

DOUGLAS UNIFIED SCHOOL DISTRICT 27
DOUGLAS, ARIZONA

Board Room
Joe Carlson Administration Building

5:30 PM
January 26, 2010

Special Board Meeting
Minutes of the Board

I. PRELIMINARY MATTERS

CALL TO ORDER: Mr. Chuck Hoyack, President

PRESENT: Mr. Mario Ramos, Member
Ms. Susan Kramer, Member
Mr. Ed Rivera, Member

ABSENT: Mrs. Patricia Lopez, Member

Others Present: Ms. Leanne Bowley, Interim Administrator
Ms. Edna Elias, Executive Secretary
Ms. Anne Carl, Deputy County Attorney

Mr. Hoyack announced that Mrs. Lopez is unable to attend the meeting tonight and has requested that she be allowed to participate in the executive sessions telephonically, if there are no objections.

Adopt the Agenda:

Motion was made by Mr. Hoyack to adopt the agenda with one revision, switch items II.E and II.F. Mr. Hoyack explained that he received a telephone call from Mr. Borane asking that, because of his uncertainty of when he would arrive, the Board would consider item F before item E. Motion was seconded by Mr. Rivera. Motion carried with four aye votes.

II. ACTION AGENDA

Discussion/information on searches for interim and superintendent.

Mrs. Denise Evans addressed the Board and stated that she contacted Mr. John Gordon with AZ School Boards Association (ASBA) and informed the Board that ASBA is willing to waive the fee of \$1 per student ADM and charge a flat rate of \$3,500 for the superintendent search and this includes all costs. Mrs. Evans also contacted Search Solutions and they informed her that because of reorganization within their agency they will not be available to assist our district at this time. To clarify, Mrs. Evans stated that the information she just provided is for the superintendent search. ASBA has posted an announcement on their website for an interim position at our district and this service is provided free of charge to member districts.

Discussion/action. The Board may consider, discuss, and take action regarding approval of receiving report for final invoicing of services rendered by Mr. Patrick Cooper.

Motion was made by Ms. Kramer that the Board approve the report and pay the final invoice for services rendered. Motion was seconded by Mr. Rivera.

Mrs. Evans addressed the Board and stated that she wanted the Board to be aware that the cost of the investigation is not being paid out of the M&O budget but rather the litigation cash account which can only be used for this type of expenditures/situation.

Ms. Kramer asked about the purchasing limits and if the district has crossed any of the limits. Mrs. Evans responded that she has been in contact with district auditors and they are aware that the district did exceed the bidding threshold and they are working with the district to make sure that the proper wording is in place. They have assured Mrs. Evans that because the district has had such clean audits in procurement in the past, they do not feel this will be detrimental to the district.

Mr. Ramos asked if this was the final invoice. Mrs. Evans responded that it is her understanding that this invoice in the amount of \$9,687.29 is the final billing to the district.

There being no further discussion/questions, Mr. Hoyack called for a vote on the motion on the floor. Motion carried with four aye votes.

Discussion/action on whether the Governing Board will hear the appeal filed by Ms. Mary K. Bailey or appoint a hearing officer for this appeal.

Motion was made by Ms. Kramer that the Governing Board hear the appeal filed by Ms. Mary K. Bailey on her issue. Motion was seconded by Mr. Ramos.

Discussion followed with Ms. Bowley addressing the Board and stating that Ms. Good has worked extensively with district attorneys in this matter to determine the best course of action.

Ms. Good addressed the Board and stated that the only thing the Board can do at this point is to go into executive session for legal advice and the attorney that she has been working with is available telephonically. Mr. Hoyack asked what the deadline is for holding a hearing – Ms. Bowley responded that it is fifteen to thirty days which comes out to February 24th being the “no later than” date. She informed the Board that, from her experience, a hearing of this type would probably take a whole day.

Mr. Ramos asked for an approximate cost to the district should a hearing officer be hired to hear this matter. Ms. Carl addressed the Board and stated that these charges are generally hourly and depends on the hearing officer hired.

Ms. Kramer asked to rescind her motion at this time. Mr. Ramos rescinded his second of the motion. Motion to rescind was approved with four aye votes.

Motion was then made by Mr. Hoyack to move into executive session pursuant to ARS 38-431.03 (A) (3) to receive legal advice regarding the appeal filed by Mr. Mary K. Bailey. Motion was seconded by Ms. Kramer.

At this point, Ms. Carl addressed the Board and stated that she understands that one of the board members is sick and would like to attend executive sessions telephonically. She stated that she is not aware of a policy allowing a board member to attend and participate in an executive session telephonically. Board members are allowed to have access to minutes, and she does not really see a problem with a board member listening in to an executive session in real time, but she would think that there should be a policy allowing a board member to

participate telephonically in an executive session – something she is not aware that the district has.

Meeting adjourned in to executive session at 5:45 PM.

Motion was made by Mr. Hoyack to resume open session at 6:05 PM. Motion was seconded by Mr. Rivera and passed with four aye votes.

Motion was then made by Mr. Rivera to appoint a hearing officer to hear the appeal filed by Ms. Mary K. Bailey. Motion was seconded by Mr. Hoyack. Motion carried with four aye votes.

Executive session per ARS 38-431.03 (A) (2) to discuss confidential records and/or for legal advice per ARS 38-431.03 (A) (3) regarding confidential records, specifically to review applications provided by ASBA for the position of interim administrator in charge for the balance of FY2010. As of this time there are no “finalists” among these applications for this position.

Motion was made by Mr. Rivera to move into executive session to discuss the ASBA list of interim administrators. Motion was seconded by Ms. Kramer. Motion carried with four aye votes.

Meeting adjourned in to executive session at 6:07 PM.

Motion was made by Mr. Hoyack to resume the meeting in open session at 6:55 PM. Motion was seconded by Mr. Ramos and carried with four aye votes.

Executive session for personnel matters pursuant to ARS 38-431.03 (A) (1) the Board may vote to enter executive session to interview Leanne Bowley as a candidate for the position of interim administrator in charge for the balance of FY2010.

Motion was made by Mr. Rivera to move in to executive session to talk to Ms. Leanne Bowley. Motion was seconded by Ms. Kramer. Motion carried with four aye votes.

Meeting adjourned in to executive session at 6:56 PM.

Motion was made by Mr. Hoyack to resume the meeting in open session at 7:50 PM. Motion was seconded by Mr. Rivera and carried with four aye votes.

Executive session for personnel matters pursuant to ARS 38-431.03 (A) (1) the Board may vote to enter executive session to interview Ray Borane as a candidate for the position of interim administrator in charge for the balance of FY2010.

Motion was made by Ms. Kramer to move in to executive session to interview Mr. Ray Borane as interim administrator. Motion was seconded by Mr. Ramos. Motion carried with four aye votes.

Meeting adjourned in to executive session at 7:51 PM.

Motion was made by Mr. Hoyack to resume the meeting in open session at 8:50 PM. Motion was seconded by Mr. Ramos and carried with four aye votes.

Discussion/action on search for and/or appointment of interim administrator in charge for the balance of FY2010.

Motion was made by Mr. Ramos that the Board appoint Mr. Ray Borane as interim administrator at a mutually agreed upon date and that Ms. Leanne Bowley remain in that position until that agreed upon date with Mr. Borane. Motion was seconded by Ms. Kramer.

Ms. Kramer commented that in light of the turmoil that we have gone through since the majority of board members present have come on to the board, personally she feels that Mr. Borane would make the best interim administrator for the rest of this year because he has no real stake in the district other than his loyalty to Douglas and to the district. She feels that Mr. Borane has no agenda that will move the district away from where it is going and feels that he will keep the district moving in a positive manner, keep the schools improving and the district would benefit from his experience.

Mr. Ramos added that he agrees with Ms. Kramer's comments and that Mr. Borane would bring stability to the district for the time left in the fiscal year.

There being no further discussion/questions, Mr. Hoyack asked for a vote on the motion on the floor. Motion carried with four aye votes.

Discussion/action on Superintendent Pettit's attendance at future professional development activities at district expense, to include the AASA conference in Phoenix on February 10-13, 2010.

Motion was made by Mr. Ramos to approve Mr. Pettit's attendance at future professional development activities at district expense to include the AASA conference in Phoenix on February 10-13, 2010. Motion was seconded by Ms. Kramer.

Ms. Bowley addressed the Board and stated that Mr. Pettit had contacted her via email to ask if he would be able to attend the AASA conference, and after reviewing his reassignment letter, she made the decision to deny the request. Mr. Pettit has responded that he disagrees with this decision and has filed a grievance at the district office. The Board has been provided information on the AASA conference.

Mr. Ramos asked if Mr. Pettit's contract still in force. Ms. Bowley responded that it is. Mr. Ramos then asked if that contract states that Mr. Pettit is entitled to such professional development activities and also asked if denying his request would violate the contract. Ms. Bowley responded that in section 8.3 of the contract it states that the professional development should be mutually agreed upon between himself and the Board and that it would be beneficial to the district.

Ms. Carl addressed the Board and stated that the Board must make a decision as to whether or not this would be a benefit to the district. She stated that Mr. Pettit has decided that it is beneficial to the district so now the Board must make that determination. Ms. Carl further clarified that professional development is not a part of the compensation section of the contract, it is a separate item and it is not a requirement that the Board compensate him with paid professional development.

Mr. Hoyack asked when Mr. Pettit was registered to attend this conference. Ms. Bowley responded that she does not know the exact date but it was prior to his administrative leave. Mr. Ramos asked if the money already paid for registration would be lost – Ms. Bowley said no, someone else can be assigned to attend.

Mr. Hoyack commented that it is his opinion that Mr. Pettit should go to this conference, that he registered before his administrative leave and it is professional development for him but not necessarily serve as a benefit for the

district in the short term but he believes that if Mr. Pettit would like to attend any future professional development conferences, etc., that would need to go through the interim administrator in charge and go through the Board. That is the opinion of one board member. Ms. Kramer agreed with Mr. Hoyack and added that Mr. Pettit would have been attending if he had his job to the full duties and it was prior to the Board's decision, so she feels he should attend also.

There being no further discussion/questions, Mr. Hoyack called for a vote on the motion on the floor. Motion carried with four aye votes.

Discussion/action on grievance filed by Mr. Earl F. Pettit, in accordance with Policy GBK "Staff Grievances".

Mr. Hoyack asked Mr. Pettit if he felt a need to have this item on the agenda. Mr. Pettit addressed the Board and asked which item this is pertaining to. He was informed it was the travel item. Mr. Pettit then stated that he was prepared to speak on this matter, but there is no need now.

Motion was made by Mr. Hoyack that the Board take no action on this agenda item. Motion was seconded by Ms. Kramer. Motion carried with four aye votes.

Executive session per ARS 38-431.03 (A) (2) considering and discussion confidential records. The Governing Board may vote to enter executive session to discuss confidential sections of the investigative report that were not redacted prior to its initial release to the public.

Motion was made by Mr. Rivera to move into executive session to discuss confidential records pursuant to ARS 38-431.03 (A) (2). Motion was seconded by Mr. Hoyack.

Mr. Ramos commented that the document was approved in an open meeting and is now public record, the document has already been redacted – is there a need to go into executive session? Mr. Hoyack replied that he believes so.

Mr. Hoyack called for a vote on the motion on the floor. Motion failed with two aye votes (Hoyack, Rivera) and two nay votes (Kramer, Ramos).

Discussion/action on further redactions to the final investigative report submitted by Mr. Patrick Cooper.

Motion was made by Mr. Rivera that there be further redactions to the final investigative report submitted by Mr. Patrick Cooper. Motion was seconded by Mr. Hoyack.

Discussion followed with Ms. Carl addressing the Board and stating that the issue is not wanting to draw more attention to possible confidentiality issues than have already been drawn. If this can be avoided, that is why there was an opportunity for an executive session on the agenda. Ms. Carl stated that it came to her attention and Ms. Bowley's attention that there were a couple of issues that were confidential matters that certain district personnel felt keenly about and that Mr. Cooper had missed in his redactions. One of the complaints made was by Mr. Pettit regarding some personal information he was concerned about in the report and Ms. Bowley's action was to ask that Mr. Cooper do the job that he said he would do and redact that information fully. There is no statute protecting, for example, a home address or a personal phone number of a school employee. There is a statute protecting that information for a prosecutor or a judge, so in terms of the report violating some kind of statute, she wanted to assure the Board that we are not talking about that here. What is the subject is that Mr. Cooper, in doing his report, did promise a high degree of confidentiality to district employees to get them to cooperate with the investigation. She stated she thinks it is correct and proper for the Board to do as much as it can to honor that. She continued by saying that the action that Ms. Bowley took immediately to contact KGUN9, which had put the report on their website, to ask them to take it down and make a couple of redactions that were not made and that Mr. Pettit felt very strongly about. This action, in her opinion, was in the district's benefit and was proper legally. She understands that KGUN9 did do that but she also understands that there are other voiced problems with the report and the Board has not gone into those or addressed that at all. This was put on the agenda to both inform the Board of Ms. Bowley's actions and to ask the Board if there was anything they thought of that could be done to remedy the situation. It is her personal opinion that everything that can be done has been done.

Ms. Bowley recapped the steps she took: upon receipt of an email from Mr. Pettit, she immediately contacted KGUN9 and spoke to Mr. Carr personally and explained the situation. Mr. Carr voluntarily worked with the district to ensure that the redactions were made. She also contacted Mr. Cooper and asked him, if, as the district reviews further, there were other omissions or redactions that

should have been made, would he be willing to redact them if the district provided him with page numbers and evidence of things that needed to be redacted. Mr. Cooper said that he would do that at no charge and provide the new pages to the district. Finally, Ms. Bowley stated that she thinks that the Board should consider assigning Ms. Good to fully look through and verify that the redactions that Mr. Cooper made are indeed comprehensive and that nothing else was missed to ensure that nothing else needs redacting. Those redactions still being needed can then be sent to Mr. Cooper.

Mr. Ramos expressed a concern that when the request was made to redact the report, it was 311 pages long and now there are six more pages than the original. Ms. Carl stated that she believes this is due to pieces of the letter from the County Attorney's office that needed to be redacted because it had employees' names which needed to be redacted. When Mr. Cooper put that letter initially into the report he did so without including the exhibits to that letter, which she is guessing were about five or six additional pages. She is speculating that when he placed the redacted letter into the report he did so along with the exhibits, which should have been included. It did not change substantively the report.

Mr. Hoyack suggested that perhaps the original motion can be amended to include the assignment of Ms. Good to work with Mr. Cooper to correct whatever omissions in the redactions and also ask Ms. Good to ask Mr. Cooper why the report was lengthened after the redactions and get his response. If he added something, the Board should know that. Mr. Ramos agreed.

Mr. Hoyack asked Mr. Rivera if he would agree to amend his motion to include assigning Ms. Mary Good to work with Mr. Cooper to correct omissions to the redacted final report and to also ask Ms. Good to inquire of Mr. Cooper why the increase in the length of the report. Mr. Rivera agreed to the amendment of his motion; Mr. Hoyack approved the amendment to his second.

Ms. Carl advised that the Board state in the motion "further redactions if necessary". Mr. Hoyack commented that there is a level of implied trust that Ms. Good will work to make the necessary redactions and not anything unnecessary. Mr. Rivera approved the amendment "to make further redactions if necessary" and Mr. Hoyack approved the amendment to his second.

There being no further discussion, Mr. Hoyack called for a vote on the motion on the floor. Motion carried with three aye votes (Hoyack, Kramer, Rivera) and one nay vote (Ramos).

III. ADJOURNMENT

There being no further business, Mr. Hoyack made a motion to adjourn the meeting at 9:20 PM. Motion was seconded by Mr. Rivera and carried unanimously.

Minutes prepared by Edna Elias, Superintendent/Governing Board Secretary.

These minutes were approved by the Board at their meeting of March 2, 2010.