

**MINUTES OF THE WORK SESSION
OF THE BOARD OF DIRECTORS
SCHOOL DISTRICT 4J, LANE COUNTY, OREGON**

September 11, 2019

The Board of Directors of School District No. 4J, Lane County, Eugene, Oregon, held a listening session at 5:00 p.m. and a work session at 6:00 p.m. at the Education Center, 200 North Monroe Street, Eugene, Oregon. Notice of the meeting was mailed to the media and posted in the Education Center on September 6, 2019, and published in *The Register-Guard* on September 11, 2019.

ROLL CALL

BOARD MEMBERS:

Anne Marie Levis, Chair
Mary Walston, Vice Chair
Alicia Hays
Gordon Lafer
Martina Shabram
Judy Newman
Jim Torrey

STAFF:

Dr. Gustavo Balderas, Superintendent of Schools
Charis McGaughy, Assistant Superintendent for Instruction
Kerry Delf, Chief of Staff
Brooke Wagner, Director of K-8 Education
Jeff Johnson, Director of K-8 Education
Andy Dey, Director of Secondary Education
Kat Lange, Director of Student Services
Cydney Vandercar, Assistant Superintendent for Administrative Services
Christine Nesbit, In-House Counsel
Ryan Spain, Director of Facilities Management
Steve Menachemson, Director of Technology
Oscar Loureiro, Director of Research and Planning
Kyle Tucker, Chief Operations Officer
Lisa Fjordbeck, Executive Assistant / Board Secretary

MEDIA: KRVM.

OTHER: Spencer Lewis, OSBA.

I. LISTENING SESSION

1. Converse with School Board Members

The School Board provided an opportunity for informal conversation between board and community members.

2. Public Testimony

Chair Levis opened formal public testimony at 5:30 p.m.

Mary Leighton shared thoughts on diversity. First, Ms. Leighton thought diversity trumped ability and referenced a book supporting that belief. The author argued the best way to ensure all relevant policies were considered was to include alter-abled stakeholders. Diversity could bring new perspectives, experiences, and problem-solving tools to the table. Ms. Leighton thought Ms. Sundgrenz brought some diversity to the board during her term. Ms. Leighton was puzzled by the board's choice in reappointing Mr. Torrey and passing up an opportunity to include further diversity. Secondly, collaboration among diverse stakeholders provided strength. She concluded under listening and overreaching was an issue the board faced.

Larry Lewin thought the listening session was a smart idea. Mr. Lewin spoke regarding money dedicated to the Every Student Succeeds Act (ESSA). ESSA would only provide 2.6% of the district's total budget. It was good news to receive an increase, but in reality, it wasn't a lot of money to distribute. Mr. Lewin urged the board to come up with an improved system for feedback, when gathering input on ESSA funding. He feared data collected would be hard to interpret if they continued hosting informal brainstorming sessions.

Jessica Gibson was a parent within the district. Ms. Gibson wanted to start a conversation around testing, class sizes, and communication. Recently, she learned that, without her prior knowledge, her son took multiple tests throughout the school year. Ms. Gibson was never informed when those tests were happening, and she never saw testing results. Additionally, her son had ADHD so testing contributed to an overwhelming year. She thought the district needed to be more transparent about testing, because parents felt blindsided and didn't always understand "the why" behind decisions. Ms. Gibson moved to class sizes and hoped ESSA money could assist in lowering numbers. She wanted the board to speak with stakeholders regarding ESSA, and hoped for improved dialogue between the district, schools, and parents.

Alison Kreider was a teacher at Howard Elementary School. Ms. Kreider discussed enrollment numbers. At Howard Elementary School, enrollment was projected to be 435 students; however, since the school opened, enrollment had not fallen below 500 students. The district had to cut 3 certified staff. Prior to the beginning of the academic year, kindergarten class sizes were around 38 students and first grade class sizes were around 32. Teachers begged for more hires and additional funding, but that did not happen until the day after teachers returned to work. Currently, 5th grade classes 30 kids and kindergarten classes had 27. Ms. Kreider stated those numbers were still too high. She stated the super boundary was not effective in assigning schools to kids; it was a huge area, so the district needed a better way of looking at students. Additionally, the super boundary made it difficult for immersion students and special education students to be properly placed. She hoped the district would evaluate its current practices.

Ericka Thessen had kids at both Kennedy Middle School and Churchill High School. She knew part of ESSA looked at equity, inclusion, and diversity. After brainstorming, she wondered if a restorative justice program would be beneficial. There were lots of behavior problems in schools, such as bullying, hate crimes, etc. Ms. Thessen noted the district was also having

some difficulty in recruiting, hiring, and retaining staff from diverse backgrounds. She suggested starting a program at the high school, then have it trickle down to middle and elementary schools. Ms. Thessen pointed out that detention didn't teach a child why the racial slur they said was wrong and hurtful – just that they got detention because of the behavior. Restorative justice went beyond education. She concluded it was an out of the box, proactive strategy.

Robert Patterson was a member of the Eugene community. When he thought of schools, he thought of school safety. Mr. Patterson asked about resource officers and challenges in terms of funding and internal communication. He wondered how the school board and officers navigated spaces that could be hostile toward policing.

Charlie Ross referenced John Taylor Gatto, and his book “Weapons of Mass Destruction,” based on his experience being a teacher in New York for 30 years. In the book, Mr. Taylor Gatto made a distinction between an education and school. Education was learned on ones' own. School on the other hand was a mechanism to allow corporate interest to make more money on schools. Mr. Ross feared spending money, without improving educational achievement. He hoped the board wasn't composed in such a way where decisions made would benefit interests that made money off schools. Additionally, he argued current curriculums simply didn't work, which was exemplified in Oregon's graduation rates. The district needed to figure out something new. Mr. Ross hoped future funds were used to benefit all schools and all students.

Jessica Land stated she had a broad view on district work, as she previously worked at IHS and on some grant funded projects. She was happy a previous speaker brought up restorative justice. She explained an incident in which a middle school student threatened to take another student's life. That student was expelled, and police were involved. Restorative approaches to discipline were needed. Ms. Land had done training in restorative justice work through Resolutions Northwest and she highly recommended it.

Ms. Hays also appreciated the mention of restorative justice. It hurt her heart to hear kids with disability were being pushed out of immersion programs. The district needed to look at equity issues around immersion programs.

Board members were given the chance to respond to comment.

Mr. Torrey asked if Mr. Lewin could suggest different ways to gather community input.

Ms. Shabram appreciated the chance to have informal dialogue with community members.

Ms. Newman thanked folks for coming out, and agreed she wanted to have more conversations with people.

Chair Levis also thanked everyone and stated she was committed to having more informal sessions to continue conversations.

The listening concluded at 6:02 p.m. The board took a ten minute break.

II. WORK SESSION

1. Board Development Training with Oregon School Board Association (OSBA)
Chair Levis opened the work session at 6:14 pm.

Dr. Balderas introduced Spencer Lewis, attorney for OSBA, who would lead the training. Mr. Lewis presented a PowerPoint entitled, "*Public Meetings and Ethics*."

First, Mr. Lewis covered Oregon public meeting law and provided board members with a document of resources. Most public meeting laws were written in the 1970's and so much had changed, but the intent of the law was that decisions of governing bodies would be arrived at openly. All public meetings were required to be advertised and open to the public. Mr. Lewis stressed this point as being most important for the board to understand (with the exception of Executive Sessions).

Mr. Lewis defined terms and required elements under Oregon public meeting law, including "meeting."

Mr. Torrey noted one issue that often arose was when / if a quorum of board members attended an event hosted by an outside organization. He wondered if that broke public meeting law. Mr. Lewis said it would depend on what members would talk about. It was important to be careful, and not continue discussion of topics that began within a public meeting. If a quorum was present, district and/or board business couldn't be discussed. This clause also applied to committees, of any number of members.

Ms. Walston addressed the board working agreements, as she wanted to ensure language aligned with public meeting law. Mr. Lewis said the board referenced correct sections of the law.

Mr. Lafer clarified some aspects of the law. He stated there couldn't be groups of more than three board members in informal situations such as meeting for coffee with district parents. He understood board members could talk and listen to parents but could not participate in discourse. To ensure information important to decision making was shared among members, those present could bring back information in a regular public meeting. Mr. Lewis said yes, Mr. Lafer was correct.

Ms. Hays asked the board members to challenge themselves and think of accessible meeting places. Sometimes, buildings had issues or ADA bathrooms were locked -- they were necessary for public meetings. Ms. Hays also wanted the board to be clearer when creating committees of three members to complete a task (i.e. creating a legislative agenda).

Mr. Lewis explained differences between board and equity committees. Essentially, if a recommendation came to the board from a group, it was designated as one of the board's committees and was subject to public meeting law. Superintendent committees providing recommendations to the superintendent were helping him do his job and were not considered public meetings.

Ms. Shabram addressed accessibility, and who felt included versus who didn't. She wondered if the law only stipulated ADA accessibility only. Mr. Lewis was unsure of exact language, however, he encouraged the spirit of the law was a broader view of accessibility with considerations for a spectrum of disabilities, as well as other barriers to participation.

Mr. Lafer addressed the legislative agenda. It was unclear how they could have all the necessary conversations when a committee of three board members was present. Mr. Lewis said boards often sent one representative rather than the entire committee.

Mr. Lafer asked if there was any distinction between bringing back recommendations versus information. Mr. Lewis said Oregon law did not distinguish a difference, but it was better to err on the side of caution and only share information during a public meeting.

Mr. Lewis addressed special and emergency meetings. Both were required to provide notice and minutes to document the discussion. Meetings were also required to be within district boundaries. There were also informal meetings, which were defined by their content.

As an exercise, Mr. Lewis shared six different scenarios and asked board members to determine whether or not public meeting law applied.

The group discussed their choices. Mr. Lewis provided correct answers.

There was continued discussion around types of meetings and the number of board members allowed to participate if they were informal. Mr. Lewis provided further explanation on expectations of a quorum and a committee.

Ms. Hays thought the board had historically been very conscious about public meeting law. She brought up serial meetings, in which conversations were carried over from one board member to another. Mr. Lewis warned that serial meetings violated public meeting law.

Ms. Newman asked about board members communicating via email. Mr. Lewis said it was important to be careful in email, because it could become a serial meeting. He recommended not conducting business electronically.

Ms. Nesbit shared information from the Attorney General: *"A gathering of less than a quorum was not a meeting, however, members of a governing body should not gather as a group or groups composed of less than a quorum for the purpose of conducting business outside public meetings law. Such a gathering creates an appearance of impropriety and runs contrary to the policy...of the law, which supports keeping the public informed of the deliberations."* Ms. Nesbit added doing so created a risk for serial meetings.

Mr. Lewis moved onto executive sessions. He mentioned each reason to conduct an executive session: employment/initial hiring, complaints/discipline against employees, attorney/client privilege, consultation with labor negotiators, consultation with real estate negotiators, and otherwise exempt information or records (i.e. personnel records, student records).

Mr. Lewis explained the board would defer to the attorney on the case, regarding attorney-client privilege. Then, the client (in this case the board) made the call on whether they wanted to discuss the case in public.

Mr. Lafer asked about communication from an attorney to the district about policy issues. Meaning it was client/attorney communication, but it was not necessarily privileged information. He wondered if it was an option for the board to enter executive session. Mr. Lewis said that type of communication could be protected under law, but it depended on the content. If it were a policy decision, the board may want to waive that privilege and discuss it in front of the public.

Ms. Nesbit added that an attorney would be able to address policy issues in open session for most instances. However, sometimes policy issues could go into areas where the district may be taking risks, and in that case, the board may wish for an executive session. An attorney would be leery about advising of risks in candid conversation during an open meeting.

Mr. Lewis explained the topic would need to fit within the definition of ORS 40, in order to be discussed in executive session.

Mr. Lewis noted there was related provision in which the district could enter executive session if they anticipated litigation, however, an attorney must be present during the session.

Employment evaluation for the superintendent could be done in executive or regular session but the employee could choose. Most often folks chose executive session, but some evaluation documents were still part of public record and could be requested.

Ms. Shabram asked what happened if the board waived the right to have an executive session, but then the discussion ended up included protected information. Mr. Lewis said that even if the majority of a complaint could be discussed in open session, the board would need to transition into executive session once protected information arose. However, a parent (or student over 18) could opt to have an issue discussed in open session if they provided written authorization.

Mr. Lewis reported a new option for executive session was school safety. It was broad and the state had not provided much guidance since its creation.

Mr. Lewis explained enforcement of executive session requirements. The Ethics Commission was responsible for responding to complaints against the board. Often, if an innocent mistake was made, the Ethics Commission tried to educate board members rather than punish them. For general public meeting violations, lawsuits could be filed at the county circuit court. Mr. Lewis noted the media and public were largest enforcers of public meetings law.

Ms. Walston asked what happened if a board member discussed a confidential topic during executive session. Mr. Lewis said it would likely be an ethics violation. If there was no financial benefit to the district, there wouldn't be much legal action, but the violation would destroy trust of the public. Insider trading, for example, would be litigated against.

Mr. Torrey noted the media was allowed to be present during executive session. He asked what happened if a board member were to release information, or answer questions, to the media outside of an executive session. He was told it was fair game for them to report it to the public.

Ms. Newman asked what censure meant. Mr. Lewis explained it was basically a public reprimand.

Ms. Levis clarified that the media could ask any questions they wanted to after executive session. If a board member answered, that information was fair game for reporters.

Mr. Torrey asked about quasi-judicial responsibility regarding contact with other government organizations. Ms. Nesbit could provide information on the process at a later date.

Mr. Torrey asked how to define an appropriate amount of discussion on an issue during executive session. Mr. Lewis responded that the board should stick as tightly as possible to the issue they were meant to address.

Ms. Levis mentioned serial meetings and email messages between board members. Mr. Lewis advised board members not press reply all when emailing. Provided detail about statements... deliberation, even via email, was considered a serial meeting. Quorum requirements still applied.

Mr. Lafer asked if logistical emails (i.e. meeting times, invitations to events) were okay to send to more than three board members. Mr. Lewis said those types of emails weren't problematic, but still to err on the side of caution.

The board took a brief break prior to moving to the next agenda item.

2. Board Working Agreements

Chair Levis introduced the draft board working agreements.

The board went through the working agreements in a systematic way, to ensure all members were happy with any changes made. The document was drafted in legislative format, so any changes made in each iteration were clear.

Ms. Hays suggested simplifying some language to make the document more readable and cohesive.

Each member had time to comment on items that were changed by the subcommittee, and on items for which they had additional suggestions. Board members reviewed and discussed each section of the agreement, page by page. During the discussion, language, intentions, and goals were addressed.

Although the agreement was being discussed by section, Ms. Walston asked the board to consider the agreement as a whole during the discussion.

Dr. Balderas noted there was board policy they needed to consider and rely upon while making changes to the working agreement, as many sections had board policy tied to them. Dr. Balderas provided a document of excerpts from board policy, to assist in revising the board working agreements.

The board did not solidify all changes or issues addressed and wanted additional time dedicated to further editing.

Chair Levis suggested having a second work session to discuss the working agreements since there were specific concerns among board members not yet addressed.

Ms. Shabram thought there were certain public perceptions about the board, so, in that regard, she preferred most discussions, as well as the working agreements be public rather than require folks to submit a records request. Finally, she thought that in general, broader conversations were needed.

Chair Levis reiterated the session was a first attempt at editing and updating the board working agreements. She would collect and combine comments from the evening's listening session, and via email, to discuss at a future session.

Chair Levis closed the work session at 8:42 p.m.

(Minutes Recorded by Marina Brassfield)

Dr. Gustavo Balderas
District Clerk

Anne Marie Levis
Board Chair