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

Date: September 29, 2021

The Board of Directors of School District No. 4J, Lane County, Eugene, Oregon, held a work session at 5:30 p.m. at the Education Center, 200 North Monroe Street in Eugene, Oregon. Notice of the meeting was mailed to the media and posted in the Education Center on September 24, 2021, and published in *The Register-Guard* on September 29, 2021.

ROLL CALL

BOARD MEMBERS:
Judy Newman, Chair
Martina Shabram, Vice Chair
Alicia Hays
Gordon Lafer
Laural O'Rourke
Maya Rabasa
Mary Walston

STAFF:
Cydney Vandercar, Superintendent
Lisa Fjordbeck, Executive Assistant / Board Secretary

MEDIA:

EMPLOYEE ASSOCIATIONS:

OTHER: Haley Percell and Elliot Fields, Oregon School Boards Association
Brenda Brainard, Retired Director of the NATIVES Program and Facilitator on Robert's Rules of Order

I. WORK SESSION

Chair Newman opened the work session at 5:30 p.m. All Board members were present. Chair Newman shared that the purposes for calling the work session were to receive a presentation on public meeting laws and records by Haley Percell, Chief Legal Counsel, and Elliot Fields, Senior Assistant Legal Counsel for the Oregon School Boards Association, and to receive a presentation on Robert's Rules of Order by Brenda Brainard, retired director of the NATIVES Program, and facilitator on parliamentary procedure.

Ms. Percell introduced herself and began her presentation by stating that the definition of a public record was very broad. She continued that although most documents and other records were considered public, not all had to be produced during a public records request. She recommended that in-house legal counsel be consulted in all requests for records. She concluded that it was best to assume that all records related to school business created on public and private devices, including any writing on any medium, were public records.

Mr. Fields began his overview of records retention by referring to Oregon Revised Statutes and Administrative Rules that outlined records retention requirements. He continued that best practices included conducting school business on district owned equipment and district email accounts. If a Board member chose to use a private device, they would need to develop a practice of retaining records of district business. In additional, if a board Member used a personal device for both personal and private business, it would increase the chances that private business might come under review in the event of a records request.

He referred to the Oregon Secretary of State's Administrative rules regarding records retention for school districts. He gave examples of different categories that were included.

He continued by giving an overview of records destruction. He shared the penalties that could be brought against a district found to be tampering with public records. He recommended developing a detailed schedule for destruction of records.

In response to questions from Ms. Hays and Chair Newman regarding using a personal device for both personal and board correspondence, Ms. Percell responded that to make a determination whether any correspondence (email, text, phone call, etc.) on the device might have to be produced upon a public records request, all correspondence would need to be retained. She recommended that using a district-owned device was best practice, but if that was not possible, to send any documents related to district business to the staff member in charge of records retention.

In response to a question from Mr. Lafer, Ms. Percell clarified that voice mails were a public record but they did not have to be retained. If they existed during the time of a public records request, they needed to be produced.

Ms. Percell added that any correspondence from a group chat could be considered a public record. She agreed that the laws were written before social media existed and were therefore not clear, but added that if a public records request were to be made, she would advise that all records be given to school staff to determine whether or not the record should be produced.

In response to a question regarding texts, Ms. Percell encouraged the Board to reach out to district legal counsel.

Ms. Percell then reviewed the rules regarding public records requests including who could make a request and how long the district would have to respond to records requests. She reiterated that the district should be in possession of all records at the time of a request so that individual Board members avoided personal liability.

Mr. Fields shared that public meetings should be open to the public, subject to notice requirements. There were exceptions to public meeting laws that were defined in the statutes and administrative rules. He gave the definition of a public meeting. He added that email and text communications involving deliberation of a school matter could be considered a public meeting. Chair Newman asked whether the meeting they were currently attending was considered a public meeting. Mr. Fields responded that since a quorum of the Board was convening and there was potential for deliberation on any topic, the burden of proof that it was not a public meeting would reside with the district. Mr. Lafer asked whether listening sessions which the whole Board attended were also considered public meetings. Mr. Fields responded

that the same burden would apply and recommended that less than a quorum of the Board attend a public event. There was a discussion about participating in break-out rooms during presentations in which a quorum might occur. Mr. Fields concluded that the Board would want to avoid gathering in a quorum unless it was noticed as a public meeting. There was also a discussion about the definition of a serial meeting. Caution was given to avoid having serial communication by email, because it could be regarded as having a non-public, non-agendized meeting.

Chair Newman thanked the presenters for coming. She then introduced Brenda Brainard, retired NATIVES director and a facilitator on Robert's Rules of Order. Ms. Brainard introduced herself and spoke during her opening remarks about the travesties acted upon tribal children and their families in residential boarding schools across the United States and Canada.

She began her presentation by giving background on Robert's Rules of Order, a parliamentary procedure, which was created to ensure cooperation of the members of an organization. It established an order for talking and keeping track of doing business, and kept discussion and voting orderly. When used appropriately, it was a neutral system. The purpose was to bring order and fairness to a meeting and to bring a deliberative process to the assembly. Ms. Brainard reminded the Board that Robert's Rules were a tool, not a weapon, and that a basic respect for laws and rules must be followed. It was the obligation of every attendee of a meeting to follow them. The basic tenets of Robert's Rules were: courtesy to all; discussing one item at a time; the rule of the majority wins, but the rights of the minority need to be heard; justice for all and partiality to none. Ms. Brainard reminded the Board that although everyone had the right to speak, they also were responsible for listening and to not speak too many times. She added that the Chair could let a person know when they had made their point.

Ms. Brainard reviewed the rule that the minority or absent right must be protected. Time limits needed to be adhered to and conversations succinct and easy to follow. The Chair needed to call on a speaker by name before they could begin and to ensure that remarks were being made to the Chair and not to each other. Doing so also ensured that dialog was not personal. The term "point of order" was used to bring the conversation back to the point at hand.

Regarding voting, Ms. Brainard reminded the Board that If there were a motion on the floor, it would be good practice to restate the motion before voting. Any pending questions could be discussed after the vote was taken. Ms. Brainard said it was important that votes be tallied out loud following the sequence for, against and abstentions. Ms. Walston shared that the Board did not allow abstentions, but did allow recusals based on conflict of interest.

Ms. Brainard then reviewed other parts of Robert's Rules of Order that were not related to quorum meetings. Discussions were allowed even if a quorum was not obtained, but there could be no votes or decisions made.

The four essential parts of a meeting were call to order, minutes, new business, and adjourn. Additional areas could be added. Areas of concern included when a Board member moved to change the agenda. Ms. Brainard clarified that there should be minimal discussion about the topic to be discussed before the vote was taken to approve or not approve the addition of the item to the agenda. She suggested that any corrections to the minutes be made before the meeting, not during.

She continued that it was the practice under Robert's Rules of Order that all members be given the chance to speak after a motion was made and seconded and before a member spoke again, and that preference to begin the second round of discussion be given to the person who made the motion. The Chair controlled the procedures at all times with the help of the Board.

If a topic could not be decided on before the time given for that item, the Board could choose to suspend discussion and defer action to a later date in order to keep the meeting on track.

Ms. Brainard reviewed the use of the term "call for the question." Any discussion after a call for the question was up to the discretion of the Chair. There was a discussion about using the term too soon, and the guidelines to continue conversation through a motion to rescind the call for the question. She gave other responsibilities of the Chair to keep the meeting going smoothly and in order.

Ms. Brainard then reviewed the responsibilities of the Board: to stay on topic, to not interrupt, to be concise with statements, to self-correct, and to remind others of the rules. She then shared actions to avoid: disengagement, pontificating, speaking without being recognized, and maintaining neutrality. She reminded the Board that a motion could be approved, denied, or tabled and that all motions had to be moved and seconded before discussion could occur. There was a conversation regarding the use of "point of clarification." If a motion were to be withdrawn, both the person who moved and the person who seconded the motion would need to withdraw it.

Ms. Walston shared that recent motions had not been concise and often included the rationale for the motion. She suggested that the motions be written before they were stated so that they were clear for the audience and the minutes recorder. Rationale could be included in the discussion.

There was further discussion about being prepared for the meeting in order to be ready to ask clarifying questions and discuss. Ms. Brainard reminded the Board to endeavor to bring patience so that the rules would not be used as a weapon, but rather as a tool. It was important to remember why the Board was doing their work. As a new Board Chair, Ms. Newman appreciated the help she was given to do her job correctly.

In response to a question about how to handle perceived instances of rudeness and bullying, Ms. Brainard responded that comments could be directed to the Chair through a motion to amend the agenda to discuss the issue as part of new business. She added that longer discussions could be had in executive session.

Ms. Brainard reflected that forcing a person into a fight, flight or freeze reaction was not effective. She gave some further suggestions on how to manage difficult situations. Ms. O'Rourke brought up some examples of recent behavior. Ms. Brainard said that if a person was not breaking a law during public comment, they had the right to talk about what they believed, but the Chair would be able to stop someone from speaking if they were breaking a school district policy or rule. Ms. Shabram wondered whether after negative comments, the Board could reiterate their beliefs and practices.

Ms. Brainard continued that the Board was allowed to change Robert's Rules of Order, but they could not disregard them. She cautioned against adopting a new system because it was timely

and confusing. She then reviewed the steps for making a motion: obtain the floor, address the chairperson, make the motion, receive a second, restate the motion, have discussion, call for the question, and implement and announce the vote. If a motion were to be modified, the modification would be voted on before the main motion. She reminded the Board that discussion would only be on the part of the amended motion being voted on. She referred to the cheat sheet for details on how to proceed through the steps. She briefly read the sheet of different kinds of “calls” and cautioned that if the meeting had to be recessed, that there was no discussion during the recess.

Ms. Brainard finished her presentation by reminding the Board that Robert’s Rules were not the job of one person, but of a community responsibility to learn, practice, and follow them. The Board each gave their thanks to Ms. Brainard for her wonderful teaching and willingness to present and facilitate.

II. ADJOURN

Chair Newman adjourned the meeting at 8:15 p.m.

(Recorded by Eliza Drummond)

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Cydney Vandercar	Judy Newman
District Clerk	Board Chair