

Eau Claire School Board Minutes
Monday, September 24, 2018

Generated by Patti Iverson

Members present

Lori Bica, Chris Hambuch-Boyle, Aaron Harder, Laurie Klinkhammer, Joe Luginbill, Eric D Torres, Charles Vue

1. REGULAR MEETING - CALL TO ORDER

Following the Pledge of Allegiance, President Luginbill called the meeting to order at 7 p.m. Board Secretary Patti Iverson confirmed that the meeting had been properly noticed and was in compliance with the Open Meeting Law.

2. PUBLIC FORUM

Sarah Lilly and her husband both work in the District. She said they love their jobs and are proud to be teachers. She said they are concerned about possible changes to OPEB. She asked the Board to keep OPEB as it is and to allow staff to keep what was promised to them when they were hired.

3. BOARD/ADMINISTRATIVE REPORTS

3.1 Review Board Calendar of Events

Dr. Hardebeck reviewed the Board's calendar of upcoming events.

4. CONSENT RESOLUTION AGENDA

Motion by Chris Hambuch-Boyle, second by Eric D Torres, to approve the following consent resolution items:

- Minutes of September 10, 2018
- Minutes of Closed Session - September 10, 2018
- Human Resources - Employment Report
- 2017-2018 Budget Adjustments
- Gifts in the amount of \$15,026.40 for the period of August 1, 2018 through August 31, 2018
- Payment of all bills in the amount of \$7,100,987.54 and net payroll in the amount of \$5,132,935.96 for the period of August 1, 2018 through August 31, 2018.
- Adopt New Policy 453.7 - Student Mental Health and Wellness Education

Motion carried

Yes: Lori Bica, Chris Hambuch-Boyle, Aaron Harder, Laurie Klinkhammer, Joe Luginbill, Eric D Torres, Charles Vue

5. ADJOURN TO WORK SESSION

6. WORK SESSION

6.1 Board Development Work Session: Board Governance, Board Responsibilities, and Review of Board Policy 185

Board Governance

Attorney Kirk Strang shared a presentation regarding Board Member roles and responsibilities. He shared information about the legal authority of school boards. State statutes 120.12 and 120.13 are important for Board members to be familiar with; §120.12 includes a list of duties that school boards must accomplish and §120.13 lists school board powers, which allows the school board to do all things reasonable to promote the cause of education.

Mr. Strang said that the primary responsibility of a school board is to establish its mission. Board policy 110 articulates the mission of the ECASD Board. The secondary responsibility is policy making, and the Board has policies and rules related to that. Mr. Strang said there are different categories of policies to consider: mandatory policies (those that state statutes say you must have) and policies that represent the policy view of the board on outcomes. Another area may be policies that limit administrator discretion. He said the Board should be disciplined about policies it implements. He added that there will be times when unusual situations arise, and the board will want to have latitude to work with an issue.

Another responsibility involves student achievement. The Board is responsible for adopting academic standards for pupils and establishes expectations for education in the District. The Board monitors student achievement and exercises general supervision over the schools. Mr. Strang said that systemically you look at curriculum as not coming from the Board to faculty but from faculty to the Board.

Other responsibilities of school boards include: approving and adopting the annual budget; hiring and evaluating the Superintendent as well as determining staffing levels, job descriptions and compensation and benefits for all staff; building understanding and support for public education in the community; keeping abreast of the actions of other governmental bodies and agencies that impact the delivery of public education; creating an environment that promotes legal compliance and ethical integrity; and serving as a quasi-judicial board in a variety of circumstances.

Mr. Strang pointed out that there are times when people will encourage a board member to believe that it cannot be an impartial tribunal if it knows anything about a matter coming before it. A board member can still be objective, neutral, and fair even if they know some things or are briefed on a situation. However, a board member cannot have a financial interest in the outcome that comes before them and cannot have an actual bias where they could not make a fair decision. In those cases, the board member should recuse themselves. The board as a collective lacks the authority to keep a board member out of a meeting, and it is unlawful to take a

vote to exclude a board member. It is the individual's decision whether they can be fair and impartial.

If a board member has been personally involved with an employee, for instance, and has met with them personally or talked on the phone for extended periods of time, that can reach the level of being considered biased. Just because a board member gets a phone call and lends a sensitive ear, doesn't mean they have acquired a bias to disqualify them. On other hand, when a board member declares what they already want to do before a hearing or where a board member is actively involved in a case being presented or participated in advocacy, that is closer to the line and may step over it.

Mr. Strang described the ethical obligations of school board members as defined in §19.42. Board members are prohibited from accepting anything of value from any sources. This includes money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment. He said that realistically, when you look at how the ethics board defines the law, anything more than a cup of coffee gets into an area of substantial value. Mr. Strang said that the term 'immediate family' also gets used in statutes. This means a spouse; an individual's relative by marriage, lineal descent, or adoption who receives, directly or indirectly, more than one-half of his or her support.

Mr. Strang also shared information on what a local public official means. Local public officeholders are the primary subjects of the ethics law. When public record requests are made, local public office holders are treated differently under the law than employees. You must post notices to identify who the local public officials are.

The Code of Ethics for local public officials indicates that public officials can't use their position to acquire things of value and people who want to persuade them can't use their position to acquire things. Anything of substantial value will meet the test. Public officials are prohibited from accepting gratuities. Bribery of public officers and employees is a felony as well as misconduct in public office.

The Incompatibility of Offices doctrine indicates that two offices are incompatible if there is a conflict of interest or duties, so that the incumbent of one office cannot discharge with fidelity and propriety the duties of both. Board members cannot be employed by the district. The only exception is that board members may serve as an advisor or extra-curricular activity coach on a voluntary basis.

Board Policy 153 defines a conflict of interest in a way that is far broader than the state law. For example, the ECASD policy states that no board member shall use confidential information for personal gain or the gain of others. This is not covered by state statutes. Board Policy 165 is the Code of Conduct. Again, this policy includes more than the law requires. The standards range from the obligation to keep abreast of educational issues, preparing for board meetings, using respectful tone, and so on.

The public records and open meetings laws have many implications for boards. With the use of electronic communications, it is easier to have a walking quorum. When emails are exchanged, board members must be careful of what they send to one another as they can quickly become a walking quorum. Mr. Strang also noted that it doesn't have to be an action item to qualify as a discussion that needs to be noticed under the open meeting law. The public is entitled to watch the board debate, have a dialogue, and vote on action items.

A board members' private devices do not change the nature of a public record. If a board member uses their private email address for board business, it is subject to a records request. Arrangements must be made by board members to catalogue those records on private devices as per the record retention policy.

Mr. Strang said that board members have the authority to convene in closed session under one or more of the specific exemptions in Wisconsin statutes. He said that Eau Claire does a good job of noticing its closed sessions and does it appropriately. He also noted that it is permissible for the board to vote in closed session. He said he encourages board members to vote in open session, but if there is a proper notice and that subject is properly discussed, unless the statutes say it must be voted on in open, the board is entitled to vote in closed session.

When noticing closed session, the board must articulate the number of the subsection of state statutes that allow it to go into closed. A description of why the board is going into closed session must also be provided so that a member of the public could reasonably understand why the board is going into closed. As an ethical matter, it must be emphasized that what is discussed in closed, must be held in confidence. If a decision is made to breach that, it must be a decision made carefully and by the whole board as a body. The collective body trumps an individual's desire to go into closed. When an individual who breaches closed session votes to go into closed session, that is a legal liability.

Mr. Strang said it is important for board members to remember that they act as a collective body. An individual is part of that collective body and only has the authority of one voting member of the collective.

President Luginbill thanked Mr. Strang for the very complete report, and he encouraged Board members to read the entire document.

Board Governance

Mr. Luginbill shared a copy of the School Board Handbook. He said that pages 5-15 are the areas that get into Board responsibilities and duties as well as Board governance. There are two different governance models included: *Key Works of School Boards* and *Coherent Governance*. The Board has formally adopted Key Works but has also looked at parts of the Coherent Governance model. Another resource that has been used is the *Boards That Matter* publication.

Mr. Luginbill reviewed pages 8-15 in the Board Handbook. These are the Board's policies to self-police its governance as a Board. He encouraged Board members to read through the handbook and to sign the back page of the Handbook to acknowledge that they have read and agree with it. This page should be returned to Dr. Hardebeck.

A work flow will be established so that Board members can enter questions about Board Governance or operations or indicate what they would like to see clarified or addressed with its governance model. (i.e., What does the process of writing policy look like in each model? What is the role of the Board for day-to-day operations with each model?) The Board will invite facilitators to explain both governance models to the Board at a Work Session in December. The questions that are shared by Board members will be provided to these facilitators This will allow the Board to engage in professional development with those models and utilize the work flow for questions and clarifications. The goal would be to adopt a governance model for the Board to follow. It was suggested that Board members do a book study of each model.

Review Policy 185 – Board and District Committees

The Board discussed Policy 185 and the need for clarification on certain areas such as ex-officio memberships, the ad hoc committee role, etc.

After discussion, it was suggested that the policy be modified to add more detail and clarity around ex-officio members and whether they are voting or non-voting members. In addition, language could be added regarding Board members attending committee meetings that they are not serving on and whether they are able to take part in discussions during those meetings. Mr. Strang suggested that if new language is added, it should indicate that non-committee Board members can attend those meetings, but they should note that they are not speaking for the whole Board and they should not vote on matters before the committee. He added that Board members who are not on the committee should sit where everyone else from the public would sit, not at the table with the committee. The same rule would apply for making comments at committee meetings. Committee meeting notices could include language that other Board members may attend committee meetings, but they are there as individuals and not participants or voting members.

A question about term limits for Board Committees was also discussed. The city and county use three-year terms. Another approach would be to set three-year terms but allow a second three-year term if the Board member strongly feels they should stay on the committee.

Mr. Luginbill shared an overview of the next steps to take from the Work Session:

- Board members should read booklet provided by Kirk Strang
- Board members should read through the School Board Handbook and sign the last page
- A Board Governance work flow will be created

- Copies of the books, *Key Works of School Boards* and *Boards That Matter*, will be ordered for all Board members who don't already have them
- Presenters from both governance models will be invited to a future Work Session in early winter
- Policy 185 will be updated to include language about ex officio members, term limits, and Board members attending other committee meetings

7. REQUEST FOR FUTURE AGENDA ITEMS

There were no requests for future agenda items.

8. ADJOURN

Motion by Charles Vue, second by Aaron Harder, to adjourn the meeting.

Motion carried

Yes: Lori Bica, Chris Hambuch-Boyle, Aaron Harder, Laurie Klinkhammer, Joe Luginbill, Eric D Torres, Charles Vue

Meeting adjourned at 8:45 p.m.