

Thursday, May 3, 2018

MINUTES OF THE AD HOC INTERNAL LEGAL DEPARTMENT
COMMITTEE OF THE BRIDGEPORT BOARD OF EDUCATION,
held May 3, 2018, at Bridgeport City Hall, 45 Lyon Terrace,
Bridgeport, Connecticut

The meeting was called to order at 3:20 p.m.

Present were members Maria Pereira and Chris Taylor. Board members Ben Walker and Joseph Sokolovic were present.

Ms. Pereira said she asked Carmen Lopez to be present. Ms. Lopez said she understood the board was looking to hiring in-house counsel because of the costs. She said she understood the chair of the board to say that discussing hiring such a counsel would be violating the city charter.

In response to a question on her background, Ms. Lopez said she was a lifelong resident of Bridgeport, had a law practice for many years in Bridgeport, and in 1996 was appointed by the governor to the Superior Court bench, handling many different kinds of cases including juvenile. She said she left the bench after twelve years to pursue other matters, including education. She said she was involved with the board during the struggles over the state takeover, particularly in providing legal support to the efforts of the community.

Ms. Lopez said Section 2.10 of the Code of Ordinances for Bridgeport is another relevant section that affects the city attorneys. She said she did not believe the city charter prevents the board from going forward with an in-house attorney. She said she would need information from the city attorney as to why this is not the case.

Ms. Lopez said the Code of Ordinances act as the statutes compared to the constitutional status of the charter. She said the Board of Education is never mentioned in the Code of Ordinances. She said Section 2.10 indicates if the city attorney requires special counsel that

counsel must be approved by the City Council. She said this is a practice not followed by the city attorney's office.

Ms. Lopez said it appears the way the city attorney operates is that they really run the city. She has observed City Council meetings presided over by the mayor and he basically turns it over Atty. Anastasi, who makes decisions on policy, not just on legal issues.

Ms. Pereira and Mr. Taylor said they were fully prepared to engage in a battle with the city attorney. Mr. Walker said it was about saving us money and retaining our autonomy.

Ms. Lopez said the legal service being received in Bridgeport is appalling. In response to a question, she said there are several members of the City Council who are seriously considering filing grievances against city attorneys.

Mr. Taylor said he personally likes Atty. Anastasi, but his offering legal advice to this board when we have our own legal representation would be a clear conflict.

Ms. Lopez said under the code of conduct the responsibility for city attorneys can be imputed to the head attorney, Attorney Meyer.

Ms. Lopez said she would not hesitate to inquire into whether it's economically feasible to have an in-house counsel based on the city charter.

Mr. Walker said his biggest concern is about other board members and their propensity to interfere with the action of the rest of the members of the board.

Mr. Taylor said some of our members are deeply rooted in their local politics, including membership on the town committee. He said he would not expect any support from members Allen, Bradley, Martinez, Weldon or Illingworth.

Mr. Taylor said to be successful as a board we need to be sovereign.

Ms. Pereira said Mark Anastasi used to come to every board

meeting. She said she objected to his presence and told him he was not the tenth board member. She said he acts like the 21st City Council member at those meetings. She noted he had not been to one board meeting since the new board came in.

Ms. Pereira said she created a list of two-year averages of legal expenditures, not including 2017-18. She noted she voted against the largest settlement in the history of Bridgeport since her involvement on the board. She said the law firm spent three years and \$319,000 on that case.

Ms. Lopez said part of the responsibility of an in-house attorney could be to monitor these cases and monitor billing by outside attorneys. Mr. Walker said right now we're relying on the attorney that is collecting those fees to tell us that this is too much.

Ms. Lopez noted the board was being billed by attorneys who are experts in education law.

Mr. Walker said it was not until the end of the large case that the board even saw the video that was available of the incident. Ms. Lopez said as the client the board should be shown the evidence almost immediately in such a case. Mr. Walker said he heard about this case in the news, not from our attorneys. He said we need a monthly update on all the board's litigation.

Mr. Taylor said we have a moral obligation to provide a safe school environment. He said a nonconsensual sexual act should have never went to litigation. We should have avoided litigation and done damage control to protect the taxpayers and give the young man that was assaulted his justice. Ms. Pereira said Shipman & Goodwin had six attorneys on that case.

Ms. Lopez said an attorney with court litigation experience would be helpful to the board. She said she believed the board would want to see a list of pending cases and then conduct a review of the cases.

Ms. Pereira said she looked at the issue from the areas of where an in-house counsel could help. One area is board policy. She said Mr. Weldon had a lawyer come to a Governance Committee meeting

without anybody's permission and \$2,000 was charged. She said other areas are expulsion hearings (yearly spending average of \$12,000) and CHRO (\$75,000 per year), and general school law (average \$70,000 per year).

Ms. Lopez noted there were expenditures for immigration of \$7,000. Ms. Sokolovic said perhaps issues had come up with respect to residency or employment status.

Ms. Pereira said review of contracts was another area where the in-house lawyer could help. She noted Shipman & Goodwin negotiated the agreement with the BEA at the cost of \$20,000.

Ms. Pereira said the board had many difficulties with special education leading to a lot of legal expenses. She said the three biggest areas of expenditure were CHRO, special education and general school law.

Ms. Pereira said Supt. Rabinowitz arbitrarily decided to have Shipman & Goodwin participate in any IEP where an attorney was involved and that led to skyrocketing legal costs. Mr. Walker said when Mr. DiDonato came to the district he made a policy change that reduced the costs.

Ms. Lopez said the in-house counsel's skill set would have to include monitoring litigation. She noted some special education hearings end up in court. She said CHRO resolves around labor law issues, not education law. She said perhaps a part-time labor lawyer could do CHRO cases.

Ms. Lopez noticed there were a lot of experienced paralegals out in the market. She said the paralegal might be able to keep track of the litigation to save attorney costs.

Ms. Pereira said the goal is to have a savings. Ms. Lopez noted that Mr. Walker indicated he wanted the board to have more control over exposure on legal matters. Mr. Walker said oftentimes board members turn over during the pendency of legal cases and new members are not familiar with longstanding cases.

Mr. Walker said he would not be opposed to such summaries of legal cases being done via e-mail.

Ms. Pereira said Chris Meyer indicated he was looking for an attorney specializing in business law and that he offered the job to somebody for \$136,000 who would not accept that job for that amount.

Ms. Pereira said the attorney would not be part of a bargaining unit so they could be terminated if necessary. Mr. Taylor said he would be happier with an outside organization with their own malpractice insurance. Ms. Lopez said that's what the board has now with Shipman & Goodwin.

Mr. Taylor said he was hoping to find a seasoned sole practitioner that has trial experience.

Mr. Sokolovic said he was looking at this position kind of like a gatekeeper. He said the difficult stuff could be farmed out in any event.

Ms. Pereira said under state law the board could be the expulsion panel and other boards of education sit on expulsion hearings. She noted the board was paying for that function.

Mr. Taylor said anything is better than the current situation.

Ms. Lopez said in 2016-17 the board spent \$197,000 on special education legal services. She suggested the committee look at the breakdown of that billing as to the type of work. She noted one case cost \$14,000. She suggested more detail on the case for which \$317,000 was spent would also be helpful. Ms. Pereira noted there was another case that was at \$123,000 over three years.

Mr. Walker said one notation might refer to state Department of Education complaints. Ms. Pereira said that was a \$45,000 item.

Ms. Pereira said the board had one law firm for thirty years that was very politically connected. The contract was never put out to bid. She said Shipman & Goodwin was supposed to save us money, but that has not been the case.

Mr. Taylor said if legal bills are this high maybe we should recalibrate our management to behave more efficiently.

Ms. Pereira said the big case we're talking was about employees not doing their job. She said she was told nothing was done by Supt. Rabinowitz to discipline the employees.

Ms. Pereira said the committee had to do a cost analysis and go back to the board. She had estimated expenses of about \$300,000 could be taken in-house. She said she was considering an attorney and a paralegal/assistant, and would like to save \$100,000 in the first year. She said maybe we could take the major litigation in-house eventually.

Mr. Taylor said in his business he advertised for an attorney for \$60,000 with a company car and full benefits. He said he received 300 responses, including UConn and Yale graduates. Ms. Pereira said she didn't think we can have an inexperienced lawyer.

Ms. Pereira noted special education is very complicated because there are a lot of state and federal mandates. Ms. Lopez said appeals from special education go to federal court.

Ms. Pereira said workers' comp was covered under the Internal Service Fund. She said Atty. Maureen Driscoll, who maxed out to Joe Ganim, handled those cases.

Ms. Lopez said she has placed a call to the in-house attorney for the Hartford school district and would report back with information. She said Greenwich has an in-house attorney as well. She added that there is also an association of school lawyers that her friend may be able to direct her to.

Ms. Pereira said she would get the legal bills for the next meeting. She wondered if some information should be redacted because Ms. Lopez was going to help the committee look through them. Ms. Lopez said Ms. Pereira could look through the bills and just carefully inform her about the results.

Ms. Pereira noted Atty. Mooney of Shipman & Goodwin responded to the board's action not to pay a recent bill. She said he had the nerve to copy Chris Meyer and Atty. Anastasi on the letter. Ms. Pereira said she was doing the research on this issue and Shipman & Goodwin's claim was totally erroneous.

Mr. Sokolovic said he was concerned because the board did not take the step to constructively terminate the agency of John Weldon to act independently. He said the law firm was relying on agency. Ms. Lopez said it was more about past practices.

Ms. Pereira said Ms. Baraka as chair had to get the board's permission to go to Shipman & Goodwin. Mr. Walker said Mr. Bradley did so without the board's permission.

Mr. Taylor questioned the actions of Dr. Johnson in the consultation with the law firm referred to previously. Ms. Pereira said Dr. Johnson merely forwarded Mr. Weldon's e-mail to Shipman & Goodwin and told him she was uncomfortable with the action. Mr. Weldon then wrote a three paragraph email to her in response. Mr. Taylor said the rest of the board was entitled to know this. Ms. Pereira said Mr. Weldon purposely put Dr. Johnson in an awkward position. Mr. Taylor said he believed Dr. Johnson was manipulating him as well.

Mr. Taylor moved the meeting be adjourned. The motion was seconded by Ms. Pereira and unanimously approved.

The meeting was adjourned at 4:26 p.m.

Respectfully submitted,

John McLeod