

Tuesday, April 3, 2018

MINUTES OF THE SPECIAL MEETING OF THE BRIDGEPORT BOARD OF EDUCATION, held April 3, 2018, at Bridgeport Regional Aquaculture Science & Technology Education Center, 60 St. Stephens Road, Bridgeport, Connecticut.

The meeting was called to order at 8:08 p.m.

Present were Chair John Weldon, Vice President Hernan Illingworth, Secretary Jessica Martinez Joseph Sokolovic, Dennis Bradley, Sybil Allen, Chris Taylor and Maria Pereira.

Supt. Aresta Johnson, Ed. D., was present.

Mr. Weldon said the purpose of the meeting was discuss a legal opinion concerning the Connecticut Freedom of Information Act and its application to members of the Bridgeport Board of Education. He said the legal opinion may be discussed in executive session.

Ms. Pereira said the board never requested a legal opinion. She said Mr. Weldon violated board policies by requesting the legal opinion without permission. She read Policy 9000, which indicated individual members shall make no commitments for the board except when executing an assignment requested by the board. Policy 9100 indicates individual board members have no individual authority unless duly authorized by a vote of the board or a committee thereof. Policy 9030 indicates the board recognizes administrative matters must be dealt with through its chief administrator, the superintendent.

Ms. Pereira said Policy 9121 lists all the authority the chairperson has. She said expending money on behalf of the board or asking for a legal opinion is not included. Policy 9272 indicates that decisions can only be made by a majority vote at a board meeting. Policy 9324 indicates before any actions by the board are requested board members are to be provided with adequate data and backup information to assist them in reaching sound decisions.

Ms. Pereira said the board had been discussing for months about how we are cash-starved and the high legal expenses. She said Mr. Weldon took it upon himself to ask for a legal opinion that was never discussed or approved by the board. She said Mr. Weldon asked the Shipman & Goodwin attorney to be here without the board's authority.

Mr. Weldon said the authority to request the legal opinion was not on the agenda, but the subject was the legal opinion developed. Ms. Pereira said Mr. Weldon can't request the legal opinion because we act as a board and said she read every policy that Mr. Weldon violated.

Mr. Weldon asked if there was a motion to go into executive session or not to discuss a communication covered by attorney/client privilege.

Mr. Illingworth said he was struggling with why the item qualifies for executive session. He said he did not see why it could not be done in public.

Ms. Pereira said according to state statute there are six reasons the board can go into executive session. She asked Mr. Weldon to point out which reason qualified in this instance. Mr. Weldon said it was an attorney/client communication.

Mr. Taylor said he wanted to preserve the integrity of the board, particularly since we all get along very well. He said he believed legal opinions qualify for attorney/client privilege, particularly if it involved dirty laundry. He said he would leave it up to the board and would probably abstain from a vote.

Mr. Weldon asked Attorney Gary Brochu of Shipman & Goodwin to speak on the discussion. Atty. Brochu said it was appropriate for the board to go into executive session to discuss documents protected by attorney/client privilege or are otherwise confidential. The decision to go into executive session is the board's and would require a two-thirds vote.

Atty. Brochu said the issue has to do with the specific application of the Freedom of Information law to specific factual circumstances, which qualifies as attorney/client privilege.

Ms. Pereira said it would require pending litigation or notification of litigation for a legal opinion to qualify for executive session. Atty. Brochu said he respectfully disagreed. Ms. Pereira said Judge Lopez, whom she characterized as a genius, disagrees with Atty. Brochu. Mr. Taylor said Judge Lopez doesn't represent the board.

In response to a question, Atty. Brochu said Mr. Weldon asked for a copy of the legal opinion this afternoon. Mr. Weldon said he indicated when he arrived at the meeting he did not have a copy of the document. Ms. Pereira said he could have forwarded it electronically to her electronic request. Mr. Weldon said he was on the train when Ms. Pereira made the request. Ms. Pereira said Mr. Weldon had the legal opinion because Atty. Brochu emailed it to Mr.

Weldon. She said it was outrageous behavior that would go to the Freedom of Information Commission.

Atty. Brochu said he had copies of the legal opinion. He said it is protected by attorney/client privilege unless the board makes a decision to waive its privilege. He said he is bound by privilege and has no authority to waive the privilege, which belongs to the board, which acts collectively.

Mr. Taylor moved "*the board go into executive session based on that document.*" He said he wanted to see the confidential document in executive session. The motion was seconded by Ms. Martinez.

Ms. Pereira asked if any individual board member or employee of the board was being discussed in the executive session. Mr. Weldon said no.

Mr. Sokolovic said it seemed crazy that we're going into executive session to get a legal opinion on the Freedom of Information Act. He said he came on the board to shed light and to discuss things in an open, honest way, not to hide in a back room. He said it's time to open windows and shed light.

Mr. Weldon said the board, Dr. Johnson and Atty. Brochu would participate in the executive session.

The motion failed by a 4-4 vote. Voting in favor were members Weldon, Martinez, Bradley and Taylor. Voting in opposition were members Illingworth, Pereira, Sokolovic and Allen.

Mr. Taylor said he was going to recuse himself because he was not waiving attorney/client privilege. Mr. Weldon said

Mr. Taylor could be present to hear, but not participate. Mr. Taylor said he can't keep his big mouth shut and was going to recuse himself. He said he did not want a copy of the document.

Atty. Brochu asked if the board was affirmatively waiving attorney/client privilege to have the discussion. He said his recommendation to all boards is that they vote affirmatively if they wish to waive attorney/client privilege. He said if the document was simply passed out there would be no waiver of privilege.

Mr. Illingworth said he would like to see the document. Mr. Taylor said he would stay in the meeting if the attorney/client privilege wasn't waived.

Ms. Pereira said our board policy requires the board receive documents in advance of meetings to be prepared. She said Mr. Weldon had it in his possession and specifically denied having seen the document. She said Mr. Weldon was outed here by his partner in crime that he had it since this afternoon, which she said was unethical. Mr. Weldon said he didn't have it.

Ms. Allen asked Atty. Brochu to distribute copies. Ms. Martinez said forgetting about board policy, the board is building a solid relationship working on behalf of the children and their future. She said when things like this happen people's integrity is questioned. She said she had no idea what we were discussing. She said she understood why Ms. Pereira was upset and why Mr. Sokolovic made his comments. She said we are elected by the people and they should be honored. She said she understood the frustration of board members and she agreed.

Mr. Sokolovic said it would take a good amount of time to digest the legal opinion and meanwhile the attorney would be getting paid an astronomical amount of fees. He said as a Republican he can't justify the expenditure while the board reads a document. He suggested the board members take the document, table the item, and if the board decides to incur further expense that it do so.

Atty. Brochu said the document was six pages.

Mr. Sokolovic moved "*to accept the document from Atty. Brochu and to table until the next regular board meeting.*" Ms. Pereira said she had never seen a special meeting at 7:30 in nine years. The motion was seconded by Mr. Illingworth.

Mr. Taylor said he hated getting documents last minute, but as a matter of prudence to drag counsel back here and incur the expense would defeat everything he stands for. He said he was a team player and wanted to work in the harmony with the board. He suggested Atty. Brochu give his spiel and let's get him off the clock.

Ms. Pereira said the board didn't incur the expense and no individual can incur an expense on behalf of the board. She said Mr. Weldon is fully aware of this because we had the same discussion at a Governance Committee meeting.

In response to a question, Atty. Brochu said he would be charging for his time, although the firm has waived charges in the past when the board objected. He said the firm's arrangement with the board is to bill for travel one way.

In response to a question, Atty. Brochu said he did not know the exact time to prepare the document but it was less than two hours.

The motion failed on a 4-4 vote. Voting in favor were members Illingworth, Pereira, Sokolovic and Allen. Voting in opposition were members Bradley, Martinez, Taylor and Weldon.

Ms. Pereira said the chair should be sanctioned.

The document was distributed by Atty. Brochu.

Mr. Bradley said, all of that, for this? Ms. Pereira said it wasn't talking about individual board members, but it's talking about six of us.

Mr. Bradley said we deserve an award; this is incredible.

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

The meeting was adjourned at 8:38 p.m.

Respectfully submitted,

John McLeod

*Approved by the board on April 23, 2018*