

**MINUTES OF THE EXECUTIVE SESSION AND SPECIAL BOARD MEETING
OF THE BOARD OF DIRECTORS
SCHOOL DISTRICT 4J, LANE COUNTY, OREGON**

Date: May 23, 2022

The Board of Directors of School District No. 4J, Lane County, Eugene, Oregon, held an executive session at 6:00 p.m. and a special board meeting immediately following via video conference and 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 Friday, May 20, 2022 and published in *The Register-Guard* on Monday, April 23, 2022.

ROLL CALL

BOARD MEMBERS:

Judy Newman, Chair
Maya Rabasa, Vice Chair
Keerti Hasija Kauffman
Alicia Hays
Michelle Hsu
Gordon Lafer
Laural O'Rourke

STAFF:

Cydney Vandercar, Superintendent
Kerry Delf, Chief of Staff
Christine Nesbit, General Counsel
Lisa Fjordbeck, Executive Assistant / Board Secretary

MEDIA:

KRVM, Double Sided Media

I. EXECUTIVE SESSION

The board convened in executive session to conduct deliberations with persons designated by the governing body to carry on labor negotiations pursuant to ORS 192.660 (2) (d); to consider records that are exempt by law from public inspection pursuant to ORS 192.660 (2) (f); and to consider the employment of a public officer, employee, staff member or individual agent, pursuant to ORS 192.660 (2) (a)

Executive Sessions are not open to the public. All matters discussed during executive sessions are confidential and shall not be disclosed by any representative of the news media without authorization by the school board.

Executive sessions involving deliberations with persons to carry on labor negotiations, or to consider the expulsion of a student or matters pertaining to a student's confidential medical records, are not open to the news media.

II. SPECIAL BOARD MEETING

Chair Newman called the meeting to order at 9:22 p.m.

III. ITEMS FOR ACTION

1. Designate A Board Member to Negotiate a Contract with the First Choice Superintendent Candidate
Presenter: Judy Newman

Ms. Newman said that the board had briefly discussed in executive session what the process of negotiating a contract with the new superintendent would be: once a first choice had been chosen, one board member would meet with them to make initial negotiations; the entire board would be involved in setting the parameters of the contract; and final decisions would be made in public.

Vice Chair Rabasa moved that the board authorize Gordon Lafer to negotiate a proposed agreement with the board's first choice for superintendent once that decision has been made, subject to the negotiation parameters provided by the board. Ms. O'Rourke seconded the motion. **The motion passed 6:1 with Chair Newman, Vice Chair Rabasa, Ms. Hasija Kauffman, Ms. Hsu, Ms. O'Rourke and Mr. Lafer voting for, and Ms. Hays voting against.**

Ms. Nesbit asked whether the board would provide negotiation parameters. After a brief discussion, Ms. Nesbit said that she would work with Ms. Rabasa regarding sample documents to review at a future meeting.

2. Review Parameters for a Public Hearing on a Complaint Received March 17
Presenter: Judy Newman

Chair Newman entertained a discussion regarding a complaint that the board had received. The board had decided to hold a public hearing, so the discussion at hand was to determine how the hearing would be organized.

Ms. O'Rourke requested that written material be submitted by both the complainant and the respondent. The written material would be the basis for discussion during the hearing. Ms. O'Rourke also requested that both complainant and respondent have available to them a professional advisor, and that a person of color be hired to be the hearings officer. Ms. O'Rourke suggested Dallas Boggs, Commissioner at the Eugene Police Department.

Chair Newman summarized the conversation. There was a discussion for clarifications. Ms. Hasija Kauffman asked whether a written description of the parameters would be provided in advance to each person, including what had been discussed and also the times allowed to speak, a description of the person who could represent each party, etc. Chair Newman said she was hoping to get as specific as possible, then create a written document that could be sent to the complainant. She asked whether the hearing would be part of a regular board meeting or at a different date and time, and whether the board would receive the written material ahead of time.

Chair Newman said that Ms. Nesbit had a draft ready to discuss.

Ms. Hsu wondered whether the proposed outcome for the hearing would be included in the document provided to both parties. Mr. DeFreest, district counsel, responded that the hearing would be for fact finding and to gather evidence. The meeting would not be outcome driven, but after hearing pertinent facts by both the complainant and respondent, the board could decide on an outcome.

Ms. O'Rourke was not comfortable with the process being proposed by Ms. Nesbit and Mr. DeFreest. She considered it skewed to force her off the board. She was asking for policy related to hearings so that she could consider facts and not opinions.

Ms. Nesbit said that Administrative Regulation KL-AR was the district complaint procedure, but did not provide detailed guidance on what a hearing might be comprised of. She continued that there were fundamental notions of due process, such as providing an opportunity for both parties to be heard, but other than that it was up to the board to decide. She added that there was state law related to executive sessions regarding employees, but it did not relate to the topic at hand.

Ms. O'Rourke did not consider that she was being provided the same due process as the complainant. She wanted to have presentations regarding white supremacist and tone policing as part of the hearing, and asked the board to make it clear to the public that they did not appreciate persons using the complaint process to promote white supremacy and racial harassment.

Ms. Hasija Kauffman was ready to begin creating a process for the hearing. She had begun a document that she was willing to share.

Chair Newman remembered that June 7 was the date considered. The board had agreed to have the hearing separate from a regular board meeting. Ms. O'Rourke wanted it during a regular board meeting so that the public would hear it. There was additional discussion about the date, during which it was suggested to postpone the hearing until after June 15, 2022. Dates suggested for consideration were June 8, June 22, or during September.

The board worked together on a document that outlined what the parameters of the hearing would be. There was a discussion whether to allow additional supporting written testimony. Mr. Lafer said that it should be limited to facts, not character-based.

Ms. Nesbit asked to clarify what limitations might be placed on documentation. Ms. O'Rourke was concerned about who would define what was relevant.

Ms. O'Rourke said that she hoped the process would be educational to the district, and not an admonishment.

In response to Ms. Hasija Kaufmann, Chair Newman agreed that it might be better to wordsmith the document of parameters outside of the current meeting. She suggested each board member edit it and then it could be compiled. Ms. Nesbit said that the document needed to be finished in a public meeting. She suggested that the board also consider using Mr. DeFreest's document as well. In response to a question from Chair Newman, Ms. Nesbit said that the board could create a subcommittee to make a recommendation.

Vice Chair Rabasa moved to direct counsel to enquire about an extension for the hearing to the first meeting of September. Ms. Hsu seconded the motion. Ms. Rabasa said that the board could work on the document during the two meetings in August. **The motion passed 7:0.**

Vice Chair Rabasa moved to establish a subcommittee to set the guidelines and parameters of the hearing for vote by the board in a public session. Ms. Hsu seconded the motion. **The motion passed 7:0.**

Vice Chair Rabasa moved to name Ms. Hays, Mr. Lafer and Ms. Hsu to the subcommittee. Ms. Hasija Kauffman seconded the motion. **The motion passed 7:0 (Ms. O'Rourke added her vote after her comment below.)**

Ms. O'Rourke wanted to make sure that the subcommittee would not make decisions without the vote of the full board.

3. Discuss Board Member Safety and Safety Protocols for Public Meetings

Presenter: Chair Newman

Chair Newman gave the board an update of what had been learned since the meeting on May 18, 2022. She had not found any policies that related to the topic and had reached out to the Oregon School Boards Association. She had received a toolkit created jointly by the OSBA and the Coalition of Oregon School Administrators, which she had forwarded to the board. Chair Newman said that she wanted the board to consider adding a statement before the public testimony portion of the board meeting; to add security at the board meetings; to consider having a board safety training; and to possibly create a board policy regarding conduct at meetings.

Ms. O'Rourke shared the background for the discussion. She had asked for a policy regarding racial outbursts at public meetings. She said that the response by staff and board members had been tepid. She was upset that no action was being taken to stop the personal, racial attacks. She was concerned that she was becoming a target to potential action.

Ms. O'Rourke was asking for security for her and her family. She was also asking for security for herself and all board members at meetings.

Chair Newman gave an update on having security guards at board meetings. She added that a safety assessment could be done, as well as training for board members. She referenced the toolkit again.

Ms. O'Rourke also asked that a person making racially offensive comments be removed from public comment.

Chair Newman shared Board Policy KGB – Public Conduct on District Property.

She wanted the board to determine at what point security might be called.

Ms. Rabasa acknowledged that what Ms. O'Rourke was feeling was real and valid. She summarized that the board could move and vote to schedule a safety assessment; to pursue security at meetings until further notice; to compensate Ms. O'Rourke for her security cameras; and to read at the beginning of board meetings sections of Policy KGB, including:

No person on district property or any district grounds, including parking lots, shall:

Use or engage in abusive verbal expression or physical conduct that interferes with the performance of students, event officials or sponsors of approved activities;...

Impede, delay or otherwise interfere with the orderly conduct of the district's educational program or any other activity taking place on district property which has been authorized by the district;...

Willfully violate other district policies, administrative regulations or school rules designed to maintain public order on school property....

Persons having no legitimate purpose or business on district property, or those violating or threatening to violate the above rules, may be issued a trespass citation, ejected from the premises, excluded from district-approved activities temporarily or permanently and/or referred to law enforcement officials.

Vice Chair Rabasa continued that long-term actions would include the training, changes made to buildings as a result of the safety assessment, and crafting a policy regarding actions to be followed if a board member's safety was threatened. She added that she did not feel comfortable meeting in person until a security detail was in place and that the behavior of the public should not force them to meeting via video conference.

Ms. Hsu thanked Ms. Rabasa for summarizing the conversation and to Ms. O'Rourke for voicing her experience and concerns. She said that children had also been present at the May 18 meeting and it was not acceptable that they had to witness the behavior that happened. She stressed the need to take action immediately.

Mr. Lafer expressed that he considered the statement made by a member of the public that "a black woman on the board does not want you to talk about guns because you are white" as incitement to race based violence, even though it may not have been intended that way. He suggested barring that person from board meetings.

Mr. Lafer added that compensating someone for their home video system was not enough. He said that the threat warranted a higher level of protection, including police protection.

Chair Newman said that Superintendent Vandercar had found a security system that fed video into the police department.

Ms. Hasija Kauffman agreed that the threat to Ms. O'Rourke at home should be taken seriously. She was angry and appalled that a live feed was allowed to continue to run in the auditorium while the board was in recess. She considered it a violation of a public meeting. She said that the board owed the community an apology for allowing it to happen. She did not feel safe returning to in person meetings. She considered that the board had missed an opportunity to immediately let the public know that the behavior in the auditorium was not allowed.

Vice Chair Rabasa agreed that the recess during which members of the audience were speaking should have been edited out of the video before it was posted. She asked that if it had not been done yet, it should be. She continued that the application of Policy KGB should be enforced.

Ms. Nesbit said that there were limitations to applying Policy KGB in the context of a public meeting. She referred to a case in Portland. She said staff and the board could consider a policy that addressed disruption of public meetings, but that permanently barring a person from public meetings might have legal ramifications.

Ms. Nesbit continued that once a person made a disruption, the person could be ejected from the meeting, however it would be a constitutionally questionable practice to bar someone from ever returning to a public meeting space. Policy KGB was written with schools in mind, not public meetings.

Ms. Hsu questioned the comparison to the events in Portland because of the concerns of potential harm to board members.

Ms. O'Rourke was concerned about the issue of first amendment rights and how they were being interpreted by counsel. She found it a failure of leadership. She considered the main issue to be the safety of everyone at the district office.

Superintendent Vandercar raised the issue of who members of the public who had been in the auditorium at the time when the board was in recess. She reviewed the process for signing up to speak as well as for attending. She added that staff had allowed others who had not signed up to attend because there were available seats. She said that if the board wanted to change the process to only include those who had signed up ahead of time, they should discuss it.

Mr. Lafer wanted to discuss how to respond if a similar event occurred in the future. He questioned how the district could allow the behavior that happened at board meetings, when at the same time they restricted the process for making a public complaint. He considered the behavior that had occurred as incitement to violence. He wanted to move forward with the decision about home security and suggested that Ms. O'Rourke and Leadership meet with Kari Skinner. Chair Newman said that the meeting he was referring to was supposed to have happened that day, and was not sure why it had not.

Chair Newman had distributed a statement that she suggested to be read at the beginning of each meeting. The statement gave direction to public speakers to refrain from the use of certain speech and to remember that the board would not respond immediately to their comments.

Ms. Hasija Kauffman said that she was willing to make a temporary or permanent ban of persons who continued to interrupt public meetings, regardless of legal ramifications.

Ms. Nesbit said that the board might be able to eject someone from a public meeting, but was concerned about banning certain persons before creating standards for ejection. Ms. Nesbit had researched the issue and she had significant concerns. She said that she was willing to work on a policy.

Ms. O'Rourke asked whether Ms. Nesbit had watched the video. She said that if not, she had no grounds on which to make a statement. Ms. Nesbit said that it was her job was to advise the board on legal matters.

Ms. O'Rourke was disturbed by Ms. Nesbit's apparent lack of understanding of the situation Ms. O'Rourke was in.

Ms. Hays wondered whether it would be best to meet via video conference until research could be done to determine what options the board had to restrict attendance at board meetings. She wanted to make sure that all board members felt safe.

Mr. Lafer returned to Ms. Nesbit's suggestion to review the criteria for which someone could be barred from a meeting. He added that incitement could be one of the criteria and that persons could be ejected from a particular meeting. He wanted to create a statement that was clear to the public and protected board members.

Vice Chair Rabasa moved that when the board took recess at a board meeting, microphones and videos would be turned off. Ms. Hasija Kauffman seconded the motion.

Ms. O'Rourke asked whether the room should be cleared. Ms. Hsu added her concern that the public comment that was made during the time the board was in recess had not been edited from the final video. She wanted to hear what was being said, but did not want it aired publicly.

Ms. Hsu made an amendment to not upload unedited versions of future board meetings. Ms. Rabasa accepted the amendment.

Mr. Lafer said that he had assumed what had happened was a mistake. He suggested having a staff person in the room, and to not continue broadcasting if the board was in recess.

Ms. Rabasa agreed with Mr. Lafer.

Chair Newman called for the question on the amendment to refrain from posting unedited versions of board meetings. **The amendment passed 7:0.**

Chair Newman called for the question on the original motion to refrain from recording via video and audio when the board was in recess. Ms. O'Rourke moved to table the motion until it could be determined whether certain portions of the meeting could be recorded but not broadcast. Vice Chair Rabasa seconded the motion. **The motion to table passed 7:0.**

Ms. O'Rourke moved to have the auditorium cleared if a person was inciting violence during a recess of the board. Ms. Hasija Kauffman asked to have a safety assessment made to ensure that persons who were not being disruptive were not also being put at risk. Vice Chair Rabasa wondered whether the Eugene Police Department should also be called. Chair Newman said that the response might not be immediate. To guarantee a security presence, either a private security group or a police officer would need to be hired.

Vice Chair Rabasa asked to consider ending a public meeting and reconvene as an online meeting if the safety of the board became a concern.

Ms. O'Rourke withdrew her motion.

Chair Newman gave some information regarding private security firms.

Vice Chair Rabasa moved to move public board meetings online until research could be done regarding hiring a security firm. Ms. Hays seconded the motion. **The motion passed 7:0.**

Vice Chair Newman moved to schedule a safety assessment made by a company outside of 4J of Ms. O'Rourke's home at the earliest possible time. Ms. O'Rourke thought that the safety assessment should be done for all board members' homes. Ms. Hasija Kauffman asked that Ms. O'Rourke's home be a priority, and then the district offices in which the board usually met. Chair Newman suggested that if another board member did not feel safe, they should speak up.

Mr. Lafer said that until there was a plan for a safety assessment of Ms. O'Rourke's home, the district should pay for her family to stay in hotel. Ms. O'Rourke responded that it would not be possible and added that having to make so many changes to her life was exhausting.

Vice Chair Rabasa amended her motion to conduct a safety assessment at the earliest opportunity of Ms. O'Rourke's home, district offices, and then the home of any board member who requested it. Ms. O'Rourke seconded the motion. The motion passed 7:0.

Chair Newman asked whether the board agreed to adding the wording to the introductory statement regarding making public comment. She read the statement again.

Ms. Rabasa moved to add the statement Chair Newman read, pending further consideration of a deeper statement. Ms. Hsu seconded the motion. Ms. O'Rourke shared that public comments at the board meetings of the Eugene Water and Electric Board were much more tightly regulated than school district meetings. She gave examples of phrases that were inappropriate.

Ms. Hasija asked to add the names of protected classes. Ms. O'Rourke suggested to use the same language that was in Board Policy ACC – Racial Harassment.

Chair Newman understood the suggestions to be an amendment to the original motion. She asked whether it was okay to approve the motion and for she and Vice Chair Rabasa to add additional language to strengthen the statement.

The motion passed 7:0.

Vice Chair Rabasa moved to compensate Ms. O'Rourke for the security system she placed at her home. Mr. Lafer seconded the motion. **The motion passed 7:0.**

IV. ADJOURN

Chair Newman reminded the board that they would be meeting on May 25, 2022. Ms. Rabasa asked whether the executive session prior to the special meeting would be online or in person.

Ms. O'Rourke said that because of the importance of the meeting, she would want to have it in person. Ms. Nesbit asked whether the board would want to review the contract prior to the meeting and then discuss it. Vice Chair Rabasa was in favor of holding the executive session in person and then returning to their homes for the special meeting.

Chair Newman did not hear or see any dissent to the suggestion, so she said it would be the plan.

Ms. Hays reminded Chair Newman to ask for persons who were willing to attend the interviews the next day. Ms. O'Rourke and Chair Newman agreed to attend the 8 a.m. meeting. Chair Newman reiterated that the rest of the board should let her know which interviews they could attend.

Chair Newman adjourned the meeting at 12:04 a.m., May 24, 2022.

Cydney Vandercar
District Clerk

Judy Newman
Board Chair

(Recorded by Eliza Drummond)