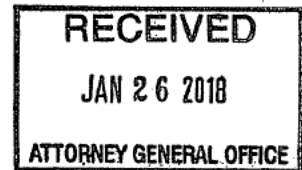


January 22, 2018

Heidi Spear & Seth Henry

Waitsfield, VT 05673



Attorney General TJ Donovan
Office of the Attorney General
109 State Street
Montpelier, VT 05609

Dear Attorney General Donovan:

We are writing to request your assistance in upholding open meeting law (OML) on behalf of the citizens of Duxbury, Fayston, Moretown, Waitsfield, Warren and Waterbury. On the heels of our accelerated consolidation into a unified school district in 2016, our newly formed 14-person board has repeatedly violated open meeting law (OML), undermining the public's right to know and influence how over \$36 million in public education investment is being spent and to what end. Local papers and 4 board members have submitted complaints or acknowledged wrongdoing but the board has officially refused to acknowledge any violations or take any corrective action and has continued to violate the law.

Attorney estimates to handle an OML suit range from \$20,000 to \$35,000. We are hoping that the defense of OML will not rely upon private contributions of this magnitude. While we have been informed that OML violations are commonplace in Vermont, we seek your help in restoring compliance in this instance, given the state's role in compelling dramatic disruption and contraction in school governance through Act 46. To allow a district that spends over \$36 million in public investment annually to operate outside of the public eye, repeatedly violating OML is clearly detrimental to effective oversight and the public good.

The clearest violations of open meeting law include:

1. **Publishing different public and private agendas to leave the public out of vital school governance matters.** The differences in agendas are significant, most notably leaving the discussion of district vision, goals and a board annual action plan off the public version. *I've attached the two versions for your review.*
2. **Taking unwarned board action on a substantive staffing/financial issue.** Shortly after the public budget vote, with no changes to circumstances, and over the opposition of several board members on the basis of improper warning, the board authorized the hiring of an additional administrator that was not requested during the budget season. *I've attached the agenda, the*

minutes for this meeting, and a time stamped outline of that portion of the recorded meeting that is available on MRVTV's website.

- 3. Conducting a nearly 2-hour executive session on false pretext.** On the pretext of discussing a matter of personnel contracts, which were never discussed, the board sent the public and press out of the room and participated in nearly two hours of attacking board members and members of the public who dared to share negative community feedback and performance data. *I've attached the original complaints of two board members, including me, who were attacked in this session, a letter declaring its impropriety by another board member, who is an attorney for the Secretary of State's office, and the complaint submitted by our local papers.*

We understand that it is not the AG's job to ensure boards are competent. We have elections to sort that out with time. However, violations of OML can undermine the public's right to information to the extent that the democratic process is compromised. Violations to OML undermine public insight, community voice and accountability. Defending OML and ensuring that our new unified district takes actions to ensure its compliance going forward would put the public back in the room where they are entitled to be- and where we need them to be to oversee public investment.

As mentioned, we have consulted private counsel about this suit. However, we seek to minimize the costs- to taxpayers and students- of defending OML in our district. Our focus is not punitive but corrective. Please advise of any questions you may have. As filing this suit is time sensitive, we would appreciate a timely response regarding your willingness to assist.

Sincerely,



Heidi Spear, Fayston
Seth Henry, Fayston

Cc: Governor Phil Scott
Secretary Rebecca Holcombe

ⓧ | Posted and
distributed
version

AGENDA
HARWOOD UNIFIED UNION SCHOOL DISTRICT BOARD MEETING
WEDNESDAY, SEPTEMBER 13, 2017
3:00 - 8:45 P.M.
MAD RIVER BARN, FAYSTON

1. Call to Order
2. Additions and Deletions
3. Facilitated Discussion
4. Other Business
5. Adjourn


From: Caitlin Hollister <[REDACTED]>
Subject: Fwd: 9.13.17 HUUSD Board Retreat Agenda - Invitation to view
Date: September 12, 2017 2:48:26 PM EDT
To: Rosemarie White <[REDACTED]>, Jim Casey <[REDACTED]>, Rob Williams
<[REDACTED]>, "Jill & Kyle Ellis" <[REDACTED]>

Not sure everyone got this last week....

----- Forwarded message -----

From: "Christine Sullivan (via Google Docs)" <[REDACTED]>
Date: Sep 8, 2017 4:52 PM
Subject: 9.13.17 HUUSD Board Retreat Agenda - Invitation to view
To: <[REDACTED]>
Cc: <[REDACTED]>, <[REDACTED]>, <[REDACTED]>, <[REDACTED]>
<[REDACTED]>, <[REDACTED]>, <[REDACTED]>

Christine Sullivan has invited you to view the following document:

 9.13.17 HUUSD Board Retreat Agenda



Hi everyone,

I am sharing the GoogleDoc agenda for the facilitated discussion at next week's meeting. We decided we would have the Mad River Barn supply the food rather than have everyone deal with putting something together to bring.

Enjoy the weekend,

Christine



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Google

HUUSD Board Retreat
September 13, 2017, 3:00 PM - 8:45 PM
Location: Mad River Barn

Retreat Outcomes:

- To establish norms for board interactions with its members and with the public
- To develop board goals and a work plan for 2017-18
- To determine Board committees and their charges for 2017-18

To prepare for this meeting, please:

- Read this agenda
- Bring your device for accessing on line documents
- Review proposed meeting norms
- Review The WWSUA Merger Goals
- Review Essential Work of School Boards Roles and Responsibilities lists
 - Budget, Community Engagement, Effective and Ethical Operations, Monitoring, Board Superintendent Relationship, Establish Policy
- Review Robert's Rules Summary
- Review HUUSD Policy areas A1 through C10
- Review proposed budget process
- Review Administrative Team Redesign Questions

Schedule [6 hours]

Time	Minutes	Activity
3:00 - 3:01	1	Call to Order & Additions and deletions to the agenda
3:01 - 3:10	9	Introductions and Overview of the agenda
3:10 - 3:20	10	<u>Meeting norms</u> review and expectations
3:20 - 5:20	120	What is our work as a board in achieving the WWSU (HUUSD) Goals? Determine work that is underway and needed
5:20 - 6:05	45	What is our <u>plan</u> for ensuring our work is completed? (Part 1) What are our goals for 2017-18? What is our work plan for 2017-18? What committees will be in place for 2017-18 and what will be their charge? <u>C10 -Board Standing Committees</u>

6:05 - 6:45	40		Dinner
6:45 - 8:15	90		What is our plan for ensuring our work is completed (Part 2) How do our policies guide us in this work? <u>Review Policies A1 - C10</u>
8:15 - 8:45	30		Closure and Next Steps <u>Feedback Survey</u>

**HARWOOD UNIFIED UNION SCHOOL DISTRICT
WEDNESDAY, APRIL 12, 2017 6:00-9:30 P.M.
HARWOOD UNION HIGH SCHOOL LIBRARY**

Ground rules included with packet

1. Call to Order
2. Additions or Deletions to Agenda
3. Public Comment
4. Action Items:
 - A. Approve Board Minutes of 3/22/17 - attached (5 min.)
5. Discussion Items:
 - A. Student Representatives to HUUSD Board (10 min.)
 - B. Presentation: World Language Programming - attached (45 min)
 - C. Board Retreat Planning - set date, location, facilitator (15 minutes)
 - D. Public Comment: What is it? What isn't it? (25 min)
Policies on C-3 Public Participation; D-10 Public Complaints about Personnel;
H-1 School-Community Relations; H-2 Parental Involvement (policies attached)
 - E. Debrief the PBL Presentation: Next Steps & the Board's Role - see attached (20 min)
6. Reports
 - A. Superintendent and Director of Finance Reports - attached (15 min.) *← not attached*
 - B. Board Chair Report - attached (15 min.)
Policies C-1 Board Agenda and Preparation; C-5 Board Relations with School Personnel; C-10 HUHS Board Standing Committees; G-1 Curriculum Development and Coordination
 - C. Work Group Reports (20 min. total)
 - Negotiations Work Group - 5 min.
 - Communications Work Group - 5 min.
 - Facilities Work Group - 5 min.
 - Policy Work Group - 5 min.
7. Other Business (10 min.)
8. Future Agenda/Calendar Planning (10 min.)
9. Adjourn

**HARWOOD UNIFIED UNION SCHOOL DISTRICT
WEDNESDAY, APRIL 12, 2017 6:00-9:30 P.M.
HARWOOD UNION HIGH SCHOOL LIBRARY**

Draft Minutes

Attending: Christine Sullivan, Heidi Spear, Maureen McCracken, Caitlin Hollister, Alex Thomsen, Jim Casey, Jill Ellis, Alycia Biondo, Garrett MacCurtain, Rob Williams, Peter Langella

Administration: Brigid Nease, Michelle Baker, Sheila Soule, Stephanie Hudak, Amy Rex, Denise Goodnow, Tom Drake, Kaiya Korb, Donna Rae

Public: Jeremy Gulley – Waitsfield, Lovell Beaulieu - Waterbury Record
Peter Kulis, Sally Kulis, and Tom Berry

1. Call to Order: Christine called meeting to order at 6:05 p.m.
2. Additions or Deletions to Agenda: Brigid – change in school calendar; Maureen has question for everyone – put under other business.
3. Public Comment: Recognize that the board received letter from Corey Stevenson.
4. Action Items:

Brigid suggested the school calendar be changed so student days end on Friday, June 16 (176 school days). **Heidi moved to accept June 16 as last student day, seconded by Rob. Motion carried.**

A. Approve Board Minutes of 3/22/17 – attached. Add Policy numbers for the six policies put in bucket list. Change spelling of Berry. **Alycia moved to accept minutes as amended, Rob seconded. Motion carried.**

5. Discussion Items:

A. Student Representatives to HUUSD Board: Garrett reported on student reps to HUUSB – would like to have students to hear what's going on at school from their perspective. Would remind us why we're all here. Reached out to Lisa to bring them back. They felt uncomfortable at the last board meeting attended because of the tenor of the board – voiced their concern. Would like to see student reps attend from now on – possibly monthly. **Heidi made motion for Garrett to reach out to ask them to return, seconded by Caitlyn. Motion carried unanimously.**

B. Presentation: World Language Programming – Sheila Soule report created to help administrative team to be able to make informed decision on language. Different models discussed. Kaiya and Tom talked about the administration findings in the report. Is language required or an elective in 7/8 grades? Why not make language a required course? Decision made for the school year after next. Discussion of an immersion model, probably not available until another year. Why not start the language programs in 3/4 grades? Time issue. Difficult to offer language teachers full time jobs. This report means catching up Waterbury schools and extending sequential learning to 5th grades. Should we have a hiring philosophy for deciding which language would be the best for students? Does the community have a preference? Always looking for cohesive program with consistency. How do we leverage this issue for the coming year to be distributed

more equitably? Is there something that can be recommended for the coming year? Should we do more outreach in community, students, etc. to hear their ideas? **Heidi made motion that the communications committee draft a survey for recommendations on the language issue, seconded by Caitlyn.**

Maureen suggested smaller, more frequent surveys. Tom suggested asking students as well. Does the community really want more language? **Alex made motion to amend to draft, "here's what we're working on, then send the survey." Jim seconded. Vote on amendment, motion carried with Alycia, Maureen, and Jill voting no. Vote on original motion – unanimously voted to approve.**

C. Board Retreat Planning - set date, location, and facilitator: Caitlyn – September 13 from 3 to 9 p.m. 26 people. Has contacted facilitator - Val who suggests 6 hours, plus 2. She recommended that the board define goals (small group work with facilitator to do this). Have board and admin at full meeting or should some things around board things just include board, plan on this? Place? Waterbury Town Office Space? East Warren market? Knoll Farm? Approx \$1500 cost for retreat.

D. Public Comment: What is it? What isn't it?

Policies on C-3 Public Participation; D-10 Public Complaints about Personnel; H-1 School-Community Relations; H-2 Parental Involvement (policies attached)

Peter concerned that public comments sometimes turn into forum and not enough time for board to ask questions. Put comments at the beginning of meeting for issues on the agenda, and put public comment not related to action or business items at the end of the agenda. Suggest a speaker's list? Taking comments at beginning of meeting helps chair to manage time. If public has a concern, should it be taken to the whole board for discussion? Important to know what various members of the communities have concerns about.

E. Debrief the PBL Presentation: Next Steps & the Board's Role - see attached.

PBL is a law, not a choice. – parents seem to be mostly concerned about evaluations. Most concerns are around the communications piece. Amy reported that the team is reviewing current reporting tool. Harwood will send individual letters to parents with tasks not completed by their student and what proficiencies still need to be completed. Will send progress report to parents if requested.

Concern about proficiency and growth – how does this happen? Personal leaning plans handle this, as teachers discuss ideas with the student. Students can be challenged at a higher level in different ways.

Can experiences only be tied to teachers or is there a process to do things through out of school organizations? Ideas such as mentors, work at home, an internship, or learning opportunity designed on own, presentations, etc. Could be to match opportunity to graduation requirements or standards. Rob suggest that board continues to talk about these issues at future meetings – how to distinguish students to colleges, my kid is receiving no feedback, etc..

Brigid: Does the role of the board decide how students are assessed? Parents have concerns about x. Are these things that are the board roles? What are the things the board decides and what are the things that the administrators and teachers decide. Need to define these things.

Some feel that it is helpful to hear about these issues around the board. If know of concerns, helpful to bring to board. Brigid feels that the first ways for parents to address these concerns is through teachers and administrators, not the board.

Haven't come to consensus as a board. Think our job is to be informed. In the case of public comment, protocol has to be followed.

Heidi thinks that we need to spend more time on a future agenda about roles and responsibilities of the board. Check out policies. Find facilitator or a self assessment tool.

6. Reports

A. Superintendent and Director of Finance Reports - last year tried "out of the shoot" model to cut out an admin at TBPS. Have found that TBPS has issues that aren't working well and Denise is having a difficult time with more challenging students. TBPS has over 400 students with only one principal. Recommend that board reinstate the assistant principal position to help with these problems.

Alex moved to authorize Brigid to hire an assistant principal for TBPS, seconded by Maureen. Gabe moved to defer vote for further discussions, seconded by Peter. Opposed Jill, Heidi, Peter and Gabe. Motion failed. Original motion: Peter, Gabe, and Heidi voted no, motion carried.

In thros of hiring season, all larger schools have hiring protocols. Teams interview. WWSU uses same practice that is always used. Board does not interview. **Maureen moved that Brigid continue this practice, seconded by Caitlyn. Motion carried unanimously.**

Restorative justice being introduced at Harwood- have some educational piece around the issue, reported by Amy Rex.

B. Board Chair Report – general process of agenda. Heidi does not think the agenda reflects entire board. Think superintendant has more say over agenda than board. Alex suggested that board leave 15 minutes at end of meeting to discuss the next agenda.

Policies C-1 Board Agenda and Preparation; C-5 Board Relations with School Personnel; C-10 HUHS Board Standing Committees; G-1 Curriculum Development and Coordination. P

C. Work Group Reports

- Negotiations Work Group
- Communications Work Group
- Facilities Work Group
- Policy Work Group – put on agenda the issue of C-1 with several possibilities – revise policy to add Alex's suggestion of setting next agenda at the end of the meeting.

7. Other Business: Maureen's husband Reed starting to look for a position as a teacher or administrator. What is her role? If he gets a job in the district, she would have to step down.

8. Future Agenda/Calendar Planning:

1. Adam Gresham can come to discuss what's happening at state house
2. Heidi enquired about evaluation process – superintendent. Christine suggests board get a better idea of the job and job description. Currently have a tool for evaluations, but a new tool needs to be developed. Biggest concern is having a board that understands what the job is. Can learn through job description, what the law says the job is, and have Brigid tells what is the work. Evaluation is every three years. Superintendent evaluates principals.
3. Talk about local counsels
4. Developing budget process
5. Mission Statement and vision

6. Agenda for offsite meeting
7. Share input from community already has.
8. Roles and responsibilities.
9. Working group reporting (at the start)
10. Fall schedule
11. Short base update on PBL (when Tom and Amy and Lisa here)
12. Talk about agenda planning the next time Sheila is at the meeting
- *Self assessment re. community involvement – around what we know and what we need to know.
13. Future agenda planning

9. **Adjourn: Jill moved to adjourn, seconded by Maureen Motion carried.**

Submitted by Freya Chaffee

Mad River Valley TV Coverage of 4/12/17 Unwarned Redirection of Funds to Expand Administrative Team

2:31:50: Brigid introduces recommendation to hire an assistant principal

2:38:14: Brigid specifically asks for a motion for that hire, though unwarned

2:38:13 Alex makes motion to approve hire. Maureen seconds.

2:43:14: Gabe raises issue of discussion being unwarned on the agenda and the public's rights and interests in the topic

2:45:08: Gabe makes motion to defer vote until discussion and action properly warned. Supported by 4 board members and motion fails at 2:46:45.

2:47:06: Motion passes to approve hire with 4 board members opposing.

**HARWOOD UNIFIED UNION SCHOOL DISTRICT
WEDNESDAY, MAY 24, 2017
6:00-9:30 P.M.
HARWOOD UNION HIGH SCHOOL LIBRARY**

1. Call to Order
2. Additions/Deletions to Agenda
3. Public Comment
4. Board Reflections from Prior Meeting - unresolved issues that need closure (15 minutes)
5. Approve Minutes of May 10, 2017 (5 min.)
6. Reports
 - A. Communications Work Group (10 min.)
 - B. Negotiations Work Group (5 min.)
 - C. Superintendent and Director of Finance (5 min.)
 - D. Policy - review recommendations and move to "bucket" as many as possible of the following (20 min.): D7R-P, E7-R, E7-R-P, E8-R, E8-R-P, F1-R, F1-R-P, F5-R
7. Action Items
 - A. Review Policy H1 and edit to address local councils (20 min.)
 - B. Policies: Identify the Policies in the "Bucket" for warning 1st reading next time (5 min.)
 - C. PBL check-in - hear administrative update/report and determine board next steps (if any) (20 min.)
 - D. Retreat Planning
 - i. Discuss Study Committee Report and Mission and Vision statements for individual HUUSD schools as well as survey data inventory. (Action: determine what, if any common language exists, and what ideas could continue to inform our work as we move towards summer and the board retreat.) (20 min.)
 - ii. Discuss sample board norms, operating procedures, bylaws (Action: determine whether to adopt these topics for retreat agenda) (20 min.)

iii. Determine general outline and agenda for retreat (Action: motion to approve draft and determine means by which will be finalized) (10 min.)

iv. Set time and place for board retreat (also authorize board agent to sign any necessary contracts) (10 min.)

10. Executive session(s)

11. Adjourn

**HARWOOD UNIFIED UNION SCHOOL DISTRICT
WEDNESDAY, MAY 24, 2017, 6:00-9:30 P.M.
HARWOOD UNION HIGH SCHOOL LIBRARY**

Draft Minutes

Attending: Christine Sullivan, Maureen McCracken, Alex Thomsen, Jim Casey, Garrett MacCurtain, Peter Langella, Rosemarie White, Gabriel Gilman, Heidi Spear, Jill Ellis, Sam Jackson, Alycia Biondo arrived at 7 p.m.

Administration: Brigid Nease, Michelle Baker, Sheila Soule, Donarae Dawson

Student Reps: Walker Caffry-Randall

Administration Reps: Beth Peterson, Amy Rex, Stephanie Hudak

Public: Pete and Sally Kulis, Amy Jamieson, Laura Caffry

1. Christine called meeting to order at 6:16.
2. Additions/Deletions to Agenda: Brigid needs executive session regarding personnel contracts, possibly contract negotiations.
3. Public Comment: None
4. Board Reflections from Prior Meeting - unresolved issues that need closure
 - Maureen read following statement:

I wanted to address a perception of conflict of interest on my part that has come to my attention.

After the last board meeting a fellow board member let me know that a number of board members expressed concern that I supported bringing back a previously eliminated administrator position at TBPS, and wondered if there was a connection to the fact that my husband is currently enrolled in an administrator credential program.

I would like to offer an account of my state of thinking related to those issues to allay concerns about a conflict of interest.

At the March 22 meeting, I let the board know that Reed was close to finishing his administrator program because I thought that someday in the future there might be a conflict of interest issue, but I was thinking down the road – after he finished his program. I did not know at the time that the administrator at TBPS issue was going to be brought up, and admit that it didn't even cross my mind as being connected at all. Until I went back and looked at the notes, I didn't even remember that these two things – my mention of potential future conflicts and the motion about adding an administrator at TBPS - actually happened at the same meeting.

I supported the administrator position at TBPS because of a real concern that began for me at the beginning of this past budget season, in the fall of 2016. When we received the detailed staffing FTE report in November, I could see the numbers on paper - namely that for the two schools in the Waterbury Duxbury district, we had 3 administrators for 659 students and 75 teachers. For lack of another better way of

thinking about this, I took the approach that an administrator's time and duties had a somewhat proportional relationship to the number of students they are responsible for, the number of teachers and other employees they need to evaluate and manage, and the number and size of the facilities under their control. The numbers from the November 2016 report equated to 220 students and 25 teachers per FTE of administrator time. This was more than double the proportions of some of the other schools in our district, and still did not include consideration of other staff or facility responsibilities. It wasn't clear to me whether the Waterbury Duxbury schools were understaffed or whether the valley schools were overstaffed in terms of administrators, and I considered that it likely was more complex than either of those situations, so I did not act during the budgeting process other than asking a few pointed questions to a few people involved. But when the administration came to the board to ask for the additional administrator in March, it was barely even a question for me and indeed I was surprised it was for others.

Currently, with the new administrator position approved and considering the enrollment and staffing numbers from last November, the proportions equal 165 students and 19 students per Administrator FTE – still higher than all of the other elementary schools but the difference is not as dramatic. I believe that the student population in these schools continues to rise, though, so it's possible that those proportions might be higher still.

So these are the thoughts that were going through my head when the issue came up at the March 22 meeting. I continue to stand by my support of adding an administrator to the TBPS school, and given the increasing enrollment trends we are seeing in Waterbury Duxbury, I believe we as a board need to continue to monitor that situation closely.

But I want to reiterate that my thinking in no way was connected to Reed being enrolled in an administrator credential program.

I am confirming to you tonight that Reed had no intention of applying for that job since he learned of it, and indeed he did not apply for it. He also did not apply for the other open administrator position at Harwood (Athletic Director), nor does he intend to. At this time, I am not aware that he intends to apply for jobs within our district.

If in the future Reed plans to apply for a position within our district I would recuse myself from any decision making that might be related to it, and since you now are all aware of my family situation, you can help keep me honest when future decisions come up that might have the perception - if not actual intent - of conflict of interest.

I apologize for the lengthy statement, but my integrity is very important to me and I take it very seriously – as I think any of us should – if conflict of interest is raised as even a possibility.

- Discussion: HUUSD Policy says that concerns should not be directed to an individual, but brought to the board. Board had conversation about code of ethics. Some believed appearance of conflict should not be considered an actual conflict and expressed the concern that individual members be able to decide for themselves when this is an issue.

Be clear on how board is going to operate in future. If not concerning enough of a concern to bring to full board per policy, we should trust people and accept decisions.

5. Approve Minutes of May 10, 2017: Change name of student to Julianne. Next Facility "meeting" is at Harwood (not tour). **Rosemarie moved to accept the minutes with these corrections, seconded by Alex. Motion approved unanimously.**

6. Reports

A. Communications Work Group: Lacking quorum - didn't meet

B. Negotiations Work Group: Still working with Support Staff - mtg. scheduled for 5/25 at which we will discuss salary and benefits. Have settled on some language, some is still on hold. Hoping to make progress. Have not begun teacher negotiations yet due to disagreement over meeting in open session. If sharing proposals, is supposed to be open session. If strategies, can go into Executive Session. Issue at a stalemate. Compromise to proceed in Executive Session while waiting for the VT Supreme Court to rule on open meeting issue. Teachers have agreed that if/when Supreme Court rules in our favor, will proceed in open session. Gabe moved to accept **Brigid's proposal as outlined above, seconded by Jim. Motion approved unanimously.**

C. Superintendent and Director of Finance:

Michelle to present student cohort analysis. Question of why this is on agenda. Issue of unsolicited data analysis presentation from a board member rather than approved motion to request from central office was discussed. Brigid directed Michelle to present the cohort analysis to the full board due to concerns with individual board member work. Maureen suggested that board should decide what information is needed first. **Gabe moved to postpone until next meeting the presentation and discussion of Heidi & Michelle's information, seconded by Heidi.** Request should be that Michelle do an analysis of the data. Committees and single board members do not direct administrators. Heidi thinks it is not consistent with any board to have only one source of analysis and not other information available. Should have a broader lens other than just central office and numbers alone. Christine stated that study and presentation of materials is subject to procedure and has to be requested through approved motion of full board. Some feel that this type of discussion not benefiting anyone and that this is not the job of the Communications Working Group. Some like having information from whole board but also like idea of people bringing information to the meetings. Some of the work of the Administration should be directed by full board and put on agenda. **Motion failed. Michelle and Heidi presented information to the board:**

Michelle presented data on cohort survival. Does someone ask why a student might leave Harwood? This is done informally by school counselors and there are many reasons: move within or out of state, drop out to pursue GED, early college option, private school. No formal records, but agreement that it would be a good idea to track this. Her data shows HS cohort survival rate of 98-102% and reasons for why students left. (I.E. Early college students are not included as part of cohort, but will actually re-enroll in June and graduate with class.) Sometimes it is a matter of when the snapshot is taken.

Heidi presented her data. Took all enrollment data, figured out cohort information, and also looked at grade level enrollment year to year. Looking for consistency and what was the norm, what to learn from the outliers. Heidi believes that choices are made when children go to middle school and when they go to high school.

General population trends not relevant. Her conclusion that decisions are made based on perceptions regarding programming and curriculum. Thinks we need to look at trends longer term since enrollment predictions impact our tax rate.

Board members stated that it is difficult to draw suggested conclusions from second data presentation (Heidi's). Many board members do not think that making assumptions is appropriate. Additional discussion about whether individuals should do this work rather than the board directing the administration to do it.

D. Policy - review recommendations and move to "bucket" as many as possible of the following: D7R-P, E7-R, E7-R-P, E8-R, E8-R-P, F1-R, F1-R-P, F5-R

Gabe presentation: E7-R, policy followed by procedure E7R-P - move both to bucket.

E8-R policy, followed by procedure E8R-P – move both to bucket.

7. Action Items

A. Review Policy H1 and edit to address local councils – Existing policy on School Communications (open meeting, agenda planning, etc). Gabe came up with a draft. Have policy work on this first instead of having full board discuss it. Brigid suggested that Gabe write a 3 sentence "get started" policy to meet July deadline, then go to work on a good draft in the fall. Right now, just use the old policy with a few word changes. Gabe presented a clean copy for board to read. Move to bucket. **Rosemarie moved to warn policy for first reading next meeting, seconded by Caitlin. Motion approved unanimously.**

B. Policies: Identify the Policies in the "Bucket" for warning 1st reading next time: Brigid explained that we can't move other policies in bucket to reading and adoption since they are still marked up and we don't have final and agreed upon language yet.

C. PBL check-in - hear administrative update/report and determine board next steps (if any): Shared the update on Jump Rope which was distributed as part of the board packet. College Admissions meeting very successful, well worth going to. They are looking for holistic students, not just grades.

Public in attendance asked to comment since this is the section of meeting relevant to concerns: Comment about College Admissions Counselors presentation. Problems with reporting system at Harwood, hard to know where student stands. Casco Bay - Board needs to take five issues mentioned two months ago and let people know where they stand, make people feel comfortable, manage the risk. Brigid replied that the issue is one for the administration, not the HUUSD board. Administration has spent many hours with parents hearing concerns and responding (in some cases as many as 10 with one person). Hard to tell them what they want to hear when won't accept answers.

D. Retreat Planning - Consensus that i-iii would be postponed until out next agenda but that time and place would be determined so that site could be finalized

i. Discuss Study Committee Report and Mission and Vision statements for individual HUUSD schools as well as survey data inventory. (Action: determine what, if any common language exists, and what ideas could continue to inform our work as we move towards summer and the board retreat.) (20 min.)

ii. Discuss sample board norms, operating procedures, bylaws (Action: determine whether to adopt these topics for retreat agenda) (20 min.)

iii. Determine general outline and agenda for retreat (Action: motion to approve draft and determine means by which will be finalized) (10 min.)

iv. Set time and place for board retreat (also authorize board agent to sign any necessary contracts) - 3 sites available.

Caitlin presented information on GMC with everything needed for \$175, and the Mad River Barn – free, new pavilion and dining room. Motion was made by Caitlin, and seconded, to reserve the Mad River Barn for our offsite retreat on Sept. 13 from 3-9 pm. Unanimously approved.

10. Executive session(s) – 9:05 - **Jim moved to go into Executive Session regarding a matter of personnel contracts, seconded by Alex. Motion approved unanimously.** Board recessed while administrators and members of the public left and entered into executive session with Superintendent Nease in attendance at 9:15. Board came out of executive session at 10:55 with no action taken.

11. Adjourn: **Rosemarie moved to adjourn at 10:55, Alycia seconded, all in favor.**

	2009	2010	2011	2012	2013	2014	2015	2016
Thatcher Enrollment	2009	2010	2011	2012	2013	2014	2015	2016
K	67	75	65	83	71	76	63	82
1st	69	69	81	66	78	76	81	67
2nd	65	64	72	77	64	72	76	80
3rd	72	62	63	71	74	61	74	77
4th	70	74	65	60	70	74	63	75

	2009	2010	2011	2012	2013	2014	2015	2016	Net Flow by Grade
Thatcher Net Flow									
K to 1st		2	6	1	-5	5	5	4	18
1st to 2nd		-5	3	-4	-2	-6	0	-1	-15
2nd to 3rd		-3	-1	-1	-3	-3	2	1	-8
3rd to 4th		2	3	-3	-1	0	2	1	4
Net Flow by Year		-4	11	-7	-11	-4	9	5	-1

	2009	2010	2011	2012	2013	2014	2015	2016
Crossett								
5th	73	71	72	67	60	72	73	70
6th	72	74	72	71	62	61	68	77
7th	57	74	73	69	71	58	57	70
8th	81	54	74	75	71	75	56	61

	2009	2010	2011	2012	2013	2014	2015	2016	Net Flow by Grade
Crossett Net Flows									
4th to 5th		1	-2	2	0	2	-1	7	9
5th to 6th		1	1	-1	-5	1	-4	4	-3
6th to 7th		2	-1	-3	0	-4	-4	2	-8
7th to 8th		-3	0	2	2	4	-2	4	7
Net Flow by Year		1	-2	0	-3	3	-11	17	5
									Crossett M5 4-yr Net
									2
									0.4%

Total Valley 6th Enrollment:	80	78	79	60	82	78	78	69
Total 8th Enrollment:	162	121	149	142	145	128	126	136

	2009	2010	2011	2012	2013	2014	2015	2016
Total Harwood Enrollment								
7th	67	76	78	81	61	78	73	77
8th	81	67	75	67	74	53	70	75
9th	157	155	122	137	140	141	127	127
10th	147	157	153	123	137	141	133	129
11th	135	143	151	156	113	134	140	135

12th	173	168	155	171	162	112	131	127
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Net Harwood Flows	2009	2010	2011	2012	2013	2014	2015	2016	Net Flow by Grade
6th to 7th Harwood		-4	0	2	1	-4	-5	-1	-11
7th to 8th Harwood		0	-1	-11	-7	-8	-8	2	-33
8th to 9th		-7	1	-12	-2	-4	-1	1	-24
9th to 10th		0	-2	1	0	1	-8	2	-6
10th to 11th		-4	-6	3	-10	-3	-1	2	-19
11th to 12th		13	12	20	6	-1	-3	-13	34
Net Flow by Year		-2	4	3	-12	-19	-26	-7	-59

Harwood MS 4-yr Net

-30

-5.4%

Harwood 4-yr Net

-64

-2.4%

2010-12 school closings?

Fayston	2009	2010	2011	2012	2013	2014	2015	2016
K	19	12	12	12	12	9	13	7
1st	11	19	10	12	12	9	9	11
2nd	17	14	19	11	14	14	12	10
3rd	12	17	13	20	11	14	14	11
4th	18	12	15	14	20	10	17	18
5th	15	17	11	14	15	18	11	17
6th	20	16	17	11	17	17	18	12

Fayston Net Flows	2009	2010	2011	2012	2013	2014	2015	2016	Net Flow by Grade
K to 1st		0	-2	0	0	-3	0	-2	-7
1st to 2nd		3	0	1	2	2	3	1	12
2nd to 3rd		0	-1	1	0	0	0	-1	-1
3rd to 4th		0	-2	1	0	-1	3	4	5
4th to 5th		-1	-1	-1	1	-2	1	0	-3
5th to 6th		1	0	0	3	2	0	1	7
Net Flow by Year		3	-6	2	6	-2	7	3	13

Moretown	2009	2010	2011	2012	2013	2014	2015	2016
K	14	16	18	13	12	16	15	16
1st	13	17	13	13	13	15	14	16
2nd	14	12	14	14	13	14	13	14
3rd	19	11	12	13	16	13	15	15
4th	16	21	12	13	14	15	13	15
5th	19	16	20	11	14	15	19	12
6th	25	21	17	20	11	14	16	15

<i>Moretown Net Flows</i>	2009	2010	2011	2012	2013	2014	2015	2016	<i>Net Flow by Grade</i>
K to 1st		3	-3	-5	0	3	-2	1	-3
1st to 2nd		-1	-3	1	0	1	-2	0	-4
2nd to 3rd		-3	0	-1	2	0	1	2	1
3rd to 4th		2	1	1	1	-1	0	0	4
4th to 5th		0	-1	-1	1	1	4	-1	3
5th to 6th		2	1	0	0	0	1	-4	0
<i>Net Flow by Year</i>		3	-5	-5	4	4	2	-2	1

<i>Waitsfield</i>	2009	2010	2011	2012	2013	2014	2015	2016
K	19	15	19	16	21	19	8	14
1st	27	18	16	16	15	18	19	10
2nd	25	25	17	17	18	14	17	19
3rd	14	25	25	16	19	16	15	16
4th	28	12	23	25	16	20	15	15
5th	17	28	10	27	26	17	20	15
6th	24	15	24	12	27	24	18	22

<i>Waitsfield Net Flow</i>	2009	2010	2011	2012	2013	2014	2015	2016	<i>Net Flow by Grade</i>
K to 1st		-1	1	-3	-1	-3	0	2	-5
1st to 2nd		-2	-1	1	2	-1	-1	0	-2
2nd to 3rd		0	0	-1	2	-2	1	-1	-1
3rd to 4th		-2	-2	0	0	1	-1	0	-4
4th to 5th		0	-2	4	1	1	0	0	4
5th to 6th		-2	-4	2	0	-2	1	2	-3
<i>Net Flow by year</i>		-7	-8	3	4	-6	0	3	-11

<i>Warren Enrollment</i>	2009	2010	2011	2012	2013	2014	2015	2016
K	23	17	26	17	14	22	17	20
1st	22	21	18	30	20	16	20	17
2nd	27	23	20	18	28	19	17	24
3rd	17	29	22	21	18	32	19	17
4th	20	16	30	25	25	18	29	18
5th	28	22	17	30	23	26	22	24
6th	11	26	21	17	27	23	26	20

<i>Warren Net Flow</i>	2009	2010	2011	2012	2013	2014	2015	2016	<i>Net Flow by Grade</i>
K to 1st		-2	1	4	3	2	-2	0	6

1st to 2nd		1	-1	0	-2	-1	1	4	2
2nd to 3rd		2	-1	1	0	4	0	0	6
3rd to 4th		-1	1	3	4	0	-3	-1	3
4th to 5th		2	1	0	-2	1	4	-5	1
5th to 6th		-2	-1	0	-3	0	0	-2	-8
K-6 Total		0	0	8	0	6	0	-4	10

<i>Aggregate Elementary Flow</i>	2009	2010	2011	2012	2013	2014	2015	2016	<i>Net Flow by School</i>
Thatcher	0	-4	11	-7	-11	-4	9	5	-1
Crossett 5-6	0	2	-1	1	-5	3	-5	11	6
Fayston	0	3	-6	2	6	-2	7	3	13
Moretown	0	3	-5	-5	4	4	2	-2	1
Waitsfield	0	-7	-8	3	4	-6	0	3	-11
Warren	0	0	0	8	0	6	0	-4	10
Net Flow by Year	0	-3	-9	2	-2	1	13	16	18

Elementary 4-yr Net	28
	0.7%

Harwood Unified Union School District Board of Directors

September 26, 2017

Dear Friends:

I am traveling and cannot join you at our upcoming meeting, but I feel obligated to register my serious concerns about our increasingly inexplicable refusal as a body to meet our obligations under the Open Meeting Law.

The law in question is crucial to public accountability, and it is not particularly punitive. A body that makes a mistake—as we rather obviously did on May 24—must publicly acknowledge the mistake, take measures to avoid repeating it, and move on with the lesson learned. Instead of doing that, as we should have and could have within ten days of the complaint in this matter, we have been led to do substantially nothing for four months, daring a growing line of irritated people to take us to court. That is apt to end badly, and we have a responsibility to avoid it.

I. How We Got Here

On the other side of summer, May 24th, the Board voted to go into executive session upon the superintendent's request to discuss what was described as a "matter of personnel contract." Those of us who've been around public bodies probably had some hunches about what that meant. Maybe a contractor needed to be called in breach, or maybe a dispute had arisen about interpretation of the master contract for teachers and somebody was threatening a grievance. Ordinary stuff for a big school district, and prudent for executive session.

What followed wasn't what most of us could have expected. The superintendent wanted to have a very blunt discussion of perceived Board dysfunction, which she saw as a crisis threatening the district generally and administrator morale particularly. The details have been bandied about publicly. I'll spare you another recitation. As the executive session wore on, we developed an awkward problem: the whole thing had not a whit to do with a contract.

Failing to interrupt that misbegotten executive session in the moment, once it should have been clear we'd never get to its stated purpose, was a significant failure on my part, for which I apologize to each of you and everyone the Board serves. That session left everyone involved in a difficult position and provoked predictable fallout we're just getting over.

II. Evaluating the Session Relative to the Open Meeting Law

In June, two Board members gave written notice protesting the executive session in question. They had other grievances and demands, too, and on August 30, the Board determined by vote that it wouldn't indulge those. Although I strongly favor moving ahead to more constructive things, I abstained from supporting the un-warned motion in question, which omitted any mention of the Open Meeting Law, because I cannot support locking the door with the elephant still inside.

No public body may hold an executive session from which the public is excluded, except by the affirmative vote of ... a majority of its members present in the case of any public body of a municipality or other political

subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session ... (1 V.S.A. § 313)

“A public body may not hold an executive session except to consider” a narrow and strictly-construed set of topics including “contracts” and “labor relations agreements with employees.” *Id.* § 313(a)(1)(A)&(B). In either case, an executive session is permissible only after the body has “ma[de] a specific finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage.” *Id.*

We don't fare well under these tests. At all. No specific contract, contract term, nor even a single word of a single phrase from any contract or agreement was discussed. Nobody was threatening a contract action against us, and we weren't considering a contract action against anybody. The only nexus to contracts in the whole session was that people who were said to be unhappy with the Board *incidentally happened to have employment contracts*. That's true of everybody who works for a public school. The ink is dry on those, and they're a public record. Follow the reasoning to its conclusion: A school board can have a closed-door executive session any time, about anything, because District employees have contracts they might not renew if unhappy, and everything the Board does can make employees more or less happy.

If the deficiencies in that argument are insufficiently concrete, there is a completely separate, binary prerequisite to a proper executive session about contracts or labor agreements. A public body must make a “specific finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage,” vis-à-vis the contract to be discussed. *Id.* § 313(a)(1). We fail on that count, too. There was no such finding, nor even discussion of the statutory requirement that there be such a finding. There wasn't even any contract or agreement to make the required finding *about*.

Finally, there is the requirement from § 313 that “no other matter [than the stated basis for the session] may be considered in the executive session.” In other words, if one conceives of the Open Meeting Law as setting out three, must-pass tests for a lawful executive session, the May 24 session fails all three.

III. The Unresolved Problem

In late June, when we didn't seem to be responding appropriately, I got worried about our exposure on these points. At my request, Superintendent Nease and the chair called me on June 26. I suggested that this problem be addressed in the way I will suggest below, for the reasons I've described above. That got less traction than none. I backed off and asked if the Board's attorney had been consulted, thinking he'd be a more appropriate source of guidance in any event. I was told everything already had been run by him. There was no problem and nothing to discuss. The decision had been made and we were not responding.

In the past week, it has become clear that the Board's attorney never was consulted in June as I believed. That explains a lot. The Board should demand direct access to him right away.

I am painfully aware that some of you, whom I greatly respect, may be angry to read this and given to see it as the umpteenth picking of a scab. But picking or not isn't the choice confronting us now. The local paper and the grievants in this matter do not seem to be in a forgetful mood. It isn't realistic to expect that this will go away, and more important, we had a duty to fix this in June.

People have made a written protest that triggers certain obligations. These obligations are imposed by the Legislature upon the Board itself.

Upon receipt of the written notice of alleged violation, [a] public body shall respond publicly to the alleged violation within 10 calendar days by:

- (A) acknowledging the violation of this subchapter and stating an intent to cure the violation within 14 calendar days; or*
- (B) stating that the public body has determined that no violation has occurred and that no cure is necessary.*

-1 V.S.A. § 314(b)(2).

Among my email yesterday was one informing a reporter that the Board's August 30 vote stood as its § 312(b)(2) a determination that no violation has occurred and that no cure is necessary. If that really is the sense of the majority, the Board should say it much more clearly, if the Board can.

On the other hand, if we erred as I think, we're obligated to "cure the violation at an open meeting by:"

- (1) "either ratifying, or declaring as void, any action taken at or resulting from ... an executive session or portion thereof not authorized under" the Open Meeting Law, and
- (2) "adopting specific measures that actually prevent future violations." 1 V.S.A. § 314(b).

The Open Meeting Law is a clever thing. If one has erred and must eat crow, he can eat it himself for free, or he can demand that a jurist serve it to him, after which he buys for the house. "The court shall assess against a public body found to have violated [the Open Meeting Law] reasonable attorney's fees and other litigation costs reasonably incurred in any case ... in which the complainant has substantially prevailed, unless the court finds that ... the public body cured the violation in accordance with" the subsection indented immediately above. 1 V.S.A. § 314(d)(1)(B). By the grace of some long-ago legislator, that lone provision protecting this District against costs appears to be untethered from timeliness.

Unless you genuinely believe the May 24 meeting was lawful, the available choices seem to be (1) to defy our obligations and gamble other people's money that nobody will be troubled to front a filing fee he'll probably get back, or (2) to say sorry and act like we mean it. Pride goeth before an assessment of costs. And even if nobody calls our bluff, there's the problem of emboldening the improper use of executive sessions where that is *exactly* the wrong message. We cannot promote transparency and accountability while thumbing our noses at the laws that protect those values.

IV. What to Do

I'd like to see two curative motions. The first would admit error. The second would announce a measures to avoid a similar mistake. Just off the cuff:

Motion 1: *That the Board acknowledge its executive session of May 24 was inconsistent with the requirements of 1 V.S.A. § 313, declare void all actions considered to have been taken at or resulting from that executive session, and apologize to those affected.*

Motion 2: *That the Board adopt the following specific measures to prevent a future violation: First, a motion for an executive session shall be out of order unless supported by a contemporaneous review of the text of 1 V.S.A. § 313 and a clear statement, having the maximum specificity possible in open session, of the subject matter to be discussed. Second,*

prior to entering any executive session, one member reasonably disinterested in the subject matter shall be specially designated to ensure that matters discussed are compatible with the stated basis for the session and that no other matter is discussed. Third, any executive session under § 313(a)(1) shall terminate after five minutes have been afforded to the proponent to explain the need for an executive session, after which, in open session, the Board shall reaffirm its finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage before a motion for an indefinite executive session is in order. Fourth, any executive session shall terminate upon the protest of two members that the subject matter is out of order.

It would be smart for the Board to speak directly with its attorney about where it is and what a curative plan would look like—I'm just giving an illustration of something I hope might work, and I'm not sure it's a particularly good one.

V. Consistency

It has been said that hypocrisy is the tribute vice pays to virtue. The report that launched this Board lists "promot[ing] transparency and accountability" among four specific goals of merging under Act 46. Until this episode, the Board's approach to the Open Meeting Law has been conspicuously cautious. For example, we chose a very conservative approach to subgroups, worried that working groups with no ability to take official action for the Board could yet be deemed little public bodies, meeting accidentally at the supermarket or the ski slope.

The crowning irony, however, is that the very last time the Board was a party to a civil action, it was the plaintiff in a complaint arguing directly against the position attributed to it now. This winter, without any motion from the Board, the administration sent the Board's attorney to the Washington Superior Court to argue that actual collective bargaining negotiations had to start in open session, and had to stay in open session unless somebody could show, on an issue-by-issue basis, that premature general public knowledge would clearly disadvantage a person involved. Our complaint zeroed in on the importance of the same required finding we never made or even discussed on May 24. It noted with concern, "If the Board violates Open Meeting laws, it can be held liable to any member of the public challenging the decision to engage in private negotiations." There was "no good faith basis" to have an executive session without that required finding. We said the public's right to know "far outweighs any desire for secrecy" by the defendants. We argued it was unacceptable that the District would "risk significant financial exposure and violation of the law" by using an executive session inappropriately. Our own filing in that matter devastates the nothing-to-do-here position we've taken all summer.

It is unclear how our District has swung from piety about the Open Meeting Law to the view of late that a plain violation of it, protested in writing, may be ignored. Crossing our fingers until the limitations period runs on May 24, 2018 is not responsible. The Board has a duty to protect taxpayers and preserve its integrity as a public body by acknowledging error, making a plan to avoid repeating that error, and moving on the best we can to serve the students of this District. I hope you will support moving us in that direction.

Yours,
/s/Gabriel M. Gilman
Vice-chair

To: HUUSD Board
From: Fayston Representatives Heidi Spear & Jill Ellis
Re: Hostile Climate, Public Interests & Requested Actions
Date: June 14, 2017

The Fayston representatives to the HUUSD board submit this memorandum to fellow board members to protest the improper executive session called and led by our superintendent and board chair on May 24th and to seek specific action to address the recurring deflections, misrepresentations, and attacks against elected representatives and the public interests of civic dialogue, transparency and accountability. We observe that their joint actions are consistently undermining our board's capacity to understand and serve our communities' interests. Further, we have experienced first hand how their systematic efforts to silence and demonize opposing viewpoints and inquiry is so toxic to representatives that they not only undermine our current effectiveness but our ability to field representatives for the board going forward.

In essence, we conclude that our HUUSD board is operating as a captive board, serving the administration it is elected to oversee. The superintendent and chair have consistently acted to prevent our board from clarifying our communities' priorities and interests and our administration from being guided by or accountable to them. In our view, they are consistently taking positions and initiating action to obstruct community engagement and dialogue, board education and independence, and district transparency and accountability.

The substance of our May 24th meeting, including but not limited to the executive session, amounted to a marked escalation of their disregard for transparency and a repetition of their tried and true strategy of distracting from matters that concern our communities by launching attacks on anyone who doesn't follow their lead. The executive session violated Open Meeting Law and in no way abided by our communities' rights or interests. The substance of that meeting needs to be revisited.

On May 24th we should have been discussing the letter from our local press about our superintendent's assertions that she has authority to speak on behalf of the board. We should have been briefed on the controversial eviction of a long-time early childhood education partner from Thatcher Brook and community concerns relative to this change. We could have had substantive dialogue about current transformation challenges, strategies and change management to ensure student interests are met and risks are managed. The board could have undertaken the generative work of engaging our community to develop an HUUSD strategic vision and plan. As the board took action at our last meeting to stop the Communication Working Group from exploring

existing data and developing a survey plan for board approval, board time must be allocated for this to get done.

Instead of doing any of this important work, our chair and superintendent chose to divert our time and attention to a bogus assertion that Heidi was tasking administrative staff with analysis and forcing items onto the agenda against the will of the board. In fact, administrative staff proposed reviewing and comparing cohort analysis, the superintendent approved it and our chair set our agenda without circulating a draft for review and approval by the remainder of board members— and certainly not Heidi. The Board, as you all know, voted in favor of an amended motion— not Heidi's— to hear both analyses on the 24th.

Then, instead of a respectful and efficient discussion where we all seek understanding, our chair continuously interrupted and made inaccurate and misleading assertions about Heidi's analysis. Other members, Garrett and Jim, in particular, were disrespectful and dismissive despite the considerable work that went into the analysis, its accuracy and the importance of the data being presented, both in terms of understanding our historical enrollment decline and having a baseline to see and understand any further statistically significant outflow— something considerable public dialogue suggests we may face next year.

It is troubling to us that no board members revisited or seemed concerned with the fact that all analyses contradicted the Superintendent's prior statements to the Board. It is troubling to us that no discussion ensued regarding the importance of cohort analysis or establishing a practice of reviewing it as one of many performance metrics. Instead of recognizing the value and import of cohort analysis as a meaningful performance metric, the entire dialogue was fixated on attacking Heidi and silencing any questions, theories and discussion that might give the board and our community constructive insight to guide our work to optimize educational opportunities for our students and minimize tax burden for our constituents.

Subsequent to the overtly hostile and exceedingly inefficient open portion of our meeting, our superintendent and chair called the board into an executive session on the pretext of discussing a matter of a personnel contract. What ensued from there was a 2-hour attack led by our superintendent directed at Jill, Heidi and members of the public. This session was not only a violation of Open Meeting Law but it was also a very disturbing display of how bitter those who didn't get their way during the past budget season seem to remain. Some remain irate that we didn't immediately cut teachers from a school entirely unfamiliar to them and which operates with lower investment per pupil than our largest school, all their children's schools, and all HUUSD schools with the exception of Warren, according to state figures. They assert that the Fayston representatives were wrong to engage the public in our budget work. Yet again, some members voiced outrage that we brought public attention to our pending decisions and invited public input. Yet again, we will state clearly that working on behalf of our

constituents is our actual job. It is not our job to make our Superintendent's agenda a fait accompli regardless of what our community values.

We have yet to encounter a member of the public that doesn't think our communities should be engaged in our work. In large part we all moved here or stay here because of our intimate and engaged communities. Schools are centers of our communities and they fill a vital role in the development of our children, grandchildren and citizens. Our communities' priorities should matter, as should accountability to them, which is why we have a publicly elected governing board. It is a clear responsibility of our board to engage and serve our constituents. We do our community a tremendous disservice when we buy into the notion that because we have hired experts that we should just follow their lead and community voice is not needed or, worse still, to be avoided!

That is what we are being told. That is how this board is operating. We are told that the administration already has an action plan. We are all set. The superintendent asserts that we are sabotaging her team or overreaching our authority and meddling if we seek input from the public after they have developed a plan. The administration suggests we shouldn't seek community input as to what the community wants because then the public could conclude that we will give them that. The administration has shown through this position and others a level of disrespect for parents and our broader community that is disturbing and counterproductive in the extreme. Not only should these stakeholders' voices matter but it is only by listening to them, our customers, that we will retain and grow community confidence, enthusiasm, budget support and enrollment.

The administration also asserts that the board has no role to play with public complaints and should not discuss community concerns with each other or as a board. The superintendent has asserted that the policy of referring complainants up the chain of command is the limit of what we can and should do until she engages the board on any matter. The superintendent even went on to assert that if board members hear any public opinions we are incapable of doing our jobs! Did any board member speak up against this assertion? No. When the superintendent attacked Jill for forwarding a community member's email that was intended for the entire board there was a massive pile on of shaming and self-righteous indignation from other board members. Given that the administration has to date simply chosen to ignore board members' requests for an all board email address to be set up for the public's convenience, this coordinated attack on Jill was both abusive and hypocritical.

We agree with current policy that community complainants work their way up through the chain of command so that our teachers and administrators have an opportunity to resolve issues. That does not mean, however, that we should shut our eyes or ears to community concerns. That does not mean that we do not share the concerns expressed to us with fellow board members. We are elected to represent our constituents. We should listen. We should all listen to everyone. And we should seek to understand what

is actually going on and what the impacts of relevant decisions and actions are. And we should work to ensure that our district acts in a manner consistent with our communities' values and interests. We can't do that if we are willfully ignorant.

The HUUSD Board has been operating for 10 months. We have not yet engaged the public in developing community priorities, establishing values or goals, we have not invested any HUUSD Board time into getting to know our schools, we have not reviewed data in any substantive way or without significant opposition to this fundamental work, we have not developed criteria for budget decisions or agreed upon the need for performance evaluation. Disturbingly, we have also not once called out our Superintendent when she has misrepresented Board Members work and statements, the HUUSD Board's purview and responsibilities, and documented, established facts.

It has been the clear position of our superintendent, chair and several other members of our board that it was inappropriate and unethical for Fayston representatives to have engaged stakeholders and the community at large during the budget season. That wasn't just their position in the heat of frustration of facing opposition to their plan to immediately cut teachers while increasing overall expenditures. It lives on and resurfaces in bitter remarks routinely in our meetings. With no cameras present on the night of May 24th, things got more aggressive still. This has to stop.

Between us, we have over 14 years of board experience. We have served our community through challenging times and we have done hard work and done it well. We do not deserve this treatment, which is both baseless and harassing. If we were employees of this district, rather than elected representatives and volunteers, we would be protected from the hostile and punitive work environment that has become the norm of this board.

To address the current issues that stymie our work and create this hostile and punitive work environment, we seek several actions by the board. We request a formal response by the board to these requests. The actions are as follows:

1. A public HUUSD board-only meeting led by a professional facilitator to resolve the important matter of our responsibilities, purview and climate.
2. An executive session, with the facilitator present, to discuss a matter of personnel.
3. A 360° review of our superintendent, who inaccurately asserted that it is district policy that she only be reviewed every 3 years. Our actual policy, consistent with best practice and any and all recommendations, is an annual review. None has been conducted in the past few years and none have ensured anonymity to support adequate transparency and accountability.

We have grave concerns about the HUUSD board's current capacity to balance the power of an administration that demonstrates no intention to be guided by or be

accountable to our community. Short of immediate board action on the items above, we do not see a constructive path forward that puts community priorities and interests in their rightful place. To not take action would be to condone behavior that effectively undermines current and future governance of our district.

In closing, we will note that the disregard for public engagement, voice and accountability are not just the stuff of political philosophy. Public trust, engagement and support come to bear in both budget votes and our escalating tax burden. If we aim to ensure adequate resources and tax containment, we must be committed to ensuring that we serve all our potential students and their families in a manner consistent with their needs, values and priorities. Otherwise, education resources will diminish along with enrollment and the vice grip of rising property taxes will continue to undermine affordability and opportunity in our communities.

This memorandum is intended to be part of the public record. We look forward to the board's response.

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



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STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

February 2, 2018

Heidi Spear and Seth Henry

Waitsfield, VT 05609

Dear Ms. Spear and Mr. Henry:

Thank you for your correspondence regarding Vermont's Open Meeting law and the Harwood Unified School District Board. The Attorney General's Office investigates complaints of violations of Vermont's Open Meeting law to determine whether to file an enforcement action in court.

As you may know, recent changes to the Open Meetings Law require that the public body receive written notice of alleged violations and a specific request for a remedy. By law, the public body has an opportunity to respond. *See* 1 V.S.A. § 314. We ask all Open Meetings complainants to directly notify the public body of specific alleged violation(s) and the specific remedy sought before seeking involvement of the AGO.

More information about the relatively new law related to notice of alleged violations to public bodies is available on the Secretary of State's website: <https://www.sec.state.vt.us/media/786069/oml-rev-sept-2016.pdf> (see "How does a member of the public enforce the open meetings law?")

Regarding your correspondence, although we see that you have raised certain issues with the Board, we are unclear whether: (a) you have provided written notice to the Board of the alleged violations listed in items (1) through (3) of your January 22, 2018 letter; (b) you have requested a specific remedy from the Board; and (c) you have received a response from the Board. We ask that you please provide a copy of such notice(s), and any response(s) you have received.

Thank you, and we hope the above information is helpful to you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah London'.

Sarah London
Assistant Attorney General

London, Sarah

From: Matthews, Deborah
Sent: Friday, February 16, 2018 8:25 AM
To: London, Sarah
Subject: FW: For Sarah London: Additional Materials re: HUUSD OML Violations Complaint
Attachments: Board Minutes 9-27-17 Unapproved.pdf; Board Response to Additional OML Violations Complaint.jpeg; Board Minutes 10-11-17 amended and approved.pdf; 2017-9-26 ltr.pdf; Illegal Exec Session Complaint Email.jpeg; Second Request HUUSD 8_17_17.docx; Violation of OML and SMM 6_14_17.docx

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov

From: Heidi Spear [mailto:]
Sent: Friday, February 16, 2018 8:23 AM
To: AGO - Info <AGO.Info@vermont.gov>
Subject: For Sarah London: Additional Materials re: HUUSD OML Violations Complaint

Dear Ms. London,

Thank you for your letter and follow up pertaining to my correspondence of January 22nd regarding a pattern of OML abuse by our newly formed Harwood Unified Union School District Board.

I've attached the requested supplemental documentation regarding our complying with 1 V.S.A. § 314. Below is a timeline to help you navigate all the documents. Please advise if you need any more materials. Further, I would appreciate the opportunity to speak to you by phone or in person to discuss the challenges and our efforts, as well as address any questions. There is a lot of information here.

For your reference, there is simultaneous engagement with the Vermont Legislature by the editor of our local paper, who gave testimony on our difficulties with OML and Public Records compliance with the HUUSD in advocating for changes to public records law. Her testimony beings at around 1:21: https://drive.google.com/file/d/1aD3KLjPcYrVx_oqEK195Be0KLKa-8101/view

Also, there is simultaneous engagement with the Vermont State Auditors about evidence of fraud. You can reach out directly to them on that correlated issue. If you want the files on that, most of which come from FOIA requests with the AOE and the HUUSD but extend to other documents, just let us know.

I look forward to hearing from you soon.

Heidi Spear

m: [REDACTED]

HUUSD OML-related Complaints Communication Timeline

May 24th Board Meeting & Executive Session (Minutes but No Video)

June 14th Complaint of Illegal Exec Session emailed from Heidi Spear & Jill Ellis

- Call out behavior within umbrella of broader problems and request specific remedies.
- Lead with illegality of executive session.
- File titled: Violation of OML and SMM 6_14_17 (SMM- So Much More)

June 14th Board Meeting (Minutes & Video)

- Board refuses to take up complaint at mtg but disparages complainants
- Board allows administration to speak at length dismissing complaint
- Board votes to discuss at the next board meeting, which they subsequently do not do with no additional votes on matter

No response or action during remainder of summer

September 26th HUUSD Vice Chair Gilman, an attorney for the Secretary of State's office, submits complaint of May 24th illegal executive session and requests remedies

September 27th Board Meeting (Minutes & Video)

- Board votes to take up complaint when Gilman present
- Chair asserts Gilman complaint may be violation of OML
- Board still fails to respond to earlier Spear/Ellis complaint

October 6th newspapers submit complaint re: illegal exec session violation of OML

October 11 Board Meeting (Minutes & Video)

- Gilman addresses need to acknowledge, apologize and move on
- Board finally votes on complaint and votes that there is no violation and so no remedy, weighted vote of 69.2 in favor
- Board attacks Gilman and does not address newspapers communication

February 13, 2018 Additional Violations of OML Complaint

February 14, 2018 Board Response

- Reports voted that there were no violations and so no remedy.
- Weighted votes not reported but not unanimous, awaiting details in Minutes & Video of February 14th Board Meeting

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Heidi Spear

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Re: Additional OML Violations Complaint

February 14, 2018 10:55 PM

From: Christine Sullivan

To: Spear Heidi

Cc: Alycia Biondo Garrett MacCurtain KJE - Laptop Gabriel Gilman Caitlin Hollister
Alexandra Thomsen Rosemarie White Peter Langella Rob Williams Maureen McCracken
Tom Cahalan Lorraine Wargo Melissa Phillips

Ms. Spear,

I am writing in response to your 2/13/18, complaint alleging violations of the Open Meeting Law by the HUUSD board. Taking the questions of the September 13, 2017, board agenda and April 12, 2017, board action separately, the board determined that no violation(s) occurred, therefore no cure(s) is necessary.

Very truly yours,

Christine Sullivan
HUUSD Board Chair

On Feb 13, 2018, at 8:23 PM, Heidi Spear <hshenry@gmavt.net> wrote:

To the HUUSD Board:

The attached is my formal complaint regarding two additional violations of Open Meeting Law by your board. I look forward to your timely response.

Sincerely,

Heidi Spear

Waitsfield, VT 05673

m:

<Additional OML Violations Complaint.docx>

**HARWOOD UNIFIED UNION SCHOOL DISTRICT BOARD
MEETING MINUTES
WEDNESDAY, OCTOBER 11, 2017
6:00 - 9:00 P.M.
HARWOOD UNION HIGH SCHOOL LIBRARY**

Amended & Approved Minutes

Present from the Board: Christine Sullivan (Chair), Gabe Gilman, Jim Casey, Garrett MacCurtain, Tom Cahalan, Jill Ellis, Maureen McCracken, Alexandra Thomsen, Rosemarie White, Caitlin Hollister, Alycia Biondo, Rob Williams and Peter Langella.

Present from HUUSD: Brigid Nease, Superintendent and Michelle Baker, Director of Finance & Operations; Sheila Soule, Director of Curriculum & Assessment

Public present: Chris Keating, Maddie Hughes, Kyle Ellis, Kim Canrecci, Seth Henry, Pete and Sally Kulis, Rick Rayfield, Rick Battistoni

1. Call to Order

Christine Sullivan called the meeting to order at 6:03 p.m.

2. Additions/Deletions to Agenda

Complaint from the Valley Report and Waterbury Record; will be discussed as part of the discussion of Gabe Gilman's 9/26/17 letter.

3. Public Comment

Chair reviewed public comment procedure.

Jill Ellis made a motion to move public comment later in meeting. Gabe Gilman seconded. Jill Ellis and Gabe Gilman voted to approve. Christine Sullivan, Caitlin Hollister, Jim Casey, Garrett MacCurtain, Maureen McCracken, Alexandra Thomsen, Peter Langella, and Rob Williams voted against the motion. Motion did not pass on a weighted vote of 80.6 against to 10.2 in favor. Tom Cahalan abstained. Alycia Biondo not present for the vote.

Rick Rayfield, Fayston. Introduced himself as a JP in Fayston. Commented on open meeting law, the ways it serves democracy at the local level, and where citizens can find resources about the Open Meeting law. Expressed concern that the Board appears to be avoiding admitting they may have been wrong and would like Board to resolve issue and move forward.

Rick Battistoni, Fayston. Asked about number of applicants for open Fayston seat. Indicated he is new to area and school board meetings. Said he was baffled why the Board wouldn't accept statements from the public during the meeting; feels it limits public input.

4. Action Items

A. Approval of Minutes from September 6, 2017 and September 27, 2017

No offered edits. Minutes are approved.

5. Discussion Items

A. Board Reflections

B. Unfinished Business (Carryover from September 27):

1. Review self-assessment tools and schedule for use

Caitlin Hollister reported that Val Gardner is available to come to the December 13th meeting (agenda will be restricted to budget and Board development). Part of the cost may be covered with unused balance from earlier contract with her. February dates might not work as initially hoped. She can't do 27th but could do 21st if Board is willing to do back to back meetings. A show of hands indicated support for Val attending the February 21st meeting. Board will provide Val with assessment data on Board functioning and proposed areas for where the Board would like support.

2. Superintendent Report on OML/attorney finding

Brigid Nease read a rebuttal to Gabe Gilman's 9/26/17 letter and asked that it be included in the minutes along with Gabe's letter.

3. GG Letter of 9/26 - (20 minutes)

Rosemarie White read a prepared statement. Rosemarie made a motion that the Board receives formal training on executive session. Alexandra Thomsen seconded motion. Motion passes with no votes against. Maureen McCracken abstained.

Gabe Gilman apologized for not being able to be present at the 9/27/17 meeting. He discussed his understanding of Open Meeting law, intent, and the provision in the law that allows a group to apologize for a violation of the Open Meeting law and indicate what they will do in future to prevent violations. He then read a prepared statement. He suggested that the Board admit it made a mistake and make a motion to address the mistake.

Christine Sullivan indicated that she wanted to address issue of intent and legality of the May 24, 2017 executive session. She read a prepared statement.

Alexandra Thomsen read a prepared statement. Alexandra Thomsen made a motion that there was no violation and as a result no cure is needed. Garrett MacCurtain seconded the motion. Christine Sullivan, Jim Casey, Garrett MacCurtain, Maureen McCracken, Alexandra Thomsen, Rosemarie White, Caitlin Hollister, Alycia Biondo, and Peter Langella voted in favor. Gabe Gilman and Jill Ellis voted against. Tom Cahalan and Rob Williams abstained. Motion passes on a weighted vote of 69.2 in favor, 15.2 against, and 11.0 abstaining.

Discussion: The executive session involved discussion of employee concerns that also involved a discussion of Board dynamics. It would have disadvantaged the employees if the discussion had been public. The Board is not in agreement about whether the discussion resulted in an unintentional violation of Open Meeting law. With the exception of one Board member, Board members are not hearing from their town members that there are concerns about the May

executive session. Several Board members expressed frustration that this issue keeps coming up and taking Board time. Jill Ellis discussed her belief that an unintentional violation of Open Meeting law took place. She expressed understanding for how it happened, given the nature of the executive session discussion. She asked the Board to take a moment to step back and think carefully about what happened. Board expressed shared desire to resolve the issue and move forward productively with a focus on supporting students.

Caitlin Hollister made a motion that as Board members, when we have an issue to raise with fellow Board members we do so in person and in an open Board meeting. Maureen McCracken seconded. Motion passed unanimously. No abstentions.

Michelle Baker reported a request from the Valley Reporter for a copy of Brigid Nease's contract with regard to her ability to consult with attorneys. Board affirmed their understanding that Brigid Nease and Michelle Baker may need to consult with attorneys in the course of fulfilling their job responsibilities and do not need the express permission of the Board to do so.

Board discussed timing of training on executive session and function and decided it should wait till after the open Fayston seat is filled, so all Board members can participate in the training. Training will go on agenda after November. Agreed to invite VSBA again to do the training.

C. New Business:

1. Budget Communication Plan (Communications?)

Group has not yet met; 1st meeting likely to be next Friday. Asked if Board wanted to provide input into how they should address budget communication plan. Committee will bring something to the Board on 10/25.

2. Assessment Presentation - Sheila Soule

Up until 2015, the District had been using NECaps as the standardized test. Adoption of the Common Core standards prompted a change to the Smarter Balance Assessment, as it better aligns with the Common Core curriculum. The SBAC test is given in May and taken online and adapts to the answers students' provide, increasing or decreasing the difficulty of questions to find student's range of learning. District has administered the test for three years. The first year, 2015, was considered a pilot year, so only have two years of data to review. The test and resulting data is new and we're still learning how to interpret the data and act effectively on it.

Sheila walked the Board through the results and how to interpret that data. The scores have dropped, particularly those of last year's junior class. Unsurprising, given what they had to cope with last year. As an academically strong cohort, the drop is not consistent with their SATs and other assessments. With only two years of data, it is difficult to deeply analyze the results. As students get older, test scores typically go down. Older students are not necessarily invested in doing well on the tests. Class size can also have significant impact on cohort scores from individual schools, causing fluctuations in the scores. Central Office uses the SBAC results to look for trends across the district. The scores will be used to identify areas of strength, areas of growth, and areas for focused investigation. The data will be looked at globally, as well as by specific groups such as gender, socio-economic class, IEP, etc. Test scores are only one data source and must be evaluated along with other data sources such as local assessments, what is

happening in classrooms, staff professional development, PSATs and SATs, etc. Tests are not great measure of students as independent learners. They are better measures of what is happening at the building level and district level.

The local scores are compared against a group of area schools and the State. The area schools is not a true peer cohort, as Vermont's small size makes it difficult to build a local cohort consisting of schools with a similar enrollment and characteristics (unified district or not; % of free and reduced lunches, etc.). The State data tends not to fluctuate much because it draws on such a large pool of results. The local data draws on a limited pool of results and small changes can have statistically significant impact.

Questions:

- SAT scores represent a pre-selected group of students, who choose to take the test. How many students on free & reduced lunches take the PSATs and SATs? Sheila Soule reported she will have to talk to Guidance office for demographic data for SAT's, to parse out the F&RL%.
- Now that we are a unified district, will there be an impact on the elementary school scores? Response: While the curriculum across the district will be more consistent, the instruction still varies by building and will be reflected in variation in results by building.
- What is Central Office focusing on in response to the data? Will the results be compared with local assessments to judge seriousness of data? Response: Yes. We focus on local assessments and their alignment with Common Core standards. Local assessments provide more consistent and time sensitive data, allowing us to respond quickly to changes in that data. Improvement in local assessments should ultimately result in improvements in SBAC scores.

3. Administrative Procedures for Vacant Seats/Update on Fayston Vacancy Process

Deferred to next meeting. Brigid reported that two letters of interest have been received. Closing date for applications is October 13. Interview of applicants will take place at the October 25th meeting.

4. Reports: Communications (?), Negotiations, Policy, Community Engagement, Superintendent(?), Director of Finance

- Communications: See above.
- Negotiations: Will meet tomorrow.
- Policy: Set policy priorities and made progress on the next policy packet that committee will be recommending to the Board.
- Community Engagement: Sheila Soule joined the meeting to discuss what the District already does and to avoid unnecessary overlap. Group brainstormed how to reach community members not already associated with the school in some way. What resources is the Board not already accessing? What kind of community engagement is the Board

interested in? Community engagement increases the input from the community and clarifies their expectations of the Board and what the Board is doing. One outcome of improved community engagement is to increase the Board's understanding of what is happening in our communities. As a Board, we need to be clear that the information being taken in won't necessarily translate into direct Board action. For example, Board meetings are for conducting Board business and not for engaging with the community around the issues under discussion. Group looked at VSBA information about community engagement. Work group would like permission to do outreach with other Boards who have successful community engagement efforts in place. Board supported the idea.

Reminder: Unofficial minutes from committees need to be posted on the SU website no later than 5 calendar days after the meeting. They are approved at the committee's next meeting.

5. Board Orders

Rosemarie White made a motion to confirm Board Warrants #1078 - #1092, dated 9/20/17 – 10/11/17, and totaling \$1,823,099.72. Jim Casey seconded. Motion passes unanimously. No abstentions.

6. December retreat/check-in update (date, topics?) and possible Feb. date (Motion to confirm either or both)

Not addressed.

6. Other Business - update work plan/agenda planner

Not addressed.

Act 166

Jim Casey suggested the Board invite someone from AOE to discuss Universal Pre-K, boundaries, and staffing data. Caitlin Hollister reported that she attended an AOE hearing this morning and changes are coming. Brigid Nease reported that there is a proposed change to allow unified districts to establish boundaries for where the State provided vouchers to District families can be used. Brigid has applied to establish a boundary that includes public and private providers within the District's towns. The application has been turned down twice. If the proposed change goes through, the SU could reapply. Universal Pre-K is running up against implementation issues. It is a statewide model with multiple statewide problems and needs a statewide solution. School boards and supervisory unions can only address impact on programs offered through the public schools; they can't address issues private providers are dealing with. Board suggested that Brigid think through possible proactive community outreach efforts around the issue.

Caitlin Hollister asked for an update on students attending the meetings, noting their thoughts on the SBAC, while anecdotal, would have been helpful. Brigid will follow up with Lisa Atwood.

Jim Casey noted tension between the Board chair and vice chair and asked for assurance that they are able to work together moving forward. The Board affirmed the need for them to work

together effectively and suggest they take time outside of Board meetings to talk through/resolve any differences they may have.

7. Executive Session (if needed)

None needed.

8. Adjournment

Rosemarie White made a motion to adjourn. Alycia Biondo seconded. Motion passes unanimously.

September 26, 2017

Dear Friends:

I am traveling and cannot join you at our upcoming meeting, but I feel obligated to register my serious concerns about our increasingly inexplicable refusal as a body to meet our obligations under the Open Meeting Law.

The law in question is crucial to public accountability, and it is not particularly punitive. A body that makes a mistake—as we rather obviously did on May 24—must publicly acknowledge the mistake, take measures to avoid repeating it, and move on with the lesson learned. Instead of doing that, as we should have and could have within ten days of the complaint in this matter, we have been led to do substantially nothing for four months, daring a growing line of irritated people to take us to court. That is apt to end badly, and we have a responsibility to avoid it.

I. How We Got Here

On the other side of summer, May 24th, the Board voted to go into executive session upon the superintendent's request to discuss what was described as a "matter of personnel contract." Those of us who've been around public bodies probably had some hunches about what that meant. Maybe a contractor needed to be called in breach, or maybe a dispute had arisen about interpretation of the master contract for teachers and somebody was threatening a grievance. Ordinary stuff for a big school district, and prudent for executive session.

What followed wasn't what most of us could have expected. The superintendent wanted to have a very blunt discussion of perceived Board dysfunction, which she saw as a crisis threatening the district generally and administrator morale particularly. The details have been bandied about publicly. I'll spare you another recitation. As the executive session wore on, we developed an awkward problem: the whole thing had not a whit to do with a contract.

Failing to interrupt that misbegotten executive session in the moment, once it should have been clear we'd never get to its stated purpose, was a significant failure on my part, for which I apologize to each of you and everyone the Board serves. That session left everyone involved in a difficult position and provoked predictable fallout we're just getting over.

II. Evaluating the Session Relative to the Open Meeting Law

In June, two Board members gave written notice protesting the executive session in question. They had other grievances and demands, too, and on August 30, the Board determined by vote that it wouldn't indulge those. Although I strongly favor moving ahead to more constructive things, I abstained from supporting the un-warned motion in question, which omitted any mention of the Open Meeting Law, because I cannot support locking the door with the elephant still inside.

No public body may hold an executive session from which the public is excluded, except by the affirmative vote of ... a majority of its members present in the case of any public body of a municipality or other political

subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session ... (1 V.S.A. § 313)

“A public body may not hold an executive session except to consider” a narrow and strictly-construed set of topics including “contracts” and “labor relations agreements with employees.” *Id.* § 313(a)(1)(A)&(B). In either case, an executive session is permissible only after the body has “ma[de] a specific finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage.” *Id.*

We don’t fare well under these tests. At all. No specific contract, contract term, nor even a single word of a single phrase from any contract or agreement was discussed. Nobody was threatening a contract action against us, and we weren’t considering a contract action against anybody. The only nexus to contracts in the whole session was that people who were said to be unhappy with the Board *incidentally happened to have employment contracts*. That’s true of everybody who works for a public school. The ink is dry on those, and they’re a public record. Follow the reasoning to its conclusion: A school board can have a closed-door executive session any time, about anything, because District employees have contracts they might not renew if unhappy, and everything the Board does can make employees more or less happy.

If the deficiencies in that argument are insufficiently concrete, there is a completely separate, binary prerequisite to a proper executive session about contracts or labor agreements. A public body must make a “specific finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage,” *vis-à-vis* the contract to be discussed. *Id.* § 313(a)(1). We fail on that count, too. There was no such finding, nor even discussion of the statutory requirement that there be such a finding. There wasn’t even any contract or agreement to make the required finding *about*.

Finally, there is the requirement from § 313 that “no other matter [than the stated basis for the session] may be considered in the executive session.” In other words, if one conceives of the Open Meeting Law as setting out three, must-pass tests for a lawful executive session, the May 24 session fails all three.

III. The Unresolved Problem

In late June, when we didn’t seem to be responding appropriately, I got worried about our exposure on these points. At my request, Superintendent Nease and the chair called me on June 26. I suggested that this problem be addressed in the way I will suggest below, for the reasons I’ve described above. That got less traction than none. I backed off and asked if the Board’s attorney had been consulted, thinking he’d be a more appropriate source of guidance in any event. I was told everything already had been run by him. There was no problem and nothing to discuss. The decision had been made and we were not responding.

In the past week, it has become clear that the Board’s attorney never was consulted in June as I believed. That explains a lot. The Board should demand direct access to him right away.

I am painfully aware that some of you, whom I greatly respect, may be angry to read this and given to see it as the umpteenth picking of a scab. But picking or not isn’t the choice confronting us now. The local paper and the grievants in this matter do not seem to be in a forgetful mood. It isn’t realistic to expect that this will go away, and more important, we had a duty to fix this in June.

People have made a written protest that triggers certain obligations. These obligations are imposed by the Legislature upon the Board itself.

Upon receipt of the written notice of alleged violation, [a] public body shall respond publicly to the alleged violation within 10 calendar days by:

(A) acknowledging the violation of this subchapter and stating an intent to cure the violation within 14 calendar days; or

(B) stating that the public body has determined that no violation has occurred and that no cure is necessary.

-1 V.S.A. § 314(b)(2).

Among my email yesterday was one informing a reporter that the Board's August 30 vote stood as its § 312(b)(2) a determination that no violation has occurred and that no cure is necessary. If that really is the sense of the majority, the Board should say it much more clearly, if the Board can.

On the other hand, if we erred as I think, we're obligated to "cure the violation at an open meeting by:"

- (1) "either ratifying, or declaring as void, any action taken at or resulting from ... an executive session or portion thereof not authorized under" the Open Meeting Law, and
- (2) "adopting specific measures that actually prevent future violations." 1 V.S.A. § 314(b).

The Open Meeting Law is a clever thing. If one has erred and must eat crow, he can eat it himself for free, or he can demand that a jurist serve it to him, after which he buys for the house. "The court shall assess against a public body found to have violated [the Open Meeting Law] reasonable attorney's fees and other litigation costs reasonably incurred in any case ... in which the complainant has substantially prevailed, unless the court finds that ... the public body cured the violation in accordance with" the subsection indented immediately above. 1 V.S.A. § 314(d)(1)(B). By the grace of some long-ago legislator, that lone provision protecting this District against costs appears to be untethered from timeliness.

Unless you genuinely believe the May 24 meeting was lawful, the available choices seem to be (1) to defy our obligations and gamble other people's money that nobody will be troubled to front a filing fee he'll probably get back, or (2) to say sorry and act like we mean it. Pride goeth before an assessment of costs. And even if nobody calls our bluff, there's the problem of emboldening the improper use of executive sessions where that is *exactly* the wrong message. We cannot promote transparency and accountability while thumbing our noses at the laws that protect those values.

IV. What to Do

I'd like to see two curative motions. The first would admit error. The second would announce a measures to avoid a similar mistake. Just off the cuff:

Motion 1: *That the Board acknowledge its executive session of May 24 was inconsistent with the requirements of 1 V.S.A. § 313, declare void all actions considered to have been taken at or resulting from that executive session, and apologize to those affected.*

Motion 2: *That the Board adopt the following specific measures to prevent a future violation: First, a motion for an executive session shall be out of order unless supported by a contemporaneous review of the text of 1 V.S.A. § 313 and a clear statement, having the maximum specificity possible in open session, of the subject matter to be discussed. Second,*

prior to entering any executive session, one member reasonably disinterested in the subject matter shall be specially designated to ensure that matters discussed are compatible with the stated basis for the session and that no other matter is discussed. Third, any executive session under § 313(a)(1) shall terminate after five minutes have been afforded to the proponent to explain the need for an executive session, after which, in open session, the Board shall reaffirm its finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage before a motion for an indefinite executive session is in order. Fourth, any executive session shall terminate upon the protest of two members that the subject matter is out of order.

It would be smart for the Board to speak directly with its attorney about where it is and what a curative plan would look like—I'm just giving an illustration of something I hope might work, and I'm not sure it's a particularly good one.

V. Consistency

It has been said that hypocrisy is the tribute vice pays to virtue. The report that launched this Board lists “promot[ing] transparency and accountability” among four specific goals of merging under Act 46. Until this episode, the Board’s approach to the Open Meeting Law has been conspicuously cautious. For example, we chose a very conservative approach to subgroups, worried that working groups with no ability to take official action for the Board could yet be deemed little public bodies, meeting accidentally at the supermarket or the ski slope.

The crowning irony, however, is that the very last time the Board was a party to a civil action, it was the plaintiff in a complaint arguing directly against the position attributed to it now. This winter, without any motion from the Board, the administration sent the Board’s attorney to the Washington Superior Court to argue that actual collective bargaining negotiations had to start in open session, and had to stay in open session unless somebody could show, on an issue-by-issue basis, that premature general public knowledge would clearly disadvantage a person involved. Our complaint zeroed in on the importance of the same required finding we never made or even discussed on May 24. It noted with concern, “If the Board violates Open Meeting laws, it can be held liable to any member of the public challenging the decision to engage in private negotiations.” There was “no good faith basis” to have an executive session without that required finding. We said the public’s right to know “far outweighs any desire for secrecy” by the defendants. We argued it was unacceptable that the District would “risk significant financial exposure and violation of the law” by using an executive session inappropriately. Our own filing in that matter devastates the nothing-to-do-here position we’ve taken all summer.

It is unclear how our District has swung from piety about the Open Meeting Law to the view of late that a plain violation of it, protested in writing, may be ignored. Crossing our fingers until the limitations period runs on May 24, 2018 is not responsible. The Board has a duty to protect taxpayers and preserve its integrity as a public body by acknowledging error, making a plan to avoid repeating that error, and moving on the best we can to serve the students of this District. I hope you will support moving us in that direction.

Yours,
/s/Gabriel M. Gilman
Vice-chair

Zimbra



Memo to the HUUSD Board from Fayston Board Members

From : Heidi Spear <[REDACTED]> Wed, Jun 14, 2017 03:13 PM
Subject : Memo to the HUUSD Board from Fayston Board Members 📎 1 attachment
To : Caitlin Hollister <[REDACTED]>, Christine Sullivan <[REDACTED]>, EDWARD CASEY <[REDACTED]>, Maureen McCracken <[REDACTED]>, Sam Jackson <[REDACTED]>, Garrett MacCurtain <[REDACTED]>, Gabriel Gilman <[REDACTED]>, Peter Langella <[REDACTED]>, Rob Williams <[REDACTED]>, Alycia Biondo <[REDACTED]>, Rosemarie White <[REDACTED]>, Alexandra Thomsen <[REDACTED]>
Cc : KJE - Laptop <[REDACTED]>

We will not be at tonight's meeting but we submit the attached memorandum for review and discussion under Board Reflection from Prior Meeting. The memorandum addresses serious issues and we hope the board will not delay addressing them given their impact on elected representation and effective governance.

Sincerely,
Heidi & Jill

— **Violation of OML and SMM 6_14_17.docx**
150 KB

To: HUUSD Board
From: Fayston Representatives Heidi Spear & Jill Ellis
Re: Second Request
Date: August 17, 2017

When the 14 of us first convened in August last year in the Harwood High School Library, we were full of good will and great purpose. We saw the big challenges and expressed some fear but there was no distrust, no anger, no fear of attack and no fundamental disagreement among us.

The lead weight that descended upon us and our work fell 5 months later. At that time the common purposes we shared, to build relationships, learn about our schools, expand student opportunities and secure lasting property tax containment, sank under the weight of open hostility. Suddenly ethics and integrity were called into question and accusations of parochialism and inequity flew. Distrust, anger, fear and fundamental disagreement were sown and in that heat 'us versus them' was forged where it had just been 'us'.

As a board, we need to find our way back. We believe that we need help to get there.

Over two months ago we submitted a formal complaint to the board and requested specific actions to remedy a hostile climate and board dysfunction: a facilitated board meeting, a facilitated executive session and a 360° evaluation of our superintendent. The board acknowledged our communication on June 14th and voted to consider a time to discuss it on June 28th but did not do so. The only direct response to our complaint regarding hostile and retaliatory treatment was a pronounced increase in hostile and retaliatory treatment, by some. Proceeding without consideration, resolution or remedy for the issues raised, the board is operating without a plan to address its problems and without required proportional representation, putting all board action on questionable legal footing.

In light of our initial aspirations, our responsibilities and the current situation, we submit our requests for a second time, asking that the board vote on our requests as formal motions at its next board meeting. Should the votes fail, we ask that the board suggest an alternative remedy that board business may continue without toxicity, with respect for its fundamental role to work on behalf of our constituents, and with proportional representation for each town in the unified district as required by law.

Board work is a shared sacrifice— we all volunteer our time to serve our communities. No board member at the table is in it for him or herself or for glory: it is time-consuming work and inevitably controversial, as we engage community members to

establish priorities and goals, evaluate district performance, and determine what funding will be sought and what investments will and won't be made.

However, board work can and should be a worthwhile undertaking. For a decade now we have found board service to be challenging but respected and meaningful work. There is no reason that HUUSD board service should be any different, but some action must be taken for a healthy climate and effective governance to be restored. We hope that we can find that path forward soon, so we can return to the critical and constructive work we were all elected to do.

File Name: Violations of OML and SMM 6_14_17

Emailed to entire board 6_14_17

Cover Message:

To: HUUSD Board

From: Fayston Representatives Heidi Spear & Jill Ellis

Re: Hostile Climate, Public Interests & Requested Actions

Date: June 14, 2017

The Fayston representatives to the HUUSD board submit this memorandum to fellow board members to protest the improper executive session called and led by our superintendent and board chair on May 24th and to seek specific action to address the recurring deflections, misrepresentations, and attacks against elected representatives and the public interests of civic dialogue, transparency and accountability. We observe that their joint actions are consistently undermining our board's capacity to understand and serve our communities' interests. Further, we have experienced first hand how their systematic efforts to silence and demonize opposing viewpoints and inquiry is so toxic to representatives that they not only undermine our current effectiveness but our ability to field representatives for the board going forward.

In essence, we conclude that our HUUSD board is operating as a captive board, serving the administration it is elected to oversee. The superintendent and chair have consistently acted to prevent our board from clarifying our communities' priorities and interests and our administration from being guided by or accountable to them. In our view, they are consistently taking positions and initiating action to obstruct community engagement and dialogue, board education and independence, and district transparency and accountability.

The substance of our May 24th meeting, including but not limited to the executive session, amounted to a marked escalation of their disregard for transparency and a repetition of their tried and true strategy of distracting from matters that concern our communities by launching attacks on anyone who doesn't follow their lead. The executive session violated Open Meeting Law and in no way abided by our communities' rights or interests. The substance of that meeting needs to be revisited.

On May 24th we should have been discussing the letter from our local press about our superintendent's assertions that she has authority to speak on behalf of the board. We should have been briefed on the controversial eviction of a long-time early childhood education partner from Thatcher Brook and community concerns relative to this change. We could have had substantive dialogue about current transformation challenges, strategies and change management to ensure student interests are met and

risks are managed. The board could have undertaken the generative work of engaging our community to develop an HUUSD strategic vision and plan. As the board took action at our last meeting to stop the Communication Working Group from exploring existing data and developing a survey plan for board approval, board time must be allocated for this to get done.

Instead of doing any of this important work, our chair and superintendent chose to divert our time and attention to a bogus assertion that Heidi was tasking administrative staff with analysis and forcing items onto the agenda against the will of the board. In fact, administrative staff proposed reviewing and comparing cohort analysis, the superintendent approved it and our chair set our agenda without circulating a draft for review and approval by the remainder of board members– and certainly not Heidi. The Board, as you all know, voted in favor of an amended motion– not Heidi’s– to hear both analyses on the 24th.

Then, instead of a respectful and efficient discussion where we all seek understanding, our chair continuously interrupted and made inaccurate and misleading assertions about Heidi’s analysis. Other members, Garrett and Jim, in particular, were disrespectful and dismissive despite the considerable work that went into the analysis, its accuracy and the importance of the data being presented, both in terms of understanding our historical enrollment decline and having a baseline to see and understand any further statistically significant outflow– something considerable public dialogue suggests we may face next year.

It is troubling to us that no board members revisited or seemed concerned with the fact that all analyses contradicted the Superintendent’s prior statements to the Board. It is troubling to us that no discussion ensued regarding the importance of cohort analysis or establishing a practice of reviewing it as one of many performance metrics. Instead of recognizing the value and import of cohort analysis as a meaningful performance metric, the entire dialogue was fixated on attacking Heidi and silencing any questions, theories and discussion that might give the board and our community constructive insight to guide our work to optimize educational opportunities for our students and minimize tax burden for our constituents.

Subsequent to the overtly hostile and exceedingly inefficient open portion of our meeting, our superintendent and chair called the board into an executive session on the pretext of discussing a matter of a personnel contract. What ensued from there was a 2-hour attack led by our superintendent directed at Jill, Heidi and members of the public. This session was not only a violation of Open Meeting Law but it was also a very disturbing display of how bitter those who didn’t get their way during the past budget season seem to remain. Some remain irate that we didn’t immediately cut teachers from a school entirely unfamiliar to them and which operates with lower investment per pupil than our largest school, all their children’s schools, and all HUUSD schools with the exception of Warren, according to state figures. They assert that the Fayston

representatives were wrong to engage the public in our budget work. Yet again, some members voiced outrage that we brought public attention to our pending decisions and invited public input. Yet again, we will state clearly that working on behalf of our constituents is our actual job. It is not our job to make our Superintendent's agenda a fait accompli regardless of what our community values.

We have yet to encounter a member of the public that doesn't think our communities should be engaged in our work. In large part we all moved here or stay here because of our intimate and engaged communities. Schools are centers of our communities and they fill a vital role in the development of our children, grandchildren and citizens. Our communities' priorities should matter, as should accountability to them, which is why we have a publicly elected governing board. It is a clear responsibility of our board to engage and serve our constituents. We do our community a tremendous disservice when we buy into the notion that because we have hired experts that we should just follow their lead and community voice is not needed or, worse still, to be avoided!

That is what we are being told. That is how this board is operating. We are told that the administration already has an action plan. We are all set. The superintendent asserts that we are sabotaging her team or overreaching our authority and meddling if we seek input from the public after they have developed a plan. The administration suggests we shouldn't seek community input as to what the community wants because then the public could conclude that we will give them that. The administration has shown through this position and others a level of disrespect for parents and our broader community that is disturbing and counterproductive in the extreme. Not only should these stakeholders' voices matter but it is only by listening to them, our customers, that we will retain and grow community confidence, enthusiasm, budget support and enrollment.

The administration also asserts that the board has no role to play with public complaints and should not discuss community concerns with each other or as a board. The superintendent has asserted that the policy of referring complainants up the chain of command is the limit of what we can and should do until she engages the board on any matter. The superintendent even went on to assert that if board members hear any public opinions we are incapable of doing our jobs! Did any board member speak up against this assertion? No. When the superintendent attacked Jill for forwarding a community member's email that was intended for the entire board there was a massive pile on of shaming and self-righteous indignation from other board members. Given that the administration has to date simply chosen to ignore board members' requests for an all board email address to be set up for the public's convenience, this coordinated attack on Jill was both abusive and hypocritical.

We agree with current policy that community complainants work their way up through the chain of command so that our teachers and administrators have an opportunity to resolve issues. That does not mean, however, that we should shut our eyes or ears to

community concerns. That does not mean that we do not share the concerns expressed to us with fellow board members. We are elected to represent our constituents. We should listen. We should all listen to everyone. And we should seek to understand what is actually going on and what the impacts of relevant decisions and actions are. And we should work to ensure that our district acts in a manner consistent with our communities' values and interests. We can't do that if we are willfully ignorant.

The HUUSD Board has been operating for 10 months. We have not yet engaged the public in developing community priorities, establishing values or goals, we have not invested any HUUSD Board time into getting to know our schools, we have not reviewed data in any substantive way or without significant opposition to this fundamental work, we have not developed criteria for budget decisions or agreed upon the need for performance evaluation. Disturbingly, we have also not once called out our Superintendent when she has misrepresented Board Members work and statements, the HUUSD Board's purview and responsibilities, and documented, established facts.

It has been the clear position of our superintendent, chair and several other members of our board that it was inappropriate and unethical for Fayston representatives to have engaged stakeholders and the community at large during the budget season. That wasn't just their position in the heat of frustration of facing opposition to their plan to immediately cut teachers while increasing overall expenditures. It lives on and resurfaces in bitter remarks routinely in our meetings. With no cameras present on the night of May 24th, things got more aggressive still. This has to stop.

Between us, we have over 14 years of board experience. We have served our community through challenging times and we have done hard work and done it well. We do not deserve this treatment, which is both baseless and harassing. If we were employees of this district, rather than elected representatives and volunteers, we would be protected from the hostile and punitive work environment that has become the norm of this board.

To address the current issues that stymie our work and create this hostile and punitive work environment, we seek several actions by the board. We request a formal response by the board to these requests. The actions are as follows:

1. A public HUUSD board-only meeting led by a professional facilitator to resolve the important matter of our responsibilities, purview and climate.
2. An executive session, with the facilitator present, to discuss a matter of personnel.
3. A 360° review of our superintendent, who inaccurately asserted that it is district policy that she only be reviewed every 3 years. Our actual policy, consistent with best practice and any and all recommendations, is an annual review. None has been conducted in the past few years and none have ensured anonymity to support adequate transparency and accountability.

We have grave concerns about the HUUSD board's current capacity to balance the power of an administration that demonstrates no intention to be guided by or be accountable to our community. Short of immediate board action on the items above, we do not see a constructive path forward that puts community priorities and interests in their rightful place. To not take action would be to condone behavior that effectively undermines current and future governance of our district.

In closing, we will note that the disregard for public engagement, voice and accountability are not just the stuff of political philosophy. Public trust, engagement and support come to bear in both budget votes and our escalating tax burden. If we aim to ensure adequate resources and tax containment, we must be committed to ensuring that we serve all our potential students and their families in a manner consistent with their needs, values and priorities. Otherwise, education resources will diminish along with enrollment and the vice grip of rising property taxes will continue to undermine affordability and opportunity in our communities.

This memorandum is intended to be part of the public record. We look forward to the board's response.



Memo to the HUUSD Board from Fayston Board Members

From : Heidi Spear <[REDACTED]> Wed, Jun 14, 2017 03:13 PM
Subject : Memo to the HUUSD Board from Fayston Board Members 📎 1 attachment
To : Caitlin Hollister <[REDACTED]>, Christine Sullivan <[REDACTED]>, EDWARD CASEY <[REDACTED]>, Maureen McCracken <[REDACTED]>, Sam Jackson <[REDACTED]>, Garrett MacCurtain <[REDACTED]>, Gabriel Gilman <[REDACTED]>, Peter Langella <[REDACTED]>, Rob Williams <[REDACTED]>, Alycia Biondo <[REDACTED]>, Rosemarie White <[REDACTED]>, Alexandra Thomsen <[REDACTED]>
Cc : KJE - Laptop <[REDACTED]>

We will not be at tonight's meeting but we submit the attached memorandum for review and discussion under Board Reflection from Prior Meeting. The memorandum addresses serious issues and we hope the board will not delay addressing them given their impact on elected representation and effective governance.

Sincerely,

Heidi & Jill

📎 **Violation of OML and SMM 6_14_17.docx**
150 KB

Harwood Unified Union School District

September 27, 2017

6:00-9:00

Harwood Union High School Library

Unapproved Minutes

Present from the Board: Christine Sullivan (Chair), Caitlin Hollister, Jim Casey, Garrett MacCurtain, Maureen McCracken, Alycia Biondo, Alexandra Thomsen, Jill Ellis, Caitlin Hollister, Peter Langella, and Rosemarie White.

Present from WWSU: Brigid Nease, Superintendent and Michelle Baker, Director of Finance & Operations

Public/Press present: Chris Keating (Valley Reporter), Maddie Hughes (Waterbury Record)

1. Call to Order

Christine Sullivan called the meeting to order at 6:03 p.m.

2. Additions and deletions

Gabe Gilman's 9/26/17 letter to the Board.

3. Public Comment

None.

4. Approve minutes 9/20/17

Several needed corrections and typos were noted:

- Gabe Gilman made a motion that the June letter be referred to legal counsel. After a brief discussion, Gilman withdrew the motion.
- It is Act 166, not Act 61.
- The Board thanked Caitlin Hollister for organizing the retreat not Rosemarie White.
- It is McCracken, not McCracken

Peter Langella made a motion to approve the amended minutes. Garrett MacCurtain seconded. Alex Thomsen, Caitlin Hollister, Christine Sullivan, Garrett MacCurtain, Jim Casey, Maureen McCracken, Peter Langella, and Rosemarie White voted in favor of the motion. Jill Ellis and Alycia Biondo opposed. No abstentions. Motion carries on a weighted vote of 68.4 to 10.4.

5. Reflections

None.

6. Unfinished business

A. Work Groups/Committees - agree on job descriptions and work scope, membership, meeting schedule.

The Board reviewed the descriptions, membership, and timelines for Board Work Groups/Committees.

- Communications: Committee should use a variety of communication venues. Letters to the Editor and Op/Ed pieces need to clearly state when being submitted on behalf of the Board. Board would like to see annual reporting on type and frequency of the communications that took place; review of which can be added to the Board's work plan. Discussed Board's interaction with the committee and the impact on the committee's effectiveness. Suggested a committee work plan that details what type and when communications are published, with authority delegated to the Board chair to review routine communications.
- Policy - B3, C3, C5, C10 - which to review at board level, which to committee, others to be prioritized - discuss and agree upon draft and review process

Christine Sullivan reported that she did not receive an updated committee description.

Brigid Nease confirmed that the policies approved by the Board in June have been posted on the WWSU website since June.

Last year, the Board Policy Committee took over the creation and editing of policies. There has been some confusion about who is holding the final approved policy and when Central Office knows the version it has can be posted to the WWSU website. Brigid Nease described how policy development and review took place when the WWSU executive committee existed. Central Office held the creation, editing, and warning of policies. The school boards reviewed, asked for revisions if needed, and approved policies. Central Office posted final, approved policy to the WWSU website. There is a lot of statutory language that needs to be in place in policies. Review and approval process needs to be consistent with the Board and Superintendent roles and responsibilities.

Board discussed returning to previous process for administering policies and to focus the Policy Committee's role on review, discussion, vetting, and recommending policies to the full Board. Policy Committee can create an annual work plan for which policies it will take on and develop a timeline for review. Part of process will be determining which policies they can review and recommend to the full Board and which policies will need Board input in the development stage before being presented for review and approval. If there is disagreement about recommended policy, an alternative policy can be brought forward to the Board for the Board to consider and determine which it will move forward.

Alycia Biondo moved that the Policy Committee follow the same process that WWSU executive committee used for the development and review of policies as described by Brigid Nease. Alex Thomsen seconded. Motion carried unanimously. No abstentions.

Committee will plan to continue to meet on first Monday of the month at 6:00 p.m.
Central Office will create the agenda and warn it.

□ Facilities

Committee's work focuses on making recommendations to full board vis-à-vis long-term facilities planning; problem-solve emergent issues; and keeping track of work on annual basis. The committee meets on the 4th Wednesday of the month and rotates locations to visit the different buildings. Tom Cahalan will join the committee.

□ Negotiations (2 scheduled meetings remain 10/5 & 10/19)

Hoping to have the contract settled soon. Will plan additional meetings if necessary. If contract is settled, members of negotiations team could move to other committees.

□ Personnel/Superintendent Evaluation - tool, establish membership and overall timeline for completing process in FY19

Evaluation planned to be completed by June 2018. The group needs to review the current tool and process and if necessary revise or replace it. Board asked for a check-in at the end Oct/beginning of Nov. If contract is settled, negotiation team could shift to this committee and/or join other committees. Maureen McCracken could transition out and Caitlin Hollister would join.

□ Community Engagement

Board discussed creating a community engagement committee, its role and purview. It can provide an important function for data gathering and assessment regarding the community feedback and input on the Board's focus and direction. Need to start at the beginning with a discussion about what is the Board engaging with the community about. Should community engagement be delegated to a committee or is it the responsibility of the full Board to be going out to the community in a variety of venues and ways soliciting input?

Board agreed that initially, community engagement can be an exploratory work group charged with assessing what is possible and viable, developing shared understanding of the language, how to keep the work from overlapping with Central Office and individual schools' engagement efforts, and identifying avenues for gathering information. Christine Sullivan will write up a description.

Alycia Biondo and Maureen McCracken volunteered to be the exploratory workgroup. Need to set a first meeting time and establish an agenda. Forward to Central Office to warn it.

B. Review Self-Assessment tools and schedule for use (follow up at retreat?) Rubric for meeting reflection and how to handle (when in meeting, etc.?)

Not discussed.

7. New Business

Peter Langella made a motion to put discussion of Gabe Gilman's 9/26/17 letter to the Board on the agenda for the next meeting, Oct. 11th. Alex Thomsen seconded. Discussion: Concern that the letter will be in the public sphere without the Board having discussed it for two weeks. Christine Sullivan reviewed the statute relevant to how Boards respond to a complaint or an informational letter, as there are different timelines involved. Christine Sullivan amended the motion that the discussion happens when Gabe, as the Board member sending the letter, is able to be at the meeting to present the letter. Discussion: Gabe has made his feelings clear and the letter includes time sensitive recommendations on a direction that the Board needs to take to address the issues raised. Does the letter itself violate open meeting law?

Peter Langella, Caitlin Hollister, Jill Ellis, Alex Thomsen, Alycia Biondo, Maureen McCracken, and Christine Sullivan voted in favor of the amended motion. Garrett MacCurtain, Jim Casey, and Rosemarie White opposed the amended motion. Motion passes on a weighted vote of 56.9 to 21.9. No abstentions.

A. Superintendent Report

Brigid Nease is going to write a response to Gabe Gilman's letter to be attached to the meeting minutes in order to correct the record with regard to some of the statements she feels are erroneous.

Brigid reported that she seeks out legal counsel as needed; she does not need to be directed to do so by the Board. She is not required to share everything she learns, due to confidentiality (attorney/client privilege). With regard to the June letter, the Board did not direct her to take it to legal counsel and report back to the Board. Under her own authority, Brigid did consult with Pietro Lynn. She summarized her communications with him and his response. Pietro Lynn is one of several attorneys, with different specialties, who work for VSBIT, the district's insurer.

Brigid reported that the open Fayston seat is being advertised on Front Porch Forum. The deadline for letters of interest is Oct 13. The office has received one so far. Appointing a candidate to the open seat will be on the agenda for Oct. 25. The open seat is for a two-year term that is ending in March 2018. Candidates running for the seat in March will be running for a new three-year term.

Brigid reported that the communication some Board members received prior to the 9/20/17 meeting was related to a concern with the potential closing of a private pre-K provider due to the loss of their licensed Pre-K teacher and a request to assist with the situation. Implementation of universal Pre-K remains complicated. The district has to have a legal contract with each private, licensed provider that it partners with. To be a licensed provider, there needs to be a licensed Pre-K teacher. The Agency of Education licenses preschool teachers and Agency of Human Services licenses private preschool providers. While the district is required to implement some elements of the universal pre-school legislation, such as collecting the data on free and reduced meals, the district has no involvement in the licensure component and cannot assist with the emergency or provisional licenses.

Brigid is working with Waterbury to find ways to increase capacity at Thatcher to serve more 4 year olds at Thatcher Brook, without those efforts being considered expansion. This, in turn, could make more space in private providers for 3 year olds. Meeting the preschool needs of the district's families supports our schools all the way through matriculation to Harwood. She will have a have a written report for October 11th.

Question about when will students be attending the Board meeting? Brigid will speak to Lisa Attwood about that.

B. Director of Finance Report

Michelle Baker reported she would have a written financial report for 10/11/17. The money allocated for bus services for Granville/Hancock/Roxbury has resulted in new students in the district: 5 pre-K and 4 K – 6 students going to Warren Elementary; 1 student going to Waitsfield; and 4 students going to Harwood.

C. Review and begin to populate work plan (year-long agenda planner)

Not discussed.

D. Follow up on code of ethics/conflict of interest - how to handle and schedule further development work around these (retreat?)

Not discussed.

8. Other Business

None.

9. Possible Executive Session

None needed.

10. Adjourn

Rosemarie White made motion adjourn at 8:31 p.m. Motion passed unanimously. No abstentions.

London, Sarah

From: Matthews, Deborah
Sent: Wednesday, February 21, 2018 10:17 AM
To: London, Sarah
Subject: FW: Add'l information for Sarah London re: HUUSD OML Violations

Deb Matthews

Administrative Secretary
Office of the Attorney General | GCAL
109 State Street, 3rd Floor
Montpelier, VT 05609
Phone | 802-828-3689
E-Mail | deborah.matthews@vermont.gov

From: Heidi Spear [mailto:]
Sent: Wednesday, February 21, 2018 9:07 AM
To: AGO - Info <AGO.Info@vermont.gov>
Subject: Add'l information for Sarah London re: HUUSD OML Violations

Dear Sarah,

As a follow up to my last email with links to primary sources on board response to the OML complaint I submitted last week.

1. The MRVTV video of the last meeting covering my complaint and the board response.

<https://mrvtv.com/328961-2/>

2. The audio on the HUUSD website that has recently supplanted links to MRVTV video. It does not include the beginning of the meeting, including the lion's share of public comment.

<https://drive.google.com/file/d/1EHd8fpRMoyVT99K9pMe0rpBoGTLpuyOI/view>

3. The draft minutes of the most recent meeting, which exclude any summary of their discussion and the vote to dismiss my OML complaint of last Tuesday

<https://drive.google.com/file/d/0B2uQwDkbPKEVY1h2aHU4bnFYaXN6aIFMcGpFZk5IR0ZwUjhJ/view>

I would appreciate some guidance as to the timing of your consideration and your process.

Sincerely,

Heidi Spear
m:

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

JOSHUA R. DIAMOND
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY
GENERAL



TEL: (802) 828-3171
FAX: (802) 828-3187

<http://www.ago.vermont.gov>

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

March 8, 2018

Heidi Spear



Waitsfield, VT 05673

Re: Open Meeting Law Complaint

Dear Ms. Spear:

Thank you for your correspondence regarding Vermont's Open Meeting law and the Harwood Unified Union School District Board of Directors ("Board"). As you know from our previous correspondence to you, the Attorney General's Office ("AGO") investigates complaints of violations of Vermont's Open Meeting law for purposes of filing an enforcement action in court. The AGO will review an open meeting complaint against a public body once the complainant has notified the public body of the complaint in writing and the public body has been given an opportunity to respond, as required by Vermont's Open Meeting law.

You originally complained to Attorney General Donovan by letter received January 26, 2018. By letter dated February 2, 2018, we asked you to confirm that you had: (a) provided written notice to the Board of the alleged violations listed in your January letter to the AGO; (b) requested a specific remedy from the Board; and (c) received any response from the Board. We asked you to provide us with a copy of such notice(s), and any response(s). By email dated February 16, 2018, you provided additional correspondence to the AGO, including a Board response to your most recent Open Meeting law concerns. You submitted additional information to the AGO via email dated February 21, 2018.

We understand you served as a member of the Board until mid-September of 2017. Various correspondence you have provided shows that you have repeatedly notified the Board of your concerns regarding conduct of the Board, as well as concerns under the Open Meeting law. The correspondence you have provided to the Board dates back to June 2017.

Heidi Spear
March 8, 2018
Page 2 of 4

In addition to reviewing the above information, I spoke with Superintendent Bridget Nease regarding your allegations and reviewed various documents related to the Board's meetings available online at: <https://www.wwsu.org/board-executive-committee>.

I will address your concerns raised to the AGO in two parts below.

Executive Session held in May 2017

You have expressed concern regarding an allegedly improper executive session held in May 2017, and you have provided correspondence showing an Open Meeting complaint to the Board from the Vice Chair from September 2017, as well as a separate complaint to the Board from The Valley Reporter from October 2017, regarding the same executive session. You served as a Board member at the time of the allegedly improper executive session and were present at the meeting and executive session at issue. It appears that no members of the Board voted to discontinue the executive session at issue at the time.

The Board has taken up various complaints related to the May 24 executive session at different times, including with the following discussion.

Excerpt from Amended and Approved Minutes from Board Meeting 10/11/17

Discussion: The executive session involved discussion of employee concerns that also involved a discussion of Board dynamics. It would have disadvantaged the employees if the discussion had been public. The Board is not in agreement about whether the discussion resulted in an unintentional violation of Open Meeting law. With the exception of one Board member, Board members are not hearing from their town members that there are concerns about the May executive session. Several Board members expressed frustration that this issue keeps coming up and taking Board time. Jill Ellis discussed her belief that an unintentional violation of Open Meeting law took place. She expressed understanding for how it happened, given the nature of the executive session discussion. She asked the Board to take a moment to step back and think carefully about what happened. Board expressed shared desire to resolve the issue and move forward productively with a focus on supporting students.

Caitlin Hollister made a motion that as Board members, when we have an issue to raise with fellow Board members we do so in person and in an open Board meeting. Maureen McCracken seconded. Motion passed unanimously. No abstentions.

Michelle Baker reported a request from the Valley Reporter for a copy of Brigid Nease's contract with regard to her ability to consult with attorneys. Board affirmed their understanding that Brigid Nease and Michelle Baker may need to consult with attorneys in the course of fulfilling their job responsibilities and do not need the express permission of the Board to do so.

Board discussed timing of training on executive session and function and decided it should wait till after the open Fayston seat is filled, so all Board members can participate in the training. Training will go on agenda after November. Agreed to invite VSBA again to do the training.

No binding action appears to have occurred following the allegedly improper executive session. (And, as noted above, no Board members moved to come out of executive session at the time.) My understanding is that the Board has undergone training from legal counsel regarding Open Meeting law and executive sessions since this incident, and that the Board has agreed to arrange for a following up training on Open Meeting law issues with the General Counsel for the Vermont School Boards Association. That training is presently scheduled for April 25, 2018.

In light of the above, at this time, there is insufficient evidence of an on-going issue related to this portion of your complaint that warrants the filing of an enforcement action by the AGO.

Additional Concerns

Your correspondence also shows that you have at least twice (in June and August of 2017) requested the following remedies from the Board while you served as a Board member: (a) a Board-only meeting led by a professional facilitator; (b) an executive session with the facilitator to discuss a personnel matter; (c) a 360-degree review of the superintendent.

The alleged Open Meeting law violation contained in your June and August 2017 letters appears to be the executive session from May 2017, addressed above.

In addition to the May 2017 executive session addressed above, we understand from your recent correspondence to the AGO that you have two additional Open Meeting law complaints. First, you are concerned with the Board's publishing of an inadequate public agenda for its September 13, 2017 meeting/retreat, and you are concerned that the Board did not adequately warn "discussion of district vision, goals and a board annual action plan." Second, you feel the Board took unwarned action with respect to its approval to reinstate an administrator (assistant principal) position in April 2017. We further understand that you voted against the

Heidi Spear
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reinstatement of the assistant principal at the meeting in which it was addressed. You appear to have raised these subsequent issues with the Board in February 2018 following your correspondence to the AGO, and the Board responded that it had determined that no violations occurred and that no cure is necessary.

I will first address the alleged discrepancy with respect to "public" and "private" Board agendas for the September 13, 2017 meeting. The posted agenda for September 13, 2017, includes as the third item "Facilitated Discussion." When posted online, that third agenda item serves as a hyperlink to the second, more detailed document you provided to the AGO regarding the meeting. I understand the Board has heard your concern that, when posted in a paper format, a hyperlink may not be obvious to a reader, and the Board will revisit this in future agendas that involve a hyperlink.

Regarding your concern related to the reinstatement of the assistant principal position, I understand the Superintendent's recommended reinstatement of this position was publicly available in materials related to the April 12, 2017 Board meeting. In addition, the hiring and approval process related to the assistant principal position appears to have complied with applicable notice requirements.

Following review of the information you provided, as well as the Board minutes and other information, there is insufficient evidence to warrant the AGO's filing of an enforcement action in the Civil Division of the Superior Court. In particular, there is insufficient evidence that the Board took binding action with respect to matters not presented for public input or review.

We understand the above conclusions may not be satisfactory to you. We also understand from your correspondence that you have consulted with counsel and that you are aware of your right to directly file an enforcement action under Vermont's Open Meeting law. To the extent it is helpful to you, please see information that is available in the Secretary of State's guide to Vermont Open Meeting law at:
<https://www.sec.state.vt.us/media/786069/oml-rev-sept-2016.pdf> (see "How does a member of the public enforce the open meetings law?")

We hope the above information is helpful to you.

Sincerely,



Sarah London
Assistant Attorney General