of Suffolk hereby certifies that, to the best of each member's knowledge, (i) only business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this resolution of certification applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the School Board of the City of Suffolk.

Vice-Chair Brooks-Buck moved, and Member Jenkins (and Member Mitnick) seconded the motion, to approve the Certification of Closed Meeting as presented.

Upon a roll call vote, the vote was: Aye: 6 Nay: 1 (Story) Absent 0: The motion Passed. 6 to 1.

Member Story indicated that she was voting “No” because she could not certify a meeting that she was not allowed to attend. She stated she was held hostage by not surrendering her cell phone which is her personal property and that she didn’t know what was said and done in that meeting.

ACTION ON CLOSED MEETING ITEMS

Resolution 20/21-9 – A RESOLUTION OF THE SCHOOL BOARD FOR THE CITY OF SUFFOLK, VIRGINIA ACCEPTING THE FINDINGS OF FACT AND RECOMMENDATIONS OF AN INDEPENDENT INVESTIGATION OF A HOSTILE WORK ENVIRONMENT AND COMPLAINT FILED AGAINST BOARD MEMBER SHERRI D. STORY

The Clerk read the resolution.

Member Riddick moved, and Vice Chair Brooks-Buck seconded the motion, to accept the report as presented.

Upon a roll call vote, the vote was: Aye: 6 Nay: 1 (Story) Abstain: 0 The motion Passed. 6 to 1.

Member Story indicated she was voting “No” because she had not seen the report which is about her, and she was not given a copy and wasn’t afforded the opportunity to see the report due to not being allowed to attend Closed Meeting.

Resolution 20/21-10: - A RESOLUTION OF THE SCHOOL BOARD FOR THE CITY OF SUFFOLK, VIRGINIA WAIVING ATTORNEY CLIENT PRIVILEGE AND AUTHORIZING THE RELEASE OF AN INVESTIGATIVE REPORT REGARDING HOSTILE WORK ENVIRONMENT COMPLAINT FILED AGAINST BOARD MEMBER SHERRI D. STORY.

Vice Chair Brooks-Buck moved, and Member Jenkins seconded the motion, to accept the report as presented.

Upon a roll call vote, the vote was: Aye: 6 Nay: 1 (Story) Abstain: 0 The motion Passed. 6 to 1.

Member Story stated she was voting “No” because she was concerned that the resolution was prepared and signed prior to any Board Member or complaint person seeing it. She indicated that she did not know how anyone would be able to put together a resolution of this magnitude, with a signature on it, without knowing what the Board was going to do at Closed Session tonight. She said that it appeared that the document was already prepared and talked about and done with, which is in clear violation of what the intent was and didn’t know how the document could be signed...in case the board decided something else. She said it seemed as though the document was prepared by someone who is acting as if they are the Board or somehow decided that the Board was going to do this ahead of time before anyone supposedly saw the document. She then added that she had not seen the document either and that

you are releasing something about her that she has not been given the right to see. She also stated that she holds the right to any kind of litigation with releasing anything that is said about her by other people if it is not all entirely true.

ADJOURNMENT

There being no further business, the Board Chair adjourned the December 15, 2020 Special School Board Meeting at 8:39 p.m.

Phyllis C. Byrum, *Board Chair*

Tarshia L. Gardner, *Clerk*