

MINUTES – WAYLAND SCHOOL COMMITTEE
Special Meeting – August 28, 2015

A Special Meeting of the Wayland School Committee was held on Friday, August 28, 2015, at 8:00 A.M. in the Selectmen's Meeting Room of the Wayland Town Building.

Present were:

Ellen Grieco, Chair
Barb Fletcher, Vice Chair
Donna Bouchard (arrived at 8:07 p.m.)
Jeanne Downs
Kathie Steinberg

Also:

Paul Stein
Superintendent

Susan Bottan
Business Administrator

Marlene Dodyk
Director of Student Services

Also:

Cherry Karlson, Chair of Board of Selectmen

Chair Ellen Grieco convened the Special Session at 8:01 a.m. and announced the meeting is being broadcast by WayCAM.

1. Comments & Written Statements from the Public:

There were no comments and written statements from the public.

For clarification purposes, Barb Fletcher addressed the public about her non-participation in all the discussions concerning the non-renewal of the former Athletic Director's contract, any potential lawsuit related to the former Athletic Director's contract, and the investigations and the allegations made by the former Athletic Director. She noted that she has made this decision because her children participate in multiple sports and her husband is a coach. Barb also commented that she attends the School Committee public sessions, but not the executive sessions. However, moving forward, Barb will participate in any discussions related to changes in school policies and procedures that could result from these matters, including the Northeastern Study.

2. Continued Review of Draft of Superintendent's Evaluation Document, including Continued Discussion of Related Standards:

As a result of a review by the School Committee at its August 3rd meeting, Ellen revised the evaluation based on Jeanne's comments and draft of the first 3 standards. The Committee reviewed the last 3 standards for additional comments and/or revisions to the evaluation, which the Committee members will discuss on September 8th before adding the performance rankings. A short summary will be included, and the evaluation will be finalized on September 8th.

As discussed and moving forward with the FY16 evaluation, District Determined Measures (student achievement connected to the Superintendent's performance) will be considered. The Superintendent Evaluation Subcommittee will discuss this topic and report back to the School Committee.

3. Discussion of Statutory Authority for Revolving Accounts and Review and Possible Vote to Approve Draft Warrant Article for Fall Special Town Meeting:

Ellen read the language for the proposed draft warrant article, as presented by Susan at the last School Committee meeting. The language is similar to what was presented at the spring town meeting. The Committee discussed why the warrant article was not voted on at Town Meeting. The School Committee also discussed

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who is responsible for the written comments.

Ellen proposed that Susan write the comments, based on the School Committee's input, regarding the reasons of why this warrant article is being submitted. The Finance Committee will write the pros and cons. Susan left the meeting to ask about the timing issue. A discussion ensued regarding the word maintenance vs. establishment as it pertains to the warrant article language.

This discussion was tabled until Susan returned to the meeting.

4. **Discussion of and Potential Vote to Approve School Lunch Fee:**

Upon a motion duly made by Barb Fletcher, seconded by Jeanne Downs, the School Committee voted (4-0-1) to approve the proposed changes in meal prices as presented to the School Committee in the FY16 operating budget document. The elementary school lunch fee will change to \$3.50, the middle school will change to \$3.75, and the high school will change to \$4.00 for the FY16 school year.

Susan confirmed that a communication will be sent out to parents explaining the school lunch fee increase.

Ellen abstained because she did not file the State Ethics Commission form. However, Barb did file and Donna filed in January 2015 which she asserted carries through FY16.

5. **Discussion of Statutory Authority for Revolving Accounts and Review and Possible Vote to Approve Draft Warrant Article for Fall Special Town Meeting (continued):**

Susan reported that writing the pros, cons and comments by the School Committee are not necessary to vote the language for the warrant text. She further described the process followed by the Finance Committee once they have written the pros and cons. Paul and Susan will be the FinCom's contacts. The School Committee will discuss the comments again on September 8th.

Board of Selectmen Chair Cherry Karlson was asked to comment on this discussion. She noted that the BOS will be discussing this matter at its August 31st meeting, and if the School Committee votes at this meeting to approve the proposed text, the BOS could vote to co-sponsor the article with the School Committee. As a former Finance Committee member, Cherry commented on the FinCom's process, as well as the process for Boards to submit input relative to the comments. A petitioner's process is different from a Board's process in terms of comments.

More discussion ensued about using the words maintenance vs. establishment in the warrant article language.

Upon a motion duly made by Barb Fletcher, seconded by Ellen Grieco, the School Committee voted (4-1) (Donna opposed) to approve the proposed text for the warrant article for fall Special Town Meeting. "Will the Town accept the provisions of c. 71, §71E, so as to permit the maintenance of revolving funds as authorized by said section, or take any other action relative thereto."

Upon a motion duly made by Donna Bouchard, seconded by Jeanne Downs, the School Committee voted (2-3) to amend the motion by adding "that it is pending the written opinion of legal counsel as to why the word maintenance is used as opposed to establishment." The motion did not pass.

Before a final vote was taken on the first original motion, a discussion ensued regarding clarity of the text of the article. Cherry Karlson noted that the deadline to submit text changes is September 30th.

6. **Discuss Potential to Waive Attorney Client Privilege of Letter Submitted by Attorney Toomey of Murphy, Hesse, Toomey & Lehane and Discussion Thereof:**

For the School Committee's information, Ellen clarified the scope of this discussion. The Committee will not be discussing the substance of the document submitted to both the School Committee and Board of Selectmen by Attorney Jim Toomey, as the document was deemed attorney/client privileged. The attorney/client privilege cannot be fully waived by the School Committee acting alone, as the privilege belongs to both the School Committee and Board of Selectmen. The intent tonight is to vote to waive the School Committee's privileged

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portion of the document, as a means to respect the Board of Selectmen's separate right to decide about the attorney/client privilege. Further, Ellen noted that, according to the Attorney General, the attorney/client privilege by itself is not a basis for executive session; however, once it is waived, it is waived. Ellen asked the School Committee members if they want to waive the attorney/client privilege for the letter submitted by Jim Toomey.

As requested, Ellen related her personal view in this regard. Donna commented that it is her opinion that factual information does not pertain to the attorney/client privilege. She accused the School Committee of operating secretly and the other members strongly disagreed. A discussion ensued and Donna was advised to get a legal opinion regarding the attorney/client privilege. Ellen will consult with legal counsel about whether all information submitted by an attorney is privileged.

Paul left the meeting at 8:55 a.m.

In an attempt to understand the reason that the letter was deemed attorney/client privilege, the Committee referred to Susan. According to Susan, it was Attorney Toomey's opinion that his conversations with school and town administrators fell under the attorney/client privilege. Susan added that she added the "confidential/attorney/client privilege" footnote at the bottom of the letter based on conversations at the first meeting. She notified Attorney Toomey of this additional footnote.

Susan left the meeting at 9:02 a.m. to call Attorney Toomey asking if there was a reason that the School Committee could not release this document.

7. Discuss the Receipt of Funds by School Employees and the Proper Deposit and Expenditure Process, including a Discussion of the Proper Process for the Receipt of Gifts (such as equipment):

Ellen shared an email with the School Committee that she received from town counsel. Discussion regarding attorney/client privilege pertaining to the email ensued. To avoid any misinterpretation going forward, Barb suggested that whenever something is received from an attorney, the Committee members ask about attorney/client privilege. The Policy Subcommittee will discuss protocol in this regard at one of its meetings.

A discussion ensued about whether or not one committee member must share his/her conversation with an attorney with the entire committee.

8. Discuss Potential to Waive Attorney Client Privilege of Letter Submitted by Attorney Toomey of Murphy, Hesse, Toomey & Lehane and Discussion Thereof (continued):

Susan returned at 9:06 a.m. and related her telephone conversation with Attorney Toomey. He treats all information shared with communities as privileged and confidential, and since he was hired by both Boards, both the School Committee and Board of Selectmen should discuss the potential to waive attorney/client privilege. Attorney Toomey also noted that there would be no reason not to release the document and supports the release of the document.

A motion was duly made by Ellen Grieco, seconded by Kathie Steinberg, to vote to waive the School Committee's portion of the attorney/client privilege as it attaches to the letter we received from Murphy, Hesse, Toomey & Lehane on August 25, 2015.

Upon a motion duly made by Donna Bouchard an amendment was made to the first motion, seconded by Ellen Grieco, the School Committee voted unanimously (5-0) to make the document public by Tuesday morning, if anyone requests it, if the Board of Selectmen votes on Monday night to waive the privilege as well.

The School Committee voted unanimously (5-0) on the first motion as amended.

Susan will notify Nan Balmer of this vote. Ellen and Susan will attend the Board of Selectmen's meeting on Monday night to report the School Committee's conversation regarding the waiver, including the phone call to Attorney Toomey requesting his advice.

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Jim Toomey will be invited to attend a joint meeting between the School Committee and the Board of Selectmen on September 8th.

It was noted by Barb that the Board of Selectmen continues to have a fiduciary responsibility in the involvement of this matter because a resident contacted the Treasurer's office regarding the revolving accounts.

9. **Discuss the Receipt of Funds by School Employees and the Proper Deposit and Expenditure Process, including a Discussion of the Proper Process for the Receipt of Gifts (such as equipment) (continued):**

Again, the attorney/client privilege was raised regarding the email from Town Counsel that Ellen sent earlier in the meeting to the other Committee members.

Jeanne updated the School Committee of her conversation with Mark Lanza regarding the legality of the Gift Policy, which has been revised but not finalized. He is concerned with the portion of the policy that refers to teachers and principals receiving individual gifts. Therefore, since a final policy will not be in effect by the first day of school, Mark recommends that Paul releases a statement to administrators and teachers that they cannot accept individual gifts; however, a school or classroom gift valued at under \$200 can be received with the caveat that the gift is accepted by the Superintendent. Jeanne commented further on the acceptance procedure. All school organizations are exempt; however, they cannot donate cash and must keep receipts of items that are purchased.

The Policy Subcommittee will meet with the school support organizations to review the procedures. As an amendment to the policy, these organizations would present their budgets at the beginning of the school year, as well as continue with the year-end report. The School Committee discussed gender equality in terms of the law related to gift giving by school support organizations. Barb commented on how other districts function based on the MASC policy, which gives the Superintendent the authority to accept all gifts of educational value on behalf of the School Committee.

Paul returned to the meeting at 9:22 a.m.

Barb reiterated the discussion for Paul. Jeanne noted that Mark Lanza does not support the adoption of the MASC policy. Paul addressed the concern of possible equity issues. Jeanne will ask Mark for his comments regarding revisions to the policy, as well as his concerns regarding the MASC policy.

A discussion ensued in terms of what is considered a classroom gift and what is expected of the teacher to report. Kathie gave an example of how parents bring all sorts of things to the teachers, such as tissues, hand sanitizer, etc., which is a significant amount of items. Paul and Jeanne will work together and one will consult with Mark Lanza to clarify what is truly required by the statute and how to properly implement it before a statement is issued to staff. A form based on contingent approval by the Superintendent will also be included.

Fundraising was also discussed. The Policy Subcommittee will review the Fundraising Policy and will ask Mark Lanza for his opinion in this regard. Susan confirmed that she and the new Athletic Director will be meeting with the coaches regarding fundraising and the proper handling of money. These issues will also be addressed as noted in the Student Activity Accounts Guidelines and Procedures, and procedural packets will be issued to coaches, teachers, and advisors.

As a matter not reasonably anticipated by the Chair but related to this topic, the Committee discussed if they should vote to approve or accept the Student Activity Account Guidelines and Procedures at its next meeting of September 8th.

10. **Adjournment:**

Upon a motion duly made by Ellen Grieco, seconded by Kathie Steinberg, the School Committee voted unanimously (5-0) to adjourn the Special Session at 9:46 a.m.

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Respectfully submitted,

Paul Stein, Clerk
Wayland School Committee

Corresponding Documentation:

1. Agenda
2. Draft Superintendent's Evaluation 2014-2015
3. Draft Warrant Article for Fall Special Town Meeting
4. Public Comment made by Barb Fletcher