

Oyster River Cooperative School District

Meeting Minutes DRAFT

August 21, 2013

7:00 p.m.

BOARD MEMBERS PRESENT: Chair Maria Barth, Tom Newkirk, Kenny Rotner, Ed Charle, Ann Lane, and Al Howland

ABSENT: Megan Turnbull, Student Representative Peter Zwart

ADMINISTRATORS PRESENT: Superintendent James Morse, Dennis Harrington, Jay Richard, Carrie Vaich

There were 60+ members of the public present.

I. CALL TO ORDER: By Chair Maria Barth at 7:00 will add a Public Comments section to the beginning and end of meeting for 1.5 minutes for each participant.

Motion to approve ORMS Long Term Substitute teacher for a one year position:
Erin Bobo-Caron

Al Howland moved to approve Erin Bobo-Caron for ORMS Long Term teacher Substitute for a one year position, 2nd by Ann Lane. Motion approved 6-0.

II. PUBLIC COMMENTS: Maria Barth reminded that public comments will be limited to 1.5 minutes each.

Jody Walker sent letter to the Board, has three older children enrolled at Moharimet. Shocked and disappointed. Against this move.

Joanne Chartrand – teacher at Moharimet presented an extensive list of concerns. Very strongly against this move. Both schools are excellent because of school community.

Marsha Lapierre – teacher at Moharimet. One week away from starting school not fair to make change. All have received letters to welcome them.

Jessica Raspa – Teacher at Moharimet. Focused on bus transportation and length of time students would remain on bus before proceeding to Mast Way.

Tuck Pescoletto – Durham parent. Procedural issues, Board embroiled in issues. No formal communication. Gross dereliction of transparency/communication.

Michael Hawley – Parent of Kindergartener and 2nd grader.

Jocelyn O'Quinn – Thank you. We understand that there is a space problem all the way back to 2001. Kindergarten is just a band aid. Strategic plan still in process, there is urgency now.

Rick Quilette – Bus routing from Moharimet to Mast Way/possibly next week if a motion was made. Who opposes – almost all hands go up.

Jacqueline Boon – New to community. Teachers/Principals better equipped to handle.

Concerned parent asked why a 5th grade substitute versus a teacher. 1 year contract.

Michael William – 8 days before. Raises more questions than answers.

IV. ACTIONS

Superintendent and Board Actions

Motion to release confidential/privileged communication from attorney to public:

Ann Lane moved to release confidential/privileged communication from attorney to public, 2nd by Al Howland. Kenneth Rotner objects due to the lack of time to review letter.

Kenny Rotner made a motion to postpone to the September 4th meeting. No second.

Motion approved 5-1 with Kenneth Rotner voting in the negative.

Motion that the Board vote to direct the superintendent and district administrators to develop and present a comprehensive plan of action to the Board at our October 16, 2013 meeting to address the district's K-8 enrollments to take effect for the 2014-2015 school year:

Ann Lane moved to direct the superintendent and district administrators to develop and present a comprehensive plan of action to the Board at our October 16, 2013 meeting to address the district's K-8 enrollments to take effect for the 2014-2015 school year, 2nd by Maria Barth.

Motion approved 5-1 with the Tom Newkirk voting in the negative.

CLOSING ACTIONS:

Ann Lane moved to adjourn the meeting at 7:50 p.m., 2nd by Al Howland. Motion approved 6-0

Respectfully submitted,

Dr, James C. Morse Sr.
Superintendent

RECEIVED
AUG 20 2013

SOULE, LESLIE, KIDDER, SAYWARD & LOUGHMAN

BY:

P.L.L.C. • ATTORNEYS AT LAW

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PETER C. PHILLIPS
MAUREEN L. POMEROY

August 19, 2013

CONFIDENTIAL ATTORNEY
CLIENT COMMUNICATION

VIA E-MAIL (jmorse@orcsd.org) & U.S. MAIL

Dr. James Morse, Jr., Superintendent
SAU #5
36 Coe Drive
Durham, New Hampshire 03824-2200

Re: Oyster River Cooperative School District – Right-to-Know Law

Dear Jim:

As requested, I reviewed David Taylor's July 14, 2013, July 24, 2013, and August 18, 2013 e-mails about an e-mail that Megan Turnbull sent to you, Wendy DiFruscio, and other members of the Policy Committee on March 14, 2013. Mr. Taylor states that the e-mail violated the meeting requirements of the Right-To-Know Law, and; therefore, Megan Turnbull is in contempt of the Court Order which enjoins the School Board from communicating by e-mail to circumvent the public meeting requirements. As explained below, the e-mail does not violate or circumvent the meeting requirements of the Right-To-Know Law. However, as I advised the School Board at the August 14, 2013 Right-To-Know Law training, to avoid any questions about whether a School Board member's e-mail violates the injunction and the Right-To-Know Law, School Board members should not communicate with each other by e-mail about the School District's business except for scheduling purposes.

The Right-To-Know Law, specifically RSA 91-A:2, defines a meeting as the convening of a quorum of the membership of a public body whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate

with each other contemporaneously for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction or advisory power. Megan Turnbull's e-mail was sent to a quorum of the Policy Committee and discussed matters over which the committee has supervision, control, jurisdiction or advisory policies. However, it is not a meeting under the definition in RSA 91-A:2 because all the members were not able to communicate with each other contemporaneously.

The March 14, 2013 e-mail also did not violate RSA 91-A:2-a which limits communications by public bodies outside a meeting. RSA 91-A:2-a has two sections and Mr. Taylor contends that Megan Turnbull violated both sections. RSA 91-A:2-a, I makes it clear that School Board members must deliberate on matters over which they have supervision, control, jurisdiction, or advisory power only in meetings held in compliance with the meeting requirements of RSA 91-A:2, II or III. Mr. Taylor contends that Megan Turnbull's e-mail violated RSA 91-A:2, I because it covered matters over which the Policy Committee has supervision, control, jurisdiction, or advisory powers and crossed the line into deliberation.

I disagree with Mr. Taylor's conclusion that Megan Turnbull's response to Maria Barth's e-mail was a deliberation. Maria Barth's e-mail was not an e-mail that circumvented the spirit and purpose of the Right-to-Know Law. In her e-mail, Maria Barth directed Megan Turnbull to the Superintendent. Maria Barth's e-mail is analogous to a scheduling e-mail which doesn't violate the spirit or purpose of the Right-To-Know Law. As you know, no School Board members responded to Megan Turnbull's e-mail. If a School Board member had responded to Megan Turnbull's e-mail with a discussion of the issues she raised in her e-mail, then it is likely that the Court would find that RSA 91-A:2-a, I was violated.

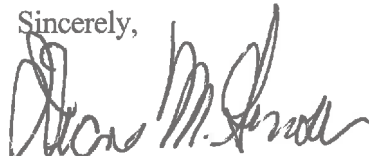
The second section of RSA 91-A:2-a, II provides: "Communications outside of a meeting, including, but not limited to, sequential communications among members of a public body, shall not be used to circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1." RSA 91-A:2-a, II (Emphasis added). The purpose of the Right-To-Know Law as set forth in RSA 91-A:1 is "to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people." Megan Turnbull's e-mail does not violate RSA 91-A:2-a, II because it is not a "sequential communication among members of a public body" since no School Board member responded to her e-mail. There was no "discussion" or "deliberation" upon the matters raised in Megan Turnbull's e-mail. A "discussion" is a conversation, informal debate, or discourse about a matter to arrive at the truth or to convince others. Webster's Third New International Dictionary Unabridged. A "discussion" implies talking about something in a deliberative fashion with varying opinions offered to settle an issue or decide a course of conduct. Webster's New World College Dictionary Fourth Edition. A "deliberation" is a discussion and consideration by a number of persons of the reasons for and against a measure. Webster's Third New International Dictionary Unabridged. Since the other Committee members did not respond to her e-mail, no discussion or deliberation occurred. Therefore, the e-mail did not violate the Right-To-Know Law or circumvent the spirit and purpose of the Right-to-Know Law.

Dr. James Morse, Jr., Superintendent
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As I explained in the training, it is difficult to provide a list of all actions that may violate the spirit and purpose of the meeting requirements of the Right-to-Know Law. However, in the Oyster River case, the Court has stated that using e-mails to schedule a meeting did not violate the Right-to-Know Law or circumvent the spirit of the law. Therefore, if the School Board members limit their e-mails to each other for scheduling, they will not violate the injunction or Right-To-Know Law. The best practice to avoid any arguments or claims that other e-mails violate the meeting requirements and the injunction is for School Board members to avoid communicating with each other about School District business by e-mail. My caution, however, does not mean that every e-mail sent by a School Board member to other School Board members violates the Right-to-Know Law.

If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane M. Gorrow". The signature is fluid and cursive, with a large initial "D" and "M".

Diane M. Gorrow

E-mail: gorrow@soulcfirm.com

DMG:sdb