

Unapproved School Board Meeting Minutes

Dickinson Public Schools
Special School Board Meeting

September 22, 2015; 5:00 p.m.
Central Office Board Room

The Dickinson Public School Board held a special meeting on September 22, 2015, at the Central Administration Office. Board members present were: President Sarah Ricks, Vice President Kris Fehr, Mrs. Leslie Ross, Mrs. Tanya Rude, and Mr. Jason Hanson. Administrators present were: Superintendent Douglas Sullivan and Assistant Superintendent Vince Reep. Others present were: Attorney David Phillips, Ms. Fern Pokorny, Ms. Lee Mehrer, Mrs. Twila Petersen, and Mr. Andrew Haffner from the Dickinson Press.

Call to Order - Board President Ricks called the meeting to order at 5:00 p.m.

Superintendent's Report and Recommendation Regarding Suspension and/or Commencement of Discharge for Cause Proceedings Against a Teacher Pursuant to N.D.C.C. §§ 15.1-15-07, 15.1-15-08, and 15.1-15-10, or Other Disciplinary Action – At the September School Board meeting Superintendent Sullivan requested a Special Board meeting to discuss a teacher engaged in conduct that may be considered immoral or unbecoming. Dr. Sullivan provided a report regarding Ms. Megan Smith, a teacher at the Early Childhood Center. Ms. Smith engaged in conduct that may substantiate discharge of employment or other disciplinary action. Attorney David Phillips was invited to the meeting to discuss with the Board its legal options. Superintendent Sullivan explained that North Dakota Century Code 15.1-15-08 provides a specific procedure for the school board to utilize if the School Board contemplates discharge for cause. Prior to initiating discharge proceedings the School Board must first determine if the information presented is sufficient to proceed with a discharge for cause hearing. He further explained the two purposes of the meeting which were for the School Board to consult with the District's attorney, David Phillips, to discuss the Board's legal options and to consider a recommendation from the superintendent to proceed with the necessary steps for a discharge hearing. Superintendent Sullivan provided information from North Dakota Century Code 15.1-15-07 which lists several reasons a School Board may dismiss a teacher. These reasons include, but are not limited to, immoral conduct, conduct unbecoming the position held by the individual, and failure to perform contracted duties without justification. The District also has a School Board Policy DEAA that Superintendent Sullivan referenced. This policy prohibits employees from manufacturing, distributing, dispensing, possessing or using alcohol on school district property. A possible consequence of violating School Board Policy DEAA is termination of employment. Superintendent Sullivan explained the sequence of events regarding the teacher being under the influence of alcohol, possessing alcohol on school premises, and not having her classroom prepared for students to arrive. The superintendent recommended the Board go into executive session for attorney consultation.

Attorney Consultation Regarding Suspension and/or Commencement of Discharge for Cause Proceedings Against a Teacher (Pursuant to N.D.C.C. § 44-04-19.1 [2] an executive session is anticipated) – This agenda topic was discussed in an executive session. The legal authority for closing this portion of the meeting was North Dakota Century Code section 44-04-19.1(2). The topic or purpose of the executive session was attorney consultation regarding suspension and/or commencement of discharge for cause proceedings against a teacher, Megan Smith. Pursuant to North Dakota Century Code section 44-04-19.1(2), Mrs. Rude moved to close this portion of the meeting and go into executive session for the purpose of attorney consultation regarding suspension and/or commencement of discharge for cause proceedings against teacher Megan Smith. Mrs. Ross

Attorney Consultation Regarding Suspension and/or Commencement of Discharge for Cause Proceedings Against a Teacher (cont.)

seconded the motion. There was no discussion on the motion. A roll call vote was taken: ayes-Hanson, Fehr, Ross, Rude, Ricks; nays-none. The motion carried unanimously.

The executive session was recorded and all members of the governing body were reminded to limit their discussion during the executive session to the announced topic. Any collective decision, collective commitment, or other final action by the governing body must occur after it reconvenes in an open meeting, unless final action is specifically required by law to be taken during the executive session. The prohibition on taking final action during the executive session does not apply to providing guidance or instructions from the attorney. The following individuals were permitted to remain present during the executive session: Board Member Rude, Board Member Ross, Board Member Hanson, Board Member Fehr, Board President Ricks, Superintendent Douglas Sullivan, Attorney David Phillips, and Assistant Superintendent Vince Reep. Members of the public were asked to leave the room during the executive session. President Ricks announced that the meeting was anticipated to adjourn at 5:45 p.m. At 5:11 p.m. the meeting went into executive session and was attended by Mrs. Rude, Mrs. Ross, Mr. Hanson, Mrs. Fehr, Mrs. Ricks, Mr. Phillips, Dr. Sullivan, and Mr. Reep. The meeting adjourned from executive session at 5:30 p.m. The public was invited to return to the meeting room and the meeting was back in open session.

President Ricks inquired whether or not the Board wanted to have a discharge hearing. There was a question whether or not June 3 was a school day or a contracted day. Mr. Hanson felt the choice was clear and the Board needed to move forward and then he justified his reasoning due to actions on school premises by a teacher. Mrs. Fehr moved to direct the administration, with the assistance of legal counsel, to take all necessary actions to proceed with a discharge hearing pursuant to North Dakota Century Code Section 15.1-15-08. Mrs. Rude seconded the motion. Discussion: Mrs. Fehr asked for clarification on the procedure and also the information the Board may or may not have access. Attorney Phillips responded that the Board is going to be limited to the facts presented by Superintendent Sullivan. He added that under applicable law, Board members should not be collecting any additional evidence. A roll call vote was taken on the motion: ayes-Rude, Hanson, Fehr, Ross, Ricks; nays-none. The motion carried unanimously.

Consideration of Suspension and/or Commencement of Discharge for Cause Proceedings Against a Teacher Pursuant to N.D.C.C. §§ 15.1-15-07, 15.1-15-08, and 15.1-15-10, or Take Other Disciplinary Action (Pursuant to N.D.C.C. § 15.1-15-10 [2]) an executive session is anticipated)

–This agenda item was required to be discussed in an executive session unless both the Board and the teacher agree that the matter may be addressed in the presence of others or at an open meeting of the Board. If the meeting was held in an executive session, the legal authority for closing that portion of the meeting was North Dakota Century Code section 15.1-15-10(2). The topic or purpose of the executive session was consideration of the suspension of a teacher, Megan Smith, during discharge proceedings. Pursuant to North Dakota Century Code section 15.1-15-10(2), Mrs. Fehr moved to close this portion of the meeting and go into executive session for the purpose of the consideration of the suspension of Megan Smith during discharge proceedings. Mrs. Ross seconded the motion. There was no discussion on the motion. A roll call vote was taken: ayes-Ross, Hanson, Fehr, Rude, Ricks; nays-none. The motion carried unanimously. The executive session was recorded and all members of the governing body were reminded to limit their discussion during the executive session to the announced topic. Any collective decision, collective commitment, or other final action by the governing body must occur after it reconvenes in an open meeting, unless final action is

Consideration of Suspension and/or Commencement of Discharge or Other Disciplinary Action Against a Teacher (cont.)

specifically required by law to be taken during the executive session. The following individuals were permitted to remain present during the executive session: Board Member Rude, Board Member Ross, Superintendent Sullivan, Board President Ricks, Attorney Phillips, Board Member Fehr, Board Member Hanson, and Assistant Superintendent Reep. Members of the public were requested to leave the room during the executive session. President Ricks anticipated adjourning the executive session and reconvene to the open portion of the meeting at approximately 5:50 p.m. The executive session began at 5:35 p.m. and was attended by Mrs. Rude, Mrs. Ross, Mr. Hanson, Mrs. Fehr, Mrs. Ricks, Dr. Sullivan, Mr. Phillips, and Mr. Reep. The executive session adjourned at 5:54 p.m. The public was invited to return to the meeting room and the meeting went back into open session.

Attorney Phillips referenced Century Code and Board policy where the motion to contemplate discharge must be made at an open meeting. Pursuant to North Dakota Century Code Section 15.1-15-10, Mrs. Ross moved to suspend Megan Smith from her employment as a teacher, without pay, during the period in which a discharge for cause is pursued. Mr. Hanson seconded the motion. There was no discussion allowed on the motion. A roll call vote was taken: ayes-Hanson, Rude, Ross, Fehr, Ricks; nays-none. The motion carried unanimously.

President Ricks requested discussion regarding policy and procedures specifically referring to the possibility that Ms. Smith would submit her resignation. Superintendent Sullivan responded that within Board policy DKBB the Board has delegated the superintendent to accept employee resignations. If he would receive a resignation the School Board would be notified at the next School Board meeting. All resignations are considered on an individual basis with a few other provisions. He added as a matter of procedure, under these circumstances, if this individual was successful in rehabilitation, an application from her would be considered in the future. Assistant Superintendent Reep concurred.

Adjournment – At 5:58 p.m. Mrs. Rude moved to adjourn. Mrs. Ross seconded the motion. The motion carried unanimously. At 5:58 p.m. the meeting adjourned.

Sarah Ricks, Board President

Vince Reep, Business Manager

Twila Petersen, Secretary