

TRANSCRIPT OF RECORDED MINUTES

OF

THE METHUEN SCHOOL COMMITTEE

LEGAL TRAINING

OF

MARCH 28, 2018

SUBMITTED FOR THE APPROVAL OF:

THE METHUEN SCHOOL COMMITTEE

AND

THE SUPERINTENDENT OF SCHOOLS

“AN OPEN MEETING ADVANTAGE FOR THE COMMUNITY OF METHUEN”

RECORDED BY:
MARTHA SIROIS, PUBLIC RECORDER

March 28, 2018

TRANSCRIPT OF RECORDED MINUTES
METHUEN SCHOOL COMMITTEE MEETING
WORKSHOP/BUSINESS MEETING
MARCH 28, 2018

This Legal Training of the Methuen School Committee was held at Methuen High School, Media Center, and was posted for 6:30PM

ROLL CALL

Mr. Robert F. Vogler (P)
Ms. Susan M. Nicholson (P)
Mr. Nicholas DiZoglio, Vice Chairperson (P)
Ms. Jana DiNatale (NP)
Mr. Dennis D.J. Deeb, Secretary (P)
Ms. Jana Zanni Pesce (P)
Mayor James P. Jajuga, Chairperson (P)

MEMBERS IN ATTENDANCE:

Mr. Robert F. Vogler
Ms. Susan M. Nicholson
Mr. Nicholas DiZoglio, Vice Chairperson
Mr. Dennis D.J. Deeb, Secretary
Ms. Jana Zanni Pesce
Mayor James P. Jajuga, Chairperson

MEMBERS NOT IN ATTENDANCE:

Ms. Jana DiNatale

OTHERS IN ATTENDANCE:

Mrs. Judith Scannell, Superintendent of Schools
Mr. Ian Gosselin, Business Administrator
Ms. Martha Sirois, Public Recorder

1. CALL TO ORDER AND ATTENDANCE:

Mayor James P Jajuga called this Workshop Session to order at 6:30PM with a quorum of members in attendance, and listed above.

Mayor-He thanked the Superintendent, Michael Maccaro and Sarah Spatafore who are both from Murphy Hesse Toomey & Lehane for providing this important Education Law Training Session for the Methuen School Committee. This Session was requested by Committee Member DiZoglio and Committee Member Vogler, in order to provide a briefing, for new members, and a refresher for returning members, about Education Law, particularly as it relates to the School Committee Member, both as an individual and part of an elected board. Prior to this meeting we received notice that Member DiNatale will be absent this evening due to

medical reasons. She will be provided printed information provided this evening, and of course can review the recorded session, however, individual School Committee Members should not contact Attorney Maccaro or any other attorney at this firm directly. Such inquiries should be made before the entire School Committee or, to the Superintendent for transmission to legal counsel. Before turning the meeting over to the Superintendent, he would like to confirm the City has received legal opinion, relative to his Chief of Staff, attending Executive Sessions of the School Committee. He informed the School Committee last month on his intent to have Mr. Fahey represent him on the Unit A Teachers Union Contract Negotiating Team and for Mr. Fahey to represent him at School Committee Executive Sessions relative to contract negotiations. When an objection was raised by a School Committee Member, at the March 21, 2018 School Committee Meeting, this opinion was requested and issued on March 26, 2018. It appears to conclude that there is no issue with Mr. Fahey attending such sessions, and he will have him continue to do so.

Legal Training Methuen School Committee

Superintendent-She is excited that they are moving forward with the School Committee training. She feels it is a wonderful opportunity for the new School Committee Members as well as our returning members as a refresher. She is hopeful for positive steps forward as they combat negotiation, business and budget issues. She introduced Atty. Maccaro and Atty. Spatafore who will be giving the presentation this evening.

Attorney Maccaro and Attorney Spatafore gave their presentation on the following issues

- I. The Role of the School Committee
 - a. Setting Educational Goals & Policy
 - b. Budget
 - c. Staffing
 - d. Selection & Purchase of Textbooks and Educational Materials
- II. Review of Open Meeting Law
- III. Review of Conflict of Interest Law
- IV. Review of Public Records Law

Attorney Spatafore gave the review on The Role of the School Committee

Mayor-If a candidate for a job is rejected, is that a final rejection or can a person be brought back to be voted on again? Is there a time limit that the candidate can be brought back for a second vote?

Ms. Spatafore-The Law is a little bit silent on that. What it does say is if the School Committee rejects a candidate brought forth by the Superintendent, they must give specific detailed reasons for the rejection. If the Superintendent does not agree with those reasons, there is no limitation on bringing that candidate back.

Mr. Vogler-Who sets the salaries for those positions?

Ms. Spatafore-Recommendations for those salaries are set by the Superintendent. However, the School Committee is the budgetary authority.

Mayor-In 1993, he was a member of the Education Committee in the Legislature that voted for Ed Reform. At the same time the Mayor of Boston brought before the Education Committee a Bill asking to replace the elected School Committee with a Board of his choice. He appreciated the School Committee but felt he could do it differently. He then wanted the Education Committee to judge him on the Boards performance since he was the one who chose the members to sit on the Board. The Bill was passed and it eventually happened. Are there any other Communities that the Mayor has come before the Legislature and have tried to do this and appoint their own Committee Members?

Ms. Spatafore-She does not know of any other, just Boston.

Mr. DiZoglio-When does the School Committee Members jurisdiction start and end? What authority do we have in the Public? Can a member walk into schools unannounced and ask to meet with a staff member?

Ms. Spatafore - Day to Day vs. Policy goal setting of the School Committee. If a Committee Member, in their role as a Committee Member, is interested in the Day to Day implementation of the Policy or the operation of the schools, the appropriate channel would be to go through the Superintendent to ask those questions. The Superintendent, as opposed to the School Committee is tasked with insuring the timely running of the schools and making sure the Policies set by the School Committee are effectuated. Members of the Public are allowed in the schools in certain settings and as parents you are allowed in schools for those purposes. If it is to go in to oversee the Day to Day operations, that would be outside the bounds of a School Committee Member.

Mr. DiZoglio-The School Committee's jurisdiction begins and ends sitting in the chair at the School Committee Meetings.

Ms. Spatafore-Yes and if you sat on any additional committees and things of that nature.

Ms. Zanni Pesce-Are they allowed to walk into a classroom and observe?

Ms. Spatafore-The way that is best accomplished is through coordination with the Administrative team. There are a lot of contract issues and observations are carefully negotiated with staff in the schools. It would have to be worked out with staff ahead of time and offered to the whole Committee.

Ms. Zanni Pesce-As a parent, I can go to the office and announce that I am there as a parent and let them know my reasons for being there. Does her being a School Committee member change that?

Ms. Spatafore-It would change it. As the School Committee being the employer there are limited rolls you have with staff. It does change your roll if you are a parent and coming to the school as a School Committee Member and doing observations and looking at policy it would change it for the appropriateness of the visit.

Ms. Zanni Pesce-Are there time requirements to observe? Does she have to give 24 hours? What would she do, contact the Superintendent?

She feels a long leeway of time changes things. She doesn't want the school to be teaching to something specifically because she is going to visit.

Ms. Spatafore-There are very detailed contractual obligations that do require announcements of visits like this. That is why there would need to be some coordination with the Superintendent

and Administrative team to make sure all of those obligations are followed. The Superintendent would need to make sure it is coordinated with the administration as well as being able to extend the invitation to the other members of the School Committee.

Mr. Deeb-You speak about the Superintendent and the roll of hiring and supervising the Day to Day staff. The School Committee has a lot of trust in this Superintendent, she is wonderful and doing an excellent job. If the School Committee wanted to get involved in managing a position, they can do that by controlling the Budget.

Ms. Spatafore-Yes. You have budgetary control. You would have to make sure you meet all statutory requirements.

Mr. Vogler-If you are not in session, you have no authority out in Public. If you have an issue, you contact the Superintendent.

Superintendent-It is Methuen Public school policy. Mr. Vogler is correct.

Attorney Maccaro gave the review on Open Meeting Law

Atty. Maccaro-If the School Committee is sending an email, they must not "reply to all". That would violate the Open Meeting Law.

Mr. DiZoglio-If a member does "reply to all" should that email be made public at the next meeting?

Atty. Maccaro-That would be the best way to cure it is to make it public. It is always about transparency.

Mr. DiZoglio-What if he as a member reaches out to Superintendent for topics about meetings or policies. Is it the Superintendent's responsibility to contact the Committee?

Atty. Maccaro-Any member individually can email the Superintendent. There are some exceptions listed in the packet.

Ms. Nicholson-One of the takeaways from tonight's meeting is don't "reply to all" when you are responding to an email.

Atty. Maccaro-That is correct. Always consider anything you put in writing as public record.

Superintendent-Her secretary requests in the emails "do not hit reply to all".

Atty. Maccaro-When he is sending an email he will put on the bottom of the email "do not reply to all it may have Open Meeting Law implications".

Mr. Deeb-If a majority of School Committee members attend a political event, is that ok? If they attend the Regional Conference and are involved in discussions but no votes are taken. Do these need to be posted as meetings?

Mr. Maccaro-They advise, out of caution that it would be best to post the Regional Conference. The Open Meeting Law does address when you are out in the Community attending Community functions. Page 8 in the handout list some of the exceptions to the Open Meeting Law.

Mr. Vogler-How detailed are the minutes of an Executive Session?

Atty. Maccaro-They should have who attended the Executive Session, time, date and a general description of what was discussed and any votes/actions that were taken. They should be detailed enough so a member of the public can look at them and understand what was discussed.

Mr. Vogler-When should they be made public?

Atty. Maccaro-They should be reviewed at reasonable intervals but should only be released after the reason for going into Executive Session has expired.

Mr. DiZoglio-Should the minutes for negotiations of contracts be released after the contract has been voted on?

Atty. Maccaro-What they discuss about Collective Bargaining strategies, you may not want to disclose even after the contract has been ratified. They may have an issue that came up that they want to bring into the next round of negotiations. They do not have to be detailed minutes.

Attorney Spatafore gave the review on The Conflict of Interest Law

Superintendent-Would like the Committee to be aware that the teachers are also under the guidelines for not accepting gifts over \$50.00.

Mr. DiZoglio-What would happen if a classroom pooled together for a teacher gift and it exceeded \$50.00?

Atty. Spatafore-If it is a class gift the limit is removed.

Mr. Deeb-Does the financial piece apply to all government bodies? Does it apply to the Legislature?

Atty. Spatafore-Yes. They would also be covered under the Conflict of Interest Law.

Attorney Maccaro gave the review of Public Record Law

Atty. Maccaro-Anything you write or touch becomes Public Record. This could also included private emails. If you use your private email to conduct School Committee business, it would be considered Public Record.

Superintendent-At the bottom of her email she has a piece that states it is confidential and is meant to go to the recipient and any passing on of this email is against the law, etc. How much clout is attached to that?

Atty. Maccaro-If you were emailing your council, that would be confidential in terms of attorney/client relationship or work product. If the email has a particular document by itself it may be a Public Record but there may be portions of that document that may be exempt if it included information about a student for instance. It could also be certain personnel information that would be exempt. The disclaimer is good to have but it would be used on a case by case basis. Just to use that as a defense to a Public Record, it is probably not going to carry the day.

Superintendent - With the disclaimer on the email, what is your opinion if the email is forwarded to another party?

Atty. Maccaro-Once you send an email, you cannot control where that email is going to go. If you send an email and that email is forwarded, it's out there in the Public.

Superintendent Scannell-Is there any legal recourse?

Atty. Maccaro-He doesn't want to say there is no legal recourse if people are sharing information that they should not. For example if someone goes to make a photocopy of something that has sensitive information and they leave it on the copier. Someone comes along and finds it on the copier and they share it. That employee may get disciplined for sharing it. Trying to pull back data that may be out there would be very difficult. The materials we handed

to you tonight are more detailed than what they covered tonight. They are here as the School Committee's resource to answer any questions they may have.

Mr. DiZoglio-He thanked Atty. Maccaro and Atty. Spatafore for attending. He and Mr. Vogler requested this meeting and he hopes in the future this is something the City would do as well. It is always good to have a refresher and keep up to date on the laws.

Atty. Maccaro-Any time there is a change in the laws the Firm sends out a client alert.

Mayor-The Committee appreciated their appearance this evening and their comments were well presented. They appreciate them representing Methuen Public Schools.

***ADJOURNMENT:**

With no further business at this Legal Training, Mayor Jajuga entertained a motion to adjourn for the evening at 7:51 pm.

MOTION: Mr. Deeb moved to adjourn the Legal Training at 7:51pm.

Mr. DiZoglio seconded the motion

VOTE: 6-0-0 UNANIMOUSLY APPROVED

Respectfully submitted,

Martha Sirois, Public Recorder

Methuen Public Schools