



School Board Services

Carolyn T. Rye, Chair
District 5 - Lynnhaven

Kimberly A. Melnyk, Vice Chair
District 7 – Princess Anne

Beverly M. Anderson
At-Large

Sharon R. Felton
District 6 – Beach

Jennifer S. Franklin
District 2 – Kempsville

Dorothy M. Holtz
At-Large

Laura K. Hughes
At-Large

Victoria C. Manning
At-Large

Jessica L. Owens
District 3 – Rose Hall

Trenace B. Riggs
District 1 – Centerville

Carolyn D. Weems
District 4 - Bayside

Aaron C. Spence, Ed.D., Superintendent

School Board SPECIAL Meeting MINUTES
Thursday, January 20, 2022

School Administration Building #6, Municipal Center
2512 George Mason Drive
P.O. Box 6038
Virginia Beach, VA 23456
(757) 263-1000

1. Call to Order and Roll Call: Chairwoman Rye convened the special meeting of the School Board in the School Board chamber at 6:01 p.m. on the 20th day of January 2022 and announced pursuant to Bylaw 1-46, and Virginia Code § 2.2-3707, at the call of the School Board Chair, on request of the Superintendent of Schools, and with the concurrence of the School Board Chair, the School Board will hold a Special Meeting on Thursday, January 20, 2022 at the School Administration Building #6 at the Municipal Center, 2512 George Mason Drive, Virginia Beach, Virginia at 6:00 p.m. The purpose of this special meeting is:

1. Briefing from staff and legal counsel regarding the January 15, 2022 Executive Order 2 and the implications and actions for the School Board and the School Division
2. Action by the School Board as determined necessary
3. Consultation with legal counsel in closed session

Also, pursuant to the School Board's 2021-2022 Reopening Plan adopted August 10, 2021, and the School Board vote on August 24, 2021 regarding health protocols for School Board meetings, it is determined that physical distancing will be used in School Board Chambers as a health mitigation strategy therefore there will be designated public seating in School Board Chambers during the Special School Board Meeting. Members of the public will also be able to observe the Special School Board Meeting through livestreaming on www.vbschools.com, broadcast on VBTV Channel 47, and on Zoom.

The following School Board members were present in the School Board chamber: Chairwoman Rye, Vice Chair Melnyk, Ms. Anderson, Ms. Felton, Ms. Franklin, Ms. Holtz, Ms. Hughes, Ms. Manning, Ms. Owens, Ms. Riggs, and Ms. Weems.

2. Adoption of the Agenda: Chairwoman Rye mentioned a modification to the agenda in which the agenda numbers were not in sequence; agenda item #3 – Information and Discussion, item #4 – Closed Session – as needed, item #5 – Motions by School Board members to vote on any matters relevant to the Special Meeting, item #6 – Summary of actions to be handled at a later date, and item #7 – Adjournment. Without any further modifications, Chairwoman Rye called for a motion to approve. Ms. Manning made a motion, seconded by Ms. Anderson. Without discussion, Chairwoman Rye called for a vote. The School Board Clerk announced the motion passed unanimously.

3. Information and Discussion: Donald E. Robertson, Ph. D., Chief of Staff presented information to the School Board members regarding the new Executive Order and administrative response and recommendations; reviewed timeline of events: January 15 – Executive Order #2 announced, January 16 – families notified of new Executive Order, January 17- January 20 – leadership team meets daily and consults with VBDPH, January 20 – administration presents to School Board and gives recommendations, January 24 – Executive Order #2 goes into effect; administrative considerations - reviewed three options:

Option A: Make masks optional for students as a result of Executive Order 2 (EO#2)

Option B: Continue to follow SB 1303, VDH and CDC and enforce masking for all students (except those with approved exemptions) inside all school buildings. Join other school divisions in seeking injunctive action against EO#2 through the court system.

Option C: Discussion on how to accommodate EO#2 while also following SB1303 and VBDPH, AAP, and CDC guidance.

The following administrative recommendation was shared with the School Board:

- Continue to adhere to SB 1303 and have universal masking in schools as part of our layered prevention strategy, while also acknowledging EO#2, which allows parents to opt out of this requirement (this means some students will be in school buildings without masks starting Jan. 24).
- All students who ride a school bus must comply with a federal order requiring the wearing of a face covering while on the bus. Those parents who choose not to comply with this will need to transport their child to/from school.
- All staff must continue to wear a face covering when inside school buildings (DOLI).
- All visitors and spectators (including students) to athletic events and after school programming must wear a face covering.
- Student quarantine will return to 10 days and high school students will now be required to quarantine when identified as a close contact.
- Survey families to ascertain interest in VBCPS pursuing an additional virtual option.*
- Work with the state to see how VBCPS can accommodate those families who request this option.
- Continue to monitor legal challenges to EO#2.

*A virtual option will be thoroughly explored but may not be viable without significant support from the state

The presentation continued with questions and discussions; addition to recommendation regarding wearing a mask to the nurse/clinic; notes from parents to teacher regarding mask wearing; parental choice; virtual options; enrollment in Virtual Virginia approximately 1,200 for second semester; burden to teacher with extra paperwork regarding masks – parental choice; changes in quarantine; Dr. Pedati, Virginia Beach Health District Director, mentioned things to consider: policy change in order, current burden, approach, best practices recommendations – vaccinated, boosted, wearing masks, social distancing, staying home if sick; quarantine and close contacts; staff quarantine; impact on staffing - respond accordingly based on situation; administration daily meeting with VBDPH; how many students under age 5 do we serve – will provide numbers to School Board; thanks to administration team for work; recommendation covers all by giving choice – supports student needs a mask for nurse; discussed SB 1303 and Executive Order 2; layered mitigation strategies; protecting the community; masked and unmasked students; KN95 masks; support for administration recommendation of Option C; social distancing; conditions for a classroom going virtual, look at case numbers, health department determines if an outbreak; coding of student absenteeism due to quarantine; using Schoology for gathering documentation; court case before the Supreme Court, injunction, and possible outcome.

Chairwoman Rye mentioned the closed session would be meeting in the Einstein Lab.

4. **Closed Session:** Vice Chair Melnyk made a motion, seconded by Ms. Riggs that the School Board recess into Closed Session in accordance with the exemptions to open meetings law set forth in Code of Virginia §2.2-3711 Part A, Paragraphs 7 and 8, as amended,

A. 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter and

A.8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

Namely to discuss pending or probable litigation matters and receive legal consultation regarding the compliance with the SB1303 and the Governor's Executive Order No. 2 and ramifications.

The motion passed unanimously with all School Board members voting. The closed session began at 7:59 p.m. in the Einstein Lab.

Individuals present for discussion in the order in which matters were discussed:

A.7 and A.8 CONSULTATION WITH LEGAL COUNSEL:

School Board of the City of Virginia Beach
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Virginia Beach, VA 23456

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School Board members: Chairwoman Rye, Vice Chair Melnyk, Ms. Anderson, Ms. Felton, Ms. Franklin, Ms. Holtz, Ms. Hughes, Ms. Manning, Ms. Owens, Ms. Riggs, and Ms. Weems; Superintendent Spence; Dr. Donald Robertson, Chief of Staff; School Board Legal Counsel Kamala H. Lannetti, Deputy City Attorney; Regina M. Toneatto, Clerk of the Board.

The School Board members left the Einstein Lab at 8:22 p.m. and reconvened in the School Board chamber at 8:25 p.m.

Certification of Closed Session: Vice Chair Melnyk read the Certification of Closed Meeting:

WHEREAS, the School Board of the City of Virginia Beach has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 (D) of the Code of Virginia requires a certification by this School Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the School Board of the City of Virginia Beach hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered.

Ms. Anderson made a motion, seconded by Ms. Holtz. The motion passed unanimously with all School Board members voting.

5. **Motions by School Board Members to vote on any matters relevant to the Special Meeting:** Superintendent Spence stated the administration would be asking for a motion to approve the Option C recommendation with the additional mitigation of masks being worn at the nurse's office and also an additional layer where we would request parents who are going to have their children opt out of wearing masks pursuant to Executive Order 2 to make us aware of that and we'll provide the mechanism for doing that over the next day or so and providing K95 masks getting those available as quickly as possible for staff and students who require them; Ms. Weems made a motion to approve the administration's recommendation of C with the amendments stated by Dr. Spence, seconded by Ms. Anderson; Ms. Owens made a substitute motion to include everything in the Superintendent's Option C with the condition that KN95 masks available for our students and staff; Ms. Owens clarified when the Superintendent has reasonable amounts of masks to offer staff and students who would like to use them; Chairwoman Rye called for a second to the substitute motion in order to open up for discussion; Ms. Owens stated again that we would start offering Option C when we have KN95 masks to offer our staff and students who would like to utilize those safer masks; Vice Chair Melnyk seconded the substitute motion to open for discussion and mentioned it could take up to six weeks to get masks; a brief discussion followed regarding the ordering process, quantity being ordered, time factors; after the discussion, Ms. Owens withdrew her substitution motion and Ms. Melnyk concurred.

Chairwoman Rye stated the original motion from Ms. Weems was on the floor for any further discussion. Ms. Weems restated the motion to support the administration's recommendation of accepting Option C with the amendments Dr. Spence added per discussion of the board. Without further discussion, Chairwoman Rye called for a vote. The School Board Clerk announced there were nine (9) ayes in favor of the motion: Chairwoman Rye, Vice Chair Melnyk, Ms. Anderson, Ms. Felton, Ms. Franklin, Ms. Hughes, Ms. Manning, Ms. Riggs, and Ms. Weems. There were two (2) nays opposed to the motion: Ms. Owens and Ms. Holtz. The motion passed 9-2-0.

6. **Summary of actions to be handled at a later date:** none at this time; if needed, will provide an update at the Tuesday board meeting.
7. **Adjournment:** Chairwoman Rye adjourned the meeting at 8:38 p.m.

Respectfully submitted:

Regina M. Toneatto, Clerk of the School Board

Approved:

Carolyn T. Rye, School Board Chair