

MINUTES – WAYLAND SCHOOL COMMITTEE

Special Meeting – July 28, 2016

A Special Meeting of the Wayland School Committee was held on Thursday, July 28, 2016, at 1:00 P.M. in the School Committee Room of the Wayland Town Building.

Present were:

Ellen Grieco, Chair
Barb Fletcher, Vice Chair
Jeanne Downs
Kim Reichelt
Kathie Steinberg

Also:

Paul Stein
Superintendent

Marlene Dodyk
Director of Student Services

Susan Bottan
Business Administrator

Chair Ellen Grieco convened the special session at 1:02 P.M. and announced that the meeting is being recorded by WayCAM. Ellen also informed the School Committee that there will be a brief meeting at 12:45 p.m. on August 4, 2016 prior to the Finance Subcommittee meeting to approve the June 20, 2016, June 25, 2016, June 28, 2016, and July 20, 2016 School Committee minutes.

1. **Comments & Written Statements from the Public:**

There were no comments or written statements from the public.

2. **Discuss and Review Interview Questions:**

The School Committee discussed and reviewed the questions they will ask the attorneys during the interview process. Questions were prioritized in the event that time lapses.

Ellen – Negotiations & Practice Parameters
Barb – Finance
Kim – Open Meeting Law & Public Records Requests
Jeanne – Special Education & Title IX Issues
Kathie – Student Information Systems & Bullying Cases

3. **Define Next Steps in the Process: (taken out of order)**

The Committee discussed its next steps in the process in terms of conducting reference checks, checking financial statements, and the timing/date of the School Committee's contract award with one of the law firms. Susan will consult with Town Counsel regarding a specific motion to award the contract.

4. **Interview Candidates for Legal Counsel:**

Murphy, Hesse, Toomey & Lehane – Kevin Bresnahan, Mike Maccaro, and Mary Ellen Sowyrda.

Kevin Bresnahan presented a brief background of the law firm and noted each attorney's areas of expertise. Each Committee member asked two questions specific to their assigned topic. The firm works in the areas of, but not limited to, education, special education, Chapter 71, labor relations and collective bargaining, open meeting laws, negotiations, finance, cyber security and student privacy, Title IX and Civil Rights, and litigation. The firm of 30 attorneys prides itself on accountability and responsiveness within 24 hours or sooner. Backup attorneys are available if the primary attorneys are not.

Mr. Bresnahan's and Mr. Maccaro's practice encompasses general education, and Ms. Sowyrda specializes in Special Education and has done so for about 30 years. Mr. Bresnahan and Ms. Sowyrda are firm partners, while Mr. Maccaro is about to become a partner. The firm represents about 70 school districts, including regional schools for general education counsel, and 125 for special education counsel.

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The attorneys answered two questions from each School Committee member in the areas to which they were assigned as noted above in these minutes. Ms. Sowyrda described the process she undertakes when preparing for a special education hearing. In some instances, Ms. Sowyrda calls on the Bureau of Special Education Appeals for assistance.

Mr. Bresnahan addressed the issues regarding Open Meeting Laws. Mr. Maccaro referred to the client alerts that the firm provides to its municipalities, including notification of MHTL trainings regarding the Open Meeting Law. Mr. Bresnahan noted that Wayland's recent COLAs are consistent with other municipalities, and Mr. Maccaro described a settlement that he just completed in another municipality that included the development of a new pay scale.

The attorneys addressed legal issues surrounding cyber security and student privacy in terms of illegal access to student information. In terms of Title IX and Civil Rights, Ms. Sowyrda commented that 504 issues are very common in school districts and the issue of allowing service dogs in schools has recently surfaced. Finally, the attorneys commented on the School Committee's and Superintendent's options in which to communicate with the public. Communicating through Facebook was not recommended for various reasons.

Ellen left the meeting at 2:10 p.m.

The potential liability of school districts related to bullying was addressed, especially when a district is on notice in certain situations and opts not to take action.

Mr. Bresnahan commented that given Gini Tate's experience and relationship with the Wayland Public Schools, there is a great deal of institutional knowledge throughout the law firm, including having access to Attorney Tate if necessary.

Stoneman, Chandler & Miller – Kay Hodge and Andrea Bell. A third attorney, Colby Brunt, was not present. Ms. Hodge and Ms. Bell gave a brief background of the law firm which has been in existence for almost 70 years. The firm has 14 attorneys who all work collaboratively in employment and labor laws, school law, and special education. The firm offers seminars in all different areas of its practice. Ms. Bell works specifically with school districts as the primary attorney and Colby Brunt is the secondary attorney for labor and employment and special education.

Ms. Bell commented on the processes she undertakes regarding special education cases. She elaborated on performing a thorough SPED case review in most instances and in preparation for a possible hearing. Ms. Bell referred to a most recent case in Littleton that did result in a difficult hearing. However, she tries to settle cases before they reach the hearing stage.

Ms. Bell responded to the matter of Open Meeting Law complaints and public records laws. She advocated for the Attorney General's office to be more proactive rather than reactive after a complaint is filed, as she understands the complexity of the open meeting laws. Ms. Bell recommended conservatism on the part of the School Committee when drafting agendas and explained the recent changes in the laws. She would be available to assist the Committee in advance of posting a meeting agenda to avoid future problems.

In terms of responsiveness by the attorneys, there is a 24-hour rule in place. However, the parameters would be dictated by the School Committee. If the lead attorneys are not experienced in certain areas or just not available, other attorneys within the firm will be referred. Ms. Bell noted that the attorneys combine resources and collaborate when necessary.

Ellen returned to the meeting at 2:52 p.m.

Also discussed were municipal finance, student records and public records requests, Title IX and Civil Rights issues, negotiations and contract language, open meeting law complaints related to agendas, communication and public transparency, and Chapter 51A training for teachers. Ms. Bell addressed the issues of student privacy related to student computers and outside vendors. Ms. Hodge offered her advice in terms of how to set up student information systems and to consider the components involved, including integrating teacher and student data, as data must be easily accessible and easily recoverable.

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The attorneys addressed disabilities issues and civil rights in terms of racial diversity and the climate that is present in and out of the classroom. They also recommended ways in which the School Committee can create a plan in which to communicate to the public.

Ms. Bell and Ms. Hodge commented on Wayland's COLAs and negotiations in general in comparison to their experience in other districts. Among others, the evaluation process and RIF language are important issues when negotiating with the teachers. In response to bullying prevention and intervention, including Chapter 51A laws, Ms. Bell commented on the importance of teacher training, teacher obligations, and a clear and open communication with the appropriate parties and the Department of Children and Families.

5. **Discussion regarding Interviews and Define Next Steps in the Process (continued):**

Paul described the process of identifying pros and cons of each firm without making comparisons. He added that references and relationships with other districts should weigh heavily on the Committee's decision. Each Committee member took a few moments to reflect on her first impressions and to write down the pros and cons for each firm.

Murphy, Hesse, Toomey & Lehane

PROS: institutional knowledge; experience regarding collective bargaining and creativity in settlements; size of firm; easy accessibility to other attorneys; professionalism; a strong approach to SPED review processes and the connection to the Bureau of Special Education Appeals (BSEA); the approachable demeanor and personality of two of the attorneys; and focused on efficiencies and consideration to the budget.

CONS: focus on responsiveness during reference checks; did not know Wayland as well as expected; a lack of information given and answered questions lightly; need more information on the financial layer of the firm and the role of the lead attorney; given the 15-year history, would the attorneys be creative; no knowledge regarding student data privacy; and lack of thorough answers to financial questions, particularly regarding the financial work that Jim Toomey conducted;

Stoneman, Chandler & Miller

PROS: knew a lot about Wayland; attorneys' personalities; knowledge and strength in negotiations; attorneys' educational background; offered solutions for reviewing meeting agendas prior to posting; their perspective on teacher training; direct and knowledgeable answers regarding student privacy, School Committee communications and technology, Title IX and Civil Rights issues; have a good strategy related to the Open Meeting Law; and possess good listening skills and a lot of passion for their work.

CONS: size of firm; lack of knowledge in working with vendors surrounding student privacy issues; lack of information regarding municipal finance laws; focus on responsiveness during reference checks; disagreed with their approach regarding negotiations; and a question regarding their area of expertise in special education.

The Committee discussed the process of making reference checks and the timeline of choosing a firm. The Committee will meet on August 3rd to continue its discussion regarding these two law firms.

6. **Adjournment:**

Upon a motion duly made by Barb Fletcher, seconded by Ellen Grieco, the School Committee voted unanimously (5-0) to adjourn at 4:04 p.m.

Respectfully submitted,

Paul Stein, Clerk
Wayland School Committee

Observers:
Eric Swanke, Wayland
John Senchyshyn, Assistant Town Administrator & HR Director

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Corresponding Documentation:

1. Agenda & Backup Information
2. Questions regarding Negotiations