

Green Mountain Unified School District Board

Regular Meeting Minutes

Thursday, September 19, 2019

Cavendish Town Elementary School, Art Room

6:00 p.m.

I. ROLL CALL/CALL TO ORDER:

Board: Jeff Hance, Wayne Wheelock, Joe Fromberger, Fred Marin, Lois Perlah, Doug McBride, Michael Studin

Staff: Lauren Fierman, Katherine Fogg, Deb Beaupre, Mary Moeykens, Jenn Harper, Cheryl Hammond, Todd Parah, Amy Hamblett, Mary Barton

Student Reps:

Public: Shawn Cunningham, Sharon Huntley, Sue Ceglowski

Mr. Fromberger called the meeting to order at 6:00 p.m. He invited the board members to introduce themselves.

II. APPROVE AGENDA:

Mr. Hance **moved** to approve the agenda. Mr. Wheelock seconded. Mr. McBride advised that he thought that they were going to finish up board goals at this meeting. He also noted that there is not a section for TRSU report. Mr. Fromberger noted that the board goals will be finalized at the finance committee meeting since Ms. Powden was unable to be here this evening. He also noted that he would give a TRSU report during board comments.

III. PRESENTATION:

A. Open Meeting Law with Sue Ceglowski, VSBA's Director of Legal Services

Mr. Fromberger introduced Ms. Ceglowski. She thanked the board for having her here and noted that after this training she was headed to Mt. Holly for the LMHUUSD meeting to give the same training. She explained that today's training gives up to date information on open meeting law, as it has changed periodically. She also invited the board members to view the VSBA's monthly webinar including an upcoming one on open meeting law. She noted that she doesn't plan to speak about specific motions that the board may have made in the past. Those should be directed to legal counsel.

She explained that all public bodies are accountable to the public and their meetings are open to the public. The intent of the law is to create transparency in government decisions. Public bodies of the state and its municipalities, including school board and their committees must comply. Committees and subcommittees of the board must also follow open meeting law. A "meeting" is defined as a gathering of a quorum of the public body for the purpose of discussing business or taking actions. Act 166 added a definition that the business of the public body means the public body's governmental functions, including any matter over which the public body has supervision, control, jurisdiction or advisory power. Mr. McBride questioned if asking for a meeting qualifies as a meeting. Ms. Ceglowski advised that it most likely would not. There was discussion about the reply all button and the number of people involved in the communication. The legislature clarified that a meeting is not a group discussion regarding scheduling, nor is it a gathering where a quorum of the board members is at the location for an entirely different purpose, nor is it a gathering of a quorum at a meeting of another public body that was duly warned.

Ms. Ceglowski noted that a meeting can happen in a physical space, as well as over a span of time, such as a group of email strings and social media discussion. She advised that public notice of meetings is required and agendas must be posted 48 hours before the meeting. Special meetings must be posted 24 hours before the meeting and must meet certain criteria. Emergency meetings can only be used when necessary to respond to unforeseen occurrence or condition requiring immediate attention and requires some public notice before the meeting. Ms. Ceglowski noted that agendas must be posted on the website, the municipal clerk's office and in at least 2 designated public places. Some unified districts are posting them in all of the towns of a district. The agenda must be made available to anyone who asks and the content must be specific to the topics to be discussed. Any additions or deletions must be done at the beginning of the meeting. Ms. Moeykens questioned if elections would be held before or after the approval of the agenda. Ms. Ceglowski advised that a committee or board chair should be elected before the agenda is approved so they can run the meeting.

Minutes are required under the open meeting law. There is minimum content: members, active participants; motions, proposals, resolution and dispositions; vote results, noting individual votes if there is a roll call vote. The minutes must be available for inspection and copying upon request no later than five calendar days after the meeting. They must be posted to the district or SU website no later than five calendar days from the date of the meeting and must remain posted for at least one year after the meeting. Draft minutes can be replaced with the approved update.

Ms. Ceglowski noted that executive session is only appropriate if it fits into one of the 14 appropriate categories. She distributed a laminated copy of the executive session law. The motion must state the nature of the business of the executive session, and be supported by a majority of the board and recorded in the minutes. She noted that the VSBA recommend that when preparing the agenda to be sure about what section of executive session to consult legal counsel.

Mr. McBride questioned if it is allowable to enter executive session without it being on the agenda specifically. Ms. Ceglowski advised that if there is a topic on the agenda and there ends up being information about that topic that falls into the protected areas of executive session, that would be possible provided it meets the criteria necessary to go into executive session.

Ms. Ceglowski also advised that there are topics requiring a specific finding that "premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage". She gave examples and referred the board to the language of the law. She noted that the board needs to make the finding before it goes into executive session. She recommended entering executive session in these areas in two motions, for example: "I move to find that premature general public knowledge regarding the board's contract with Best Bus Company would clearly place the board at a substantial disadvantage because the board risks disclosing its negotiation strategy if it discusses the proposed contract terms in public". The board would then discuss that motion and if approved could then make the motion to enter executive session, for example: "I move to enter executive session for the purpose of discussing the board's contract with Best Bus Company under the provisions of Title 1, Section 313(a)(1)(A) of Vermont Statutes for contracts.

Ms. Ceglowski advised that it isn't just ok to make the motions to enter executive session. They need to have the discussion about the findings. She gave another example of a personnel discussion due to a medical leave.

Ms. Ceglowski noted that there are other permissible reasons for executive session under 1 V.S.A. Section 313 (a)(2)-(10) such as negotiating real estate purchase, appointment or evaluation, disciplining of public officer or employee, or student academic records, suspension or discipline, clear and imminent peril to public safety, and security or emergency response measures. These reasons do not require the special language. She shared example language for such a motion, such as: "I move to enter executive session for the purpose of discussing the evaluation of the Superintendent under the provisions of V.S.A. Title 1, Section 313(a)(3) regarding evaluation of a public officer or employee. Ms. Ceglowski noted that they should be much more specific than just saying personnel issues or legal matters, without breaking confidentiality.

The board can only discuss the subject matter referenced in the motion for executive session. The board can decide who it can bring into executive session—staff, legal counsel, the subject of the discussion. No action can be taken in executive session. The motion made after returning to open session needs to be clear enough, subject to confidentiality considerations, to explain the nature and substance of the action taken. She noted that some things could be discussed in open session except where covered by other laws. Mr. Hance questioned if after an agenda is distributed, the board determines that there is a reason to have an executive session if they would have to wait for another meeting. Ms. Ceglowski advised that they would need to add the executive session to the agenda at the beginning of the meeting before they approved the agenda.

Ms. Ceglowski reported that electronic meetings are allowed. A person participating electronically must identify themselves at the start and be heard and hear throughout the meeting. If a quorum or more is participating remotely, the agenda must designate a physical location where the public can attend and participate and one board member must be physically present at that location. Additionally, any vote that isn't unanimous must be taken by roll call. Mr. McBride questioned if there was a quorum at the physical location and one or two people participating remotely if they should do a roll call vote. Ms. Ceglowski advised that this would be best practice, but is absolutely necessary when the vote is not unanimous.

Emails and social media can be used to schedule meetings, but the board should not discuss board business, nor should the quorum be collectively editing a board document, nor should the quorum of the board be involved in a Facebook or Front Porch Forum discussion of something that is the board's business. The board meetings are public, but they are not a meeting of the public. The board chair can give the public reasonable time to speak, but they can reasonably keep the comments to a certain time. There was discussion about the amount of time the board should give the public to speak. Ms. Ceglowski advised that the chair can set some time guidelines if there is a large public body present.

Ms. Ceglowski noted the penalty and enforcement issues for a board. She explained that the aggrieved party must allege a specific violation of the Open Meeting Law and make a request for specific actions to cure the violation. The public body then has 10 calendar days to respond. If they acknowledge a violation, they have 14 calendar days to cure it and take measures to prevent reoccurrence. Failure to correct a violation could result in attorney's fees and other litigation costs. She noted that it is the board's responsibility to comply. Last year on 2/23/2018, the VT Supreme Court found that open meeting law does not apply to collective bargaining negotiations between an SU negotiations committee and the bargaining unit. That then raises questions about whether a board is required to warn its negotiations sessions. When the board portion of the negotiations team meets alone, that likely meets the open meeting law requirements, therefore she recommends that they consult legal counsel regarding the warning. Negotiations can be conducted in open session if both parties agree.

Mr. McBride questioned if members of the board could contact the VSBA for guidance regarding the open meeting laws. Ms. Ceglowski advised that in her role, she can give guidance, but not legal counsel. She invited the board members to contact her if they had questions.

Mr. Fromberger thanked Ms. Ceglowski for coming to give this training that helps the board correct its recent open meeting law errors.

IV. MINUTES:

A. August 15, 2019 Regular Meeting

Mr. Marin **moved** to approve the minutes of August 15, 2019 meeting. Mr. Wheelock seconded. The motion carried unanimously.

B. August 22, 2019 Special Meeting

Mr. Marin **moved** to approve the minutes of the August 22, 2019 meeting. Mr. Wheelock seconded. The motion carried unanimously.

C. September 10, 2019, Board Retreat

Mr. Marin **moved** to approve the minutes of the September 10, 2019 retreat. Mr. Wheelock seconded. The motion carried unanimously.

V. OLD BUSINESS:

A. Employee Handbook

Mr. Fromberger noted that included in the board packet the draft of the employee handbook as marked up by VSBIT at this board's request. The other copy is an edited version with the suggested edits.

Mr. Studin felt that Ms. Powden should be present for discussion about this handbook to get her recommendations. Ms. Hammond advised that she has not discussed the handbook with Ms. Powden since the edits. Mr. McBride questioned how the legal comments were processed at the SU. Ms. Hammond advised that Ms. Hudkins made the changes. He questioned if Ms. Powden reviewed it after the changes. Ms. Hammond didn't know. He also noted that some of the legal comments were not adopted and he questioned why they were not. Ms. Hammond did not know why. He noted that some of the legal comments not adopted were in the sexual harassment and discrimination areas and questioned if someone had reviewed the comments with legal counsel. He questioned if the revised version was reviewed with the legal counsel after the revisions were made. Ms. Hammond didn't believe so.

Further discussion of the employee handbook was tabled until the next meeting. Ms. Hammond requested Mr. McBride send in his concerns to her so she can address them.

B. Committee Reports

Mr. Fromberger had hoped to have a committee report from the facilities committee, but Mr. Alexander was unable to be here this evening.

VI. COMMUNICATIONS:

A. Board Comments

Mr. Fromberger advised that at the last TRSU meeting, the TRSU board adopted the "cure" that the GMUSD board had adopted for the open meeting law violations. Also, as part of the cure, the board ratified the decisions made after the prior executive sessions that were entered into

incorrectly. Mr. McBride thanked the TRSU board for getting the open meeting law violation behind them, which allows the administration to focus on running schools. Mr. Fromberger thanked the news media for bringing this to their attention so that they can do things properly in the future.

Mr. Fromberger advised that they have also been advised that the LMH board has agreed to sell the BRHS building to the town of Ludlow. The select board has scheduled a vote of the electorate. The vote will ask if the voters approve purchase of the building and the ball field and land behind it, with the caveat written in the deed that the school can perpetually use the property for educational purposes in the future.

B. RVTC Update

Ms. Perlah advised that there are many grants that were finalized for upgrades. There was a large replacement of mechanical equipment at the school. Jeff Renard was named Principal of the VTVLC organization, instead of Director. Ms. Perlah reported on some of his work with the VTVLC program. She reported that some of the team has done some work here at CTES. She advised that the meetings begin with a curriculum presentation from each of the disciplines. There was discussion about the number of GMUHS students attending RVTC. Ms. Fierman advised that the majority of students attending are 10th, 11th, and 12th graders, with a limited 9th grade program. There are about 30 students who attend. There was discussion about the RVTC open house being very informative.

VII. ADMINISTRATORS' REPORTS:

A. Questions & Comments Pertaining to Principals' Reports

Mr. Fromberger reminded the board that the electronic board packets included the administrator's report. Ms. Fierman advised that the student representatives prepared a written report for the board. She read it aloud for the board, including highlights of recent sporting events, information on the upcoming play.

Mr. McBride questioned the food services at the schools and whether or not a board member could attend lunch on a particular day. Ms. Fierman advised that they would just go to the office and then go down for lunch. Ms. Fierman advised that Mr. Kennedy has received many compliments on the changes that have been made this year. Mr. McBride felt that the administrator's reports share a lot of the good highlights of the schools, but felt that they need to also have information about some of the concerning topics, such as students who have withdrawn from the school for various reasons. He noted that these are pieces of information that were requested in the standing report. Ms. Fierman noted that this report was created on September 10, so some of the date requested wasn't yet available.

Mr. Studin questioned if students who are coming in or leaving are asked for their reasons. Ms. Fierman advised that there are discussions between students/parents and the guidance department. She advised that so far all of the decisions are very individualized, and there are no patterns yet. Mr. Studin suggested that they could build on the things that are drawing students to the school and address those that are causing them to leave.

B. Special Education Funding

Ms. Hammond reported that in 2019, they received 17 new special education students in the district, 2 of whom with out of district placements, 5 came in with IEP 1:1 services, 6 came in from out of state which requires a new evaluation. Five students in the district needed outside placement since the district didn't have the capacity for placement within the district. She reported that there was a savings of \$81,000 in transportation that offset the cost of the new van.

Last year there were 26 new referrals at a cost of about \$1500 per referral, so the \$212,000 over budget is minimal compared to all these unplanned added expenses. There was discussion about the cost of the out of district placement. There was also discussion about the autism program representing a future savings of several hundred thousand dollars, but not in the first year due to start-up costs. Ms. Waite and Ms. Trimboli are working on a program for social and emotional needs to help bring more students back to the district.

Ms. Hammond reported that they have spent over \$1.3 on special education, with \$52,000 disallowed so it isn't a huge amount, but large enough to need to keep track in the future. There was discussion about the budgeted amount for special education versus what is actually spent historically. There was discussion about extraordinary special education costs and the issue with not budgeting appropriately, but also not necessarily being able to budget appropriately. Ms. Hammond reminded the board that they begin planning in October of 2017 to for the July 2018-June 2019 school year so some things are difficult to predict.

Ms. Hammond reported that there was a savings of about \$81,000 as a result of purchasing the van to transport students. There were 26 new referrals in the district at \$1500 per student. She discussed the expenses. She also discussed the Iteam benefit of getting referrals for allowing members of the Iteam to have offices at TRSU. She discussed the EEE assessment.

Mr. McBride questioned the \$212,000 if that was the GM piece. Ms. Hammond advised that this is the total overage, and GM is assessed for about \$165,000. There was discussion about there being 11 new special education students this year that were unbudgeted. She and Ms. Barton will look at who has left the district and review what this will do for the costs. There will be time studies during the third week of October. They will need to match them to the IEP's.

Mr. McBride questioned the transportation savings. Ms. Hammond advised that the savings is the difference with what was expended versus budgeted in those sections. There was discussion about the special education evaluation process. There was discussion about the transportation savings being offset by the extra that had to be spent on the bus issue. The bus expense was calculated with the assessment. There was discussion about the amount of anticipated revenue coming in at a lower rate than what was anticipated. Ms. Barton advised that she is working with Ms. Trimboli on a program for students with emotional challenges. This will help to bring more students back to the district from out of district placements. This will also save some money and give the children some access to regular education programs. The transportation expenses will be saved, but there will be some startup costs for the program.

Mr. Cunningham questioned if the out of district placement programs provide transportation. Ms. Barton advised that they do, but they bill for it. This expense is shown under transportation, not tuition.

Ms. Barton shared information about Act 173 and the changes that it will mean for the district. The first year they will still have 60% reimbursement for expenditures, and will still have to create service plans. The following year will have a different type of plan put together. The AOE will select certain SU's for spending monitoring. She reported that the following year, extraordinary cost reimbursement won't begin until they spend \$65,000. There was discussion about this program being more like a grant program rather than a reimbursement program. Mr. Fromberger felt that ultimately the local funding portion will have to go up since they are still obligated to provide the services. Ms. Hammond advised that the state currently doesn't know what they will do with the census funding.

Mr. McBride questioned the out of district placements and whether reimbursement will happen for non-special education portions of special education placements. It appears that they will lose that funding but the impact of that is still not known. Ms. Barton noted that they are working with the placements facilities to figure out what the breakdown is between regular education and special education for them.

Ms. Hammond shared information on the non-budgeted/overbudgeted items. There was discussion about the non-insured items and whether they were sent to the insurance company as part of the claim. Ms. Hammond noted that she and Ms. Fogg have been talking about it, and it will depend on if pictures were taken before the replacement to see if they would be covered. Ms. Fogg noted that they had already planned on replacing some carpets, but needed to replace others, but she didn't feel that these were flood related. She also noted that they are over in that line item, but not in that budget item.

There was discussion about the non-budgeted items. She advised that she needs to code the items as they are, even if they can keep the overall budget in check. Mr. Cunningham questioned who has the authority to spend when there is no budget line item. Ms. Fogg noted that it is common to say that "this thing needs to get done" so they determine that they are not over their total department budget. Mr. Cunningham advised that he understood that, but wondered who authorized items that don't even have line items. There was discussion about the professional development for the nurse. She doesn't fall under the teacher's contract but they didn't plan on it. The board discussed that whether the items are "not very big" and wondered what the process is for approving that expenditure. Ms. Fogg noted that they can't not send the new nurse to new nurse training whether or not they planned for it. Mr. McBride noted that they aren't disputing that something needs to happen, but wanted to know the process where that gets approved. Ms. Fierman noted that it depends, for example if there is an employee that needs a training that isn't budgeted, she will call Ms. Powden or Ms. Hammond to make sure that they have some funds available. She also advised that there are other expenses that allow them to check the budget before approving the expense, and if there are no funds in that line item, but they still need the item, they will try to find funds in another line item. There was discussion about budgeting better in the future.

There was discussion about the food service program expenses. She explained that the biggest issue with the hot lunch budget was the revenue, which is impacted due to reduced meal counts. There are about 5000 lunches and 5000 breakfasts less than there were the prior year. This results in about \$30,000 less revenue. Mr. Studin questioned if they have adjusted staff and purchasing in response to the reductions. Ms. Fogg advised that they have reduced staff. There was discussion about Mr. Kennedy having made some changes in his program. Mr. McBride questioned if Mr. Kennedy has been looking at increasing quality to increase take rates. Ms. Fierman advised that Mr. Kennedy believes that he can provide better quality for lower rates. There was discussion about him shifting some responsibilities between the schools in order to spend time in each school. Most of the products are prepared in the kitchen, rather than purchased prepared.

VIII. NEW BUSINESS:

A. Wilderness Class Fall Hike

Ms. Fierman reported that the wilderness class is a co-taught class (language arts and science teachers). The class spends time outside learning about the environment and learning challenging skills. She read aloud their philosophy and reported that many students have a transformative experience. The hike will begin tomorrow and go until 9/22. She reported on their trail plans. They will transport by bus. There are 14 students in the class. There is no cost for the trip except the \$5 campground costs. She discussed the various days that the hike could have been on, but

this weekend is the only one that worked. Ms. Perlah **moved** to approve the trip as presented. Mr. Studin seconded. The motion carried unanimously.

B. Approve Heating Oil Bid

Ms. Hammond reported that she has received 2 bids. The first from Cota & Cota for \$2.59 per gallon. Irving's bid came in at \$2.285 per gallon. Ms. Hammond advised that if approved the contract must be sent in by midnight to honor the contract. Mr. Studin **moved** to approve the Irving bid at \$2.285 per gallon. Mr. Marin seconded and the motion carried unanimously. There was discussion about the amount of usage—70,000 gallons for all 3 schools.

C. Review of the Public Survey Questions

Mr. Studin reminded the board that they had talked at the retreat about sending out a survey to the stake holders for their opinions on various topics. He had sent the survey out to all the board members for feedback and asked if they were open to the distribution of the survey. There was discussion about the survey being distributed by survey monkey and by paper to ensure that stake holders have access to it. There was discussion about disseminating it with the weekly student paperwork.

Ms. Fierman questioned the source of the questions because there are ways to word questions in ways that don't lead the answers. She suggested modeling questions after various researched surveys, such as the Burnhart Survey. She gave some examples of how questions could be worded incorrectly. Mr. Studin reported on the process he followed to develop the questions. The board requested that she share some of that source material with them to ensure that the questions are asked appropriately. The board consensus was to support the questions.

Ms. Hamblett questioned the open meeting law violation and whether this email counted as one. Mr. Studin sent the information out to each board member as was discussed at a properly warned board retreat, and each board member responded only to Mr. Studin with their feedback prior to this meeting.

IX. PUBLIC COMMENTS:

Mr. Cunningham suggested that they might consider adding the public comments at the start of the meeting since people may make comments more readily at the beginning. Mr. Fromberger noted that he consulted the secretary of state and they can do it either way. He felt that the public is more likely to make a comment after a decision and he is also allowing comments during the discussion about the topics on the agenda. He reported that he had made the decision and invited the board to change his mind and they haven't yet. Mr. McBride suggested that the board is here to serve the public and making them stay until the end of the meeting encourages them to not show up.

Mr. McBride **moved** to add a second section of public comments to the beginning of the meeting for the rest of the calendar year to see if there is more participation. Mr. Hance seconded. Ms. Fogg agreed with that idea. There was discussion about limiting the time spent on public comments. The motion carried unanimously.

X. NEXT MEETING AND AGENDA ITEMS:

The next meeting will be September 25, 2019 for the finance committee at 6:00 p.m. at CTES. The meeting will include an executive session for an update on all pending litigation. The next regular meeting will be October 17, 2019 at GMUHS at 6:00 p.m.

XI. ADJOURNMENT:

Mr. Studin **moved** to adjourn at 8:08 p.m. Mr. Marin seconded and the motion carried unanimously.

Respectfully Submitted,

Amber Wilson
Board Recording Secretary