

Joint Meeting of the Union 26 and Amherst-Pelham Regional School Committees
Tuesday, August 26, 2014
Library, Amherst Regional High School

IN ATTENDANCE:

Trevor Baptiste, Chair (Region & Union 26)
Lawrence O'Brien (Region & Union 26)
Rick Hood (Region & Union 26)
Sarah Dolven (Region)
Katherine Appy (Region & Union 26)
Stephen Sullivan (Region)
Dan Robb (Region)
Darius Modestow (Union 26)
Tara Luce (Union 26)

Maria Geryk, Superintendent
Mike Morris, Assistant Superintendent
Kathryn Mazur, Human Resources Director
Sean Mangano, Assistant Finance Director
Debbie Westmoreland, Recorder

ABSENT:

Amilcar Shabazz (Region)
Kathleen Traphagen (Region)

1. Call to Order and Agenda Review

7:03 p.m.

Mr. Baptiste called the meeting to order at 7:03 p.m. He reviewed the new process for accepting public comment, which includes asking the public to complete a form indicating the topic on which they wish to speak. Mr. Baptiste noted that the Chair will call on people to speak at the beginning of the meeting, and will also invite public comment after each agenda item. He then reviewed the agenda, noting that he will be changing the order of the agenda items. Mr. Modestow moved to call the Union 26 meeting to order at 7:06 p.m. Ms. Luce seconded and the motion was unanimously approved. Mr. O'Brien asked for clarification off the new public comment process described by Mr. Baptiste, and Ms. Appy requested a discussion since it is different from the process outlined in policy. Mr. Baptiste noted that he took the plan for public comment from his understanding of the discussion at the School Committee retreat. Discussion followed regarding the process and having the Policy Subcommittee review the policy regarding public comment.

2. Public Comment

7:16 p.m.

Max Page, parent and alum, thanked the School Committee, staff, and teachers for all the work they do. He noted that we should take pride in having a community that engages in hard conversations, and encouraged the School Committee to put aside personal issues and focus on the Equity Plan put in place by the Superintendent.

3. Open Meeting Violation Complaint

7:18 p.m.

DOCUMENTS: Open Meeting Law Complaint dated August 12, 2014; Letter from Trevor Baptiste to Tom Flittie Dated August 13, 2014

Mr. Baptiste read an Open Meeting Law complaint that was filed by community member Tom Flittie regarding the meeting called by Mr. Baptiste on July 14, 2014. He then distributed a letter he prepared as a response for the Committee's consideration and moved that the School Committee adopt it as their response. Mr. Baptiste read the letter aloud and discussion followed. During discussion, Mr. O'Brien read a memo from the Town of Amherst's legal counsel, Koppelman and Page, which states that district policy only allows for the Chair to post meetings. Mr. Hood suggested adding an addendum to the letter including the attorney's memo and the district's policy. After further discussion, Mr. Hood moved to amend the motion to include the Koppelman and Page memo and district Policy DBD in the Open Meeting Law complaint response as attachments. Ms. Dolven seconded and the motion was approved unanimously. Mr. Baptiste then moved to include the minutes of the July 14, 2014 meeting to the response package. After discussion, there was no second to the motion. Ms. Appy noted that she will not vote to approve this response, because it does not include a statement that the minutes of July 14 will be voided. She stated that the meeting was an illegal meeting. Mr. O'Brien agreed, noting that he believes the meeting violated policy. Mr. Baptiste stated that he has not broken any policy because the Chair was not able to call a meeting that the democratically-elected body asked him to call. He noted that the district has policies which prevent the School Committee from being bound by any action of an individual member. Mr. O'Brien stated that he was not unable to post the meeting, but was unwilling to post it due to fiduciary and ethical reasons. After

further discussion, a vote was then taken on the amended original motion, which was approved with five in favor and Mr. O'Brien and Ms. Appy opposed.

4. Appoint Union 26 School Committee Chair 7:56 p.m.

Ms. Appy nominated Darius Modestow to serve as Chair of the Union 26 School Committee. Mr. Hood seconded and the motion was unanimously approved.

5. Vote on Finance Director 7:58 p.m.

DOCUMENTS: Memo to the Regional School Committee and Union 26 School Committee from Kathryn Mazur, HR Director regarding Director of Finance

Mr. Baptiste noted that the Superintendent conducted a national search, interviewing eight candidates for the Finance Director position. He reviewed the responsibilities of the position. On behalf of the Regional and Union 26 School Committees, Mr. O'Brien moved to appoint Sean Mangano as Finance Director for the Amherst, Pelham and Amherst-Pelham Regional School Districts. Ms. Appy seconded and the motion was unanimously approved. Ms. Geryk congratulated Mr. Mangano and noted that the district is very fortunate to have him in the role.

6. Policies for First Reading: Fingerprinting Policy & Service Animals Policy 8:05 p.m.

DOCUMENTS: Service Animals in the Schools—First Reading Draft; Fingerprinting

A. Service Animals Policy: Mr. Robb asked for clarification at the second reading of why only dogs and miniature horses are included as possible service animals. Ms. Dolven asked for clarification of why the words "required" and "individually trained" are in quotation marks. Ms. Luce asked that the policy address whether service animals have to be independently certified. Mr. Sullivan expressed concern about whether the 10-day notification requirement will prevent students who need a service animal outside of the school day or visitors to the school from bringing a service animal to after-school events. The questions will be researched by the Policy Subcommittee prior to the second reading and vote.

B. Fingerprinting Policy: Mr. O'Brien asked if the cost to employees associated with the fingerprinting requirement has been negotiated with the employee unions. Ms. Mazur confirmed that it has. Ms. Luce noted that she wants to be mindful that these costs can represent a hardship to some of the employee units that make a lower salary. Mr. Baptiste agreed, noting that the Policy Subcommittee discussed that very issue and the policy is only being put in place because it is a state requirement. There were no suggestions for changes to the policy prior to the second reading.

7. Accept Gifts 8:20 p.m.

DOCUMENTS: Memo to the Amherst-Pelham Regional School Committee from Mary Wallace, District Treasurer, dated August 20, 2014

Mr. O'Brien moved to accept \$500 from the Class of 2014 for a scholarship donation for the class of 2015; \$5,000 from AEF for the Mr. Hood seconded and the motion was unanimously approved.

8. Adjournment 8:22 p.m.

Mr. Baptiste noted that the Regional School Committee will adjourn to Executive Session per MGL Chapter 30A, Section 21 (2) to conduct contract negotiations with nonunion personnel (Superintendent, Assistant Superintendent and Finance Director) with no intention to return to open session. The Regional School Committee agreed to adjourn to Executive Session by unanimous roll call vote.

Mr. Modestow noted that the Union 26 School Committee will adjourn to Executive Session per MGL Chapter 30A, Section 21 (2) to conduct contract negotiations with nonunion personnel (Superintendent, Assistant Superintendent and Finance Director) with no intention to return to open session. The Union 26 School Committee agreed to adjourn to Executive Session by unanimous roll call vote.

Respectfully Submitted,

Debbie Westmoreland, Recorder

AMHERST-PELHAM *Regional* SCHOOL DISTRICT

AMHERST, MASSACHUSETTS

Amherst-Pelham Regional School Committee
170 Chestnut Street
Amherst, MA 01002

(413) 362-1823
(413) 549-6108 fax

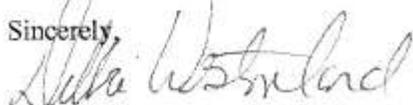
August 27, 2014

Thomas Flittie
49 Ridgecrest Road
Amherst, MA 01002

Dear Mr. Flittie:

Attached is the Amherst-Pelham Regional School Committee's response to your Open Meeting Law Complaint received on August 12, 2014. In addition to the letter of response, please find enclosed a letter from Kopelman and Paige, P.C. dated July 11, 2014 and a copy of School Committee Policy BDB—School Committees: Officers and Duties, which the Committee encloses as background materials.

Sincerely,



Debbie Westmoreland, Secretary
Amherst-Pelham Regional School Committee

cc: Office of the Attorney General

August 13 2014

Dear Mr. Flittie

Your civic engagement is welcome, as is the opportunity to clear any misunderstandings you have about the Amherst-Pelham Regional School Committee's July 14 2014 special meeting.

As you are aware, the purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

Ironically, the task before the committee was to discuss whether it was appropriate for the Chairs to take action for the School Committee based on legal advice we had not seen or deliberations we were not a part of. As such my intention was never to meet privately or in secret. Quite the contrary, notice of the intended meeting was broadcasted far and wide. We announced the meeting with the clerks of each town, publicized the meeting in several local news outlets as per law 940CMR-29.03 sec2(b)c, and video recorded the meeting. It can be seen on local access television or on the internet at this address.

<http://www.amherstmedia.org/content/amherst-pelham-regional-school-committee>

We are elected officials and by law we cannot meet and discuss anything that could be considered deliberations unless we invite the public and announce our agenda.

Speaking directly to your complaint about section 20 subsection c, I did post the meeting in all four towns. It was posted at my request as Open Meeting law requires in Amherst and an email from the chair to the clerks (15 min later) stated it was posted in error and asked them to cancel it. The clerk of Amherst was on vacation and the assistant clerk deferred to the town lawyer who interpreted our policies to mean that only the chair can call a meeting. This was subsequent to it already being posted so it meets the letter of the law as far as my obligation. I hold fast to the ideal that neither the chairs objection to our meeting nor any policy trump the committees constitutionally protected right to free assembly.

Here is an email from one of the town clerks to the chair and the vice chair of the School committee, It reads as follows

"Hi Lawrence and Trevor,

I have just spoken with Jonathan Squazik(sp?) Assistant Attorney General from the Office of Open Meeting. Jonathan informs me that the open meeting law is silent on who has authority to post meetings. Jonathan also stated that it is illegal for members of a committee to meet without posting.

To my question of what I should do as town clerk, he agreed with me that I have no authority to refuse to post a meeting. Therefore, I will post a meeting if I am sent an agenda and it will be up to the members of the Committee to work out amongst themselves whether or not to attend/participate in the meeting.

Sincerely,

Leslie Bracebridge
Shutesbury Town Clerk"

In short, because I did not act with deliberate ignorance of the law's requirements, and I did make a good faith attempt at compliance with the law, this is not an intentional violation of the law.

I hope the information you have been provided meets your standard for transparency.

Respectfully
In humble service to all our communities

Trevor A. Baptiste Ph.D.
Chair Amherst Pelham Regional School District



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

July 11, 2014

Joel B. Bard
jbard@k-plaw.com

Mr. John P. Musante
Town Manager
Amherst Town Hall
4 Boltwood Avenue
Amherst, MA 01002

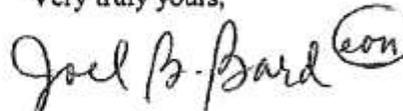
Re: Authority to Schedule a Meeting

Dear Mr. Musante:

You have requested an opinion as to who may schedule a meeting of a governmental body. Specifically, I was asked this question on Wednesday with respect to the Amherst-Pelham Regional School Committee and a request to schedule a "special" meeting, i.e., a meeting not on the committee's regular schedule of meetings. I responded that, in the absence of a specific rule or bylaw to the contrary, it is my opinion that the chair of the committee has the authority to schedule a meeting. The primary basis for my opinion is that the Open Meeting Law, in the section requiring posting of meetings, G.L. c.30A, s. 20(b), states, "Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting." (emphasis added). This language reflects the general practice that a committee's chair is charged with calling meetings not already scheduled.

I have since had the opportunity to review the School Committee's policies. I note that Policy BDB, Officers and Duties, includes a section captioned "Duties of the Chair". The Chair's duties include item 7, which states, "Call special meetings of the Committee as necessary." In my opinion, this specifically establishes this rule for the School Committee.

Very truly yours,


Joel B. Bard

JBB/eon
501990/AMHR/0001

SCHOOL COMMITTEES: OFFICERS AND DUTIES

The Chair, Vice-Chair and Secretary will be selected at the next regular School Committee meeting following the annual town election. In the case of the Regional School Committee, the Chair, Vice-Chair and Secretary will be selected at the next regular School Committee meeting following the latest annual town election of the member towns of the Region and including up to ten additional days after that annual town election for the town's School Committee to select its Regional School Committee member or members. In the event both the Chair and Vice-Chair have ended their terms of office before this selection has taken place, the Committee will elect a Chair to serve for the remainder of the term.

Duties of the Chair

The Chair of the School Committee must be a member of the Committee and will have the same powers as any other member of the Committee to vote upon all measures coming before them, to offer resolutions and to discuss questions. He/she will perform those duties that are consistent with his/her office and those required by law, state regulations, and the Committee. In carrying out these responsibilities, the Chair of each School Committee will:

1. Sign the instruments, acts, and orders necessary to carry out state requirements and the will of the Committee.
2. Consult with the Superintendent in the planning of the Committee's agendas.
3. Confer with the Superintendent on crucial matters that may occur between Committee meetings.
4. Establish subcommittees, subject to Committee approval, and appoint the subcommittee members and chair.
5. Call special meetings of the Committee as necessary.
6. Be public spokesperson for the Committee at all times except as this responsibility is specifically delegated to others.
7. Be responsible for the orderly conduct of all Committee meetings.

As presiding officer at all meetings of the Committee, the Chair will:

1. Call the meeting to order at the appointed time.
2. Announce the business to come before the Committee in its proper order.
3. Enforce the Committee's policies relating to the order of business and the conduct of meetings.
4. Recognize persons who desire to speak, and protect the speaker who has the floor from disturbance or interference.
5. Explain what the effect of a motion would be if this is not clear to members.
6. Restrict discussion to the question when a motion is before the Committee.
7. Answer all parliamentary inquiries.
8. Put motions to a vote, stating definitely and clearly the vote and result thereof.

Duties of the Vice-Chair

The Vice-Chair of the School Committee must be a member of Committee and will be presiding officer of the Committee when the Chair is unable to do so, and perform such other duties as may be delegated or assigned to him/her.

Secretary

The Secretary, who may be a member of the respective Committee or another person elected by the Committee, will keep or cause to be kept an accurate journal of all Committee meetings, will comply with state law and Committee policy regarding notification of meetings and will sign such reports as may be required by the state or the town. If not a member of the School Committee, the Secretary will be responsible to the Superintendent of Schools.

LEGAL REF: MGL 71:36

**Regional School District Agreement for Amherst, Pelham, Leverett, and Shutesbury,
Section IIc**

Region Voted to Approve: 8/12/86 amended 11/25/08
Amherst Voted to Approve: 8/19/86 amended 12/9/08
Pelham Voted to Approve: 8/18/86 amended 12/4/08
Effective Date: 12/9/08