

Approved

Minutes #11/17/14

GATEWAY REGIONAL DISTRICT SCHOOL COMMITTEE**SPECIAL MEETING MINUTES****MONDAY, NOVEMBER 17, 2014****Gateway Library
7:00 P.M.****(A PORTION OF THIS MEETING MAY BE HELD IN EXECUTIVE SESSION)****I. OPENING OF MEETING**BLANDFORD
Michele Crane
Terri GarfieldCHESTER
Shirley Winer
Martha OtterbeckHUNTINGTON
Ron Damon
William Hathaway
Jeff WyandMIDDLEFIELD
Sarah Foley
Noreen SurinerMONTGOMERY
Anne Marie Buikus
Sandra HaasRUSSELL
Ruth Kennedy
Mary Ann LaurieWORTHINGTON
Sue Levreault
Gretchen EliasonSECRETARY
Stacy StewartCENTRAL ADMINISTRATION
Dr. David B. Hopson, Superintendent
Stephanie Fisk, Business & Finance

OTHERS: _____

7:05 p.m. II. SPECIAL AGENDA ITEMS**A. Legal Issues**

- Mrs. Crane opened the meeting explaining it was a special meeting to deal with legal issues.
- Mrs. Eliason is going to record the meeting
- Mrs. Eliason said in October Dr. Hopson talked about executive session. She thinks this is an attempt to hold a meeting and spend taxpayer's money behind their back. She feels there is not reason to do this in executive session.
- Attorney Dupere said you have been served and the town of Huntington will be asking you to be a plaintiff or a defendant.
- Mrs. Eliason said it is legitimate to discuss the needs conference and not the legal issues. Why hasn't the committee been aware of the motion that was denied on November 3rd. She would like to understand the information
- Mrs. Kennedy said the motion was only the December 31 date. The town of Worthington has also been served.
- Attorney Dupere asked the first one has been denied. What is pending against the district now .
- Mrs. Eliason said Bertha D Josephson was the one who denied it.
- Mrs. Winer asked where Mrs. Eliason got that information.
- Mrs. Eliason said it's online.
- Mrs. Kennedy didn't have a chance to talk to us because we went into executive session and she wasn't allowed in.
- Mrs. Crane asked why she didn't mention it when she talked to Attorney Dupere before we went into executive session.
- Mrs. Kennedy said it was only to slow things down. It is in the docket it is in the case.
- Attorney Dupere said the action is still pending, but the emergency part has been declined.

- Mrs. Eliason asked what the extension was.
- Mrs. Kennedy said it wasn't an extension it was a stay. She put emergency on it so the judge would see it right away.
- Mrs. Eliason asked about the extension that was signed right now with Attorney Dupere.
- Mrs. Crane asked to go into executive session to discuss Mrs. Kennedy's legal action.
- Mrs. Eliason sent out the ten purposes for negotiations #3 is to discussion strategy.
- Attorney Dupere asked Attorney Lampke if the town of Huntington was intending to file a lawsuit.
- Attorney Lampke indicated in a letter that the town of Huntington and the other communities do intend to file a lawsuit. They would have filed a case very soon regardless of Mrs. Kennedy's. The district has an interest in this matter. We are necessarily an indispensable party as a defendant or plaintiff in the matter. This is not threatening; this is how disputes are resolved. The unconstitutional act of the legislature has a detrimental effect on the district and/or the communities. We didn't do anything wrong.

Mrs. Winer made a motion seconded by Mrs. Garfield to go into executive session for the purpose of discussing legal strategy to return to open session.

- Mrs. Eliason said this lawsuit has not been filed yet. The six towns have agreed in principal. They are fighting over who will pay. She is convinced the committee is hiding this from the public to take their tax dollars for political action.
- Attorney Dupere said there are reasons from a strategy stand point that he would suggest we go into executive session to talk about it and then come back into regular session.
- Mrs. Levreault's concern is we are here tonight and none of us have seen a letter from the town of Huntington. It's a surprise and we are spending taxpayers' money.
- Attorney Dupere said there are no surprises.
- Mrs. Levreault said we never knew there was a letter.

Mrs. Winer made a motion seconded by Mr. Damon to call the question

Motion Failed (VOTE) Yeas 6 Nays 7 Abstain Absent 1

- Mrs. Kennedy said Dr. Hopson sent out the lawsuit she filed to school committee, so they have the file, docket number, and everything. They just don't have the little motion that was denied. It was filed in Northampton.
- Mrs. Laurie concern was at there was discussion and we didn't have a complaint.
- Mrs. Crane said we are discussing who believes we need to be in executive session and who believes we don't.
- Attorney Dupere said you don't have to go to executive session. You go in only if there is reason there could be a negative effect.
- Mrs. Levreault asked when Dr. Hopson received the letter.
- Dr. Hopson said he received it last week. He didn't share it because he was discussing what we needed to do. We spent two hours in executive session last meeting.
- Mr. Wyand said it sounds like we have two lawsuits; can we go into executive session for Mrs. Kennedy's lawsuit.
- Mrs. Crane said there is not a lawsuit filed from Huntington yet. She is a afraid, and it was very accusatory saying we are voting executive session to secretly spend taxpayers' money. As a committee we have the right to decide.
- Ms. Laurie wonders if it would benefit us to do this in open session; having everyone talk about this.
- Mrs. Kennedy said neither one of the attorneys represent her.
- Mrs. Crane said there was discussion about combining the two.
- Attorney Lampke doesn't care if it is open or closed. He would suggest you have a discussion with your attorney if you want to join Huntington or not. There is no lawsuit yet. There is a draft which he isn't going to share. Mrs. Kennedy filed her lawsuit, you may decide how the ball is now rolling. He is advocating joining Huntington and the other communities as a plaintiff. We could all sit back and let Mrs. Kennedy's case go, in which case the communities would intervene. There would be an amended version to clean things up. She did a commendable job in getting things started. He hopes the amended version would have Gateway, Huntington, and the other towns as the plaintiff. When a party such as Huntington has clearly stated they are going to file a lawsuit it clearly falls under the open meeting law.
- Attorney Dupere asked Attorney Lampke if he wanted to give any more information.
- Attorney Lampke said he would be happy to answer questions. We tried to bring this to the attention of the legislature, and they didn't want to hear it. If you look at Legislative enactments, any agreement

contrary to the law he believes it is invalid. There is a serious question if they can leave the district under this law. You are spending money in making plans for the current students and Worthington students' education. This committee should get a determination as to whether this is legal. It is highly irregular. This game plan is disastrous to this district and every other town. If this goes through what is the validity of the agreement?

- Mrs. Levreault said at this point in time she does not have anything for this school committee for this lawsuit. The regional agreement said how all the towns were going to pay. Ed reform changed the agreement. This school committee is the one that closed our schools and we need to accept the responsibility. The school committee did not talk to the town of Worthington.
- Mrs. Crane said the vote is over we need to move on. How many students are from Worthington, 56?
- Mr. Wyand asked which towns have agreed.
- Attorney Lampke said the other towns have been conferring with Huntington. Huntington went into executive session with the other towns. Every town was there but Russell. Attorney Lampke represents Huntington. We are trying to come up with an appropriate structure. He would also represent their interest in the litigation. To split the cost-shared representation. Multiple parties represented with the same attorney.
- Mrs. Eliason agrees on going into executive session for Mrs. Kennedy's lawsuit, but not for Huntington. She would like an estimate of the legal costs.
- Mrs. Levreault is representing the children's interest.
- Attorney Lampke charges the same amount of what Huntington pay their town counsel. He gets called into municipalities, when they can't use their regular attorney for any number of reasons. He gets \$175 per hour. In terms of how much this is going to cost, he can't stay. How quickly can he get the defendants? He hopes that DESE would reconsider; the attorney general's office will say yes, there is a point here too. He would like to solve problems. Minimum ballpark is upwards of \$10,000. He doesn't know what the town of Worthington is going to do. If it get's resolved early on it may not be very much.
- Mrs. Crane when is the timeline for filing.
- Attorney Lampke said it depends on when and who joins us. If Gateway were joining, he would want Gateway's attorney to review it. Right now it's Mrs. Kennedy's lawsuit. There is some strategy here; he doesn't feel he should share unless we joined. Could seek a preliminary injunction to put a stop on this to see if this is legal or not. (law valid or not)
- Mrs. Kennedy said the school committee isn't going to be paying Attorney Lampke.
- Mrs. Eliason said if we enter as a plaintiff, then we are using the money from the budget.
- Attorney Dupere said his understanding is the district will either be a plaintiff or defendant. You will be on one side, you will spend money either way. There may be one or two lawsuits.
- Attorney Lampke said it is most likely less money as a plaintiff.
- Mrs. Laurie said if we could have one action it would be less than two. It would take some work. She asked if it would it be easier to start fresh and have Mrs. Kennedy join Huntington.
- Attorney Lampke said we are not talking about a lot of work to revise the draft. Before anyone files and answers the case she has a unilateral movement.
- Mrs. Levreault said we've been presented with two options. We should consider a 3rd option. Each one of us is the expert in our towns. We should go to our towns; this is not in the best interest of our students. The fact is the school did not want to discuss Worthington leaving. Worthington has over paid. They paid 5 million more than if we followed to the regional agreement.
- Mrs. Crane said the makeup of the board that decided this, did it for the best education interest of the students.
- Mrs. Winer gets the feeling the Worthington representatives are stone walling the discussion; we need to get on with the discussion executive session or not.
- Ms. Laurie said it makes her nervous about joining Mrs. Kennedy's law suit because she is not a lawyer.
- Mr. Dupere would be representing us not Mrs. Kennedy.
- Attorney Lampke said Mrs. Kennedy filed a suit.
- Mrs. Buikus asked who Huntington has filed against.
- Attorney Lampke said the rules of civil procedure require we include other parties that are indispensable or have an interest otherwise other parties could file a motion to dismiss. If we had to sue Gateway they could say they aren't a necessary party. A court may drop them.
- Mrs. Buikus said the school committee is responsible for the action that is being taken.
- Attorney Lampke said the action is about whether the law is legal or not.
- Mrs. Buikus asked can the towns come back to Gateway for not taking appropriate action.
- Attorney Lampke said all the towns have a fiduciary interest in the district. The towns all joined together. They vested the management with the committee.
- Mrs. Eliason thanked him for threatening us in the nicest way possible. It would be much cheaper for the committee to file a motion saying we are not a necessary party. We are simply following what DESE is

saying. That would be the cheapest. It's appropriate for Mrs. Kennedy's lawsuit, but we should not be discussing Huntington's.

- Mrs. Crane would like to vote to go into executive session.

Mr. Wyand called the question seconded by Mrs. Otterbeck to go into executive session at 8:10 p.m. to discuss legal strategy to return to open session.

Motion Carried (VOTE) Yeas 12 Nays 2 Abstain Absent 1

Yeas: Ruth, MaryAnn, Jeff, Terri, Shirley, Martha, Ron, Sarah, Sandra, Anne-Marie, Bill, Michele

Nays: Gretchen, Sue

Absent: Noreen

Returned to open session at 9:20 p.m.

B. DESE Needs Conference

- Mrs. Crane asked if the board want to discuss the needs conference? There was general discussion about encouraging town officials to show up, or write letters, and how it would impact each town. How might we represent our students in the remaining six towns and how we would present that?
- Mrs. Suriner agrees strongly that the voices of the school committee need to be heard. She is making a comparison of each town, school costs per thousand for each of the towns.
- Dr. Hopson said Mrs. Suriner asked for some very specific things, that he already has, but just needs to be updated. There is information on tax rate impact.
- Mr. Damon said when this legislation took place the state was going to find money to hold the 6 towns harmless. The towns are afraid it won't last.
- Dr. Hopson explained the deductions leaving us to about \$20,000.
- Ms. Laurie said something from school committee from an academic standpoint would be nice. We need to get back to investing into our academics.

Mr. Damon left the meeting 9:30 p.m.

- Mrs. Buikus asked about the hold harmless -Chapter 70 money?
- Mrs. Kennedy said when a town leaves a district it will hold harmless up to that time.
- Ms. Fisk said part of hold harmless is when you lose enrollment they call it hold harmless; we are saying hold harmless because of the kids that are leaving.
- Attorney Lampke said we need a clarification of hold harmless in the legislation.
- Mrs. Crane wants her definition of hold harmless to help the education of the current kids.
- Mr. Wyand asked how the committee is attending the meeting.
- Attorney Lampke said we could take between now and December 3 to look at it.
- Attorney Dupere said Dr. Hopson should present and then school committee should follow up with comments.
- Attorney Lampke said it says there should be discussion from all the remaining school communities.
- Mrs. Winer and Mrs. Kennedy said there were many people who are upset that this was going on - not realizing this was happening
- Dr. Hopson will give a presentation.
- Attorney Dupere said the presentation needs to be done by one person not necessarily Dr. Hopson. Everyone has to ability to speak on this. Hopefully the towns' people will come too.
- Attorney Lampke said the educational plan that we submitted in June, and Worthington submitted has been accepted. Did we have an understanding if this law was legal or not. Might want to let it be known the educational plan we send in because we were doing what we thought was right.

9:00-10 p.m. III. EXECUTIVE SESSION or earlier

1. Executive Session - MGL c. 30A, §21(a)(3) To discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares.

IV. ADJOURNMENT: *Mrs. Otterbeck made a motion seconded by Mrs. Foley to adjourn at 9:53 p.m.*

Respectfully Submitted,
Stacy L. Stewart,
School Committee Secretary