

Lehigh Area School District

Lehigh, Pennsylvania

Reorganization Meeting of School Board

Resumption

Thursday, December 21, 2017, at 7:00 p.m.

Minutes

Pledge of Allegiance

Call to Order - A resumption of the reorganization meeting of the Lehigh Area School Board was held in the Administration Building, Conference Room A, on the above date and called to order at 7:00 p.m.

Roll Call

	Present	Absent
Mr. Richard R. Beltz, Member	X	☐
Ms. Joy Beers, Member	X	☐
Mr. David F. Bradley, Sr., Member	X	☐
Mr. Stephen L. Holland, Member	X	☐
Mrs. Gail Maholick, Member	X	☐
Mr. Wayne Wentz, Vic President	X	☐
Mr. Andrew Yenser, Treasurer	X	☐
Mr. Larry Stern, President	X	☐
Vacant	☐	☐
Mr. Brian Feick, Business Manager	☐	X
Mr. Jonathan Cleaver, Superintendent	X	☐
Attorney William Schwab, Solicitor	X	☐
Mrs. Melissa Wagner, Recording Secretary	X	☐

Mr. Stern - As of the recess of December 4, we left the meeting with a motion and a second on the floor for a nomination of Duane Eidem to fill the empty seat on the Lehigh Area School Board. Any discussion by the board?

Silence.

Mr. Stern - Ms. Wagner, a roll call vote.

Mr. Bradley - What was the motion?

Mr. Stern – Ms. Wagner?

Mrs. Wagner – Yes, the motion was by Mr. Stern and seconded by Mr. Wentz.

Mr. Bradley – So, it was Mr. Stern and Mr. Wentz?

Mrs. Wagner – Yes.

Mr. Bradley – Thank you.

Mr. Bradley – I think, Larry, as a friend of Duane's, you should strongly consider whether or not you want to put Duane as an interest to be called. If you consider yourself a friend, and therefore like most friends, they're supposed to act in the best interest of the person you're working with. That is provided of course it is not damaging oneself and it will not with reasonable force cause harm to any friend either just as you wouldn't. So, before we go on further, I suggest that you, a friend of Mr. Eidem, withdraw your nomination. Do you have an interest in doing that at all?

Mr. Stern - Actually, I can't withdraw my nomination until the second has been withdrawn.

Mr. Bradley – Okay. Wayne, would you like to withdraw that nomination?

Mr. Wentz – No.

Mr. Bradley – So, before we go on further, I suggested we did that, let's move on. So, for Duane to advance through the primary election, he garnered more votes than Gloria which was respectful and I think it's two (2) very good points. He made it past the primary and he got more votes than anyone else on that ballot. We all agree that that's a valuable effort. But to be fair, we should also review his history as a member of this particular board body and to ignore that history would be negligent. Duane was a member of this board back when an error was made in reference to Frank Tamburri's assessment when Duane made a motion and I quote "motion in lieu of a total refund of overpaid taxes". Here we had a citizen, not unlike yourselves, that had overpaid his taxes. They were levied and he paid them. When it came to light that he overpaid his taxes, Duane Eidem, proudly at the time, with authority, did not make a motion to refund the overpayment, he did not do it. He only made a motion to return some of the money. Frank Tamburri was responsible to hire a lawyer and fight the district and have his overpayment refunded. Duane sat on this board and let the solicitor run up bills at an hourly rate as they fought this citizen in order to retain some of the overpayment. The actions of this man shows that he actually motioned to return merely the portion of that taxpayer's overpayment. As a steward of the stakeholders, he would be considered negligent. Less you think this is an isolated incident, Duane also motioned the abolishment of the driver education program and contract with Carbon Lehigh Intermediate Unit #21 for driver education at a cost not to exceed \$2500. You are going to remove an educational program at a cost to the district. Spending money to remove that educational program is not the idea of this new board. For the protection of the citizens and students of this district, we as a board, in good faith, cannot allow such a man to sit on this board. Let's now look at why this town kicked this guy to the curb and actions as a board member. During his tenure, he never motioned to fix the safety items in the existing schools which is a violation of our policy of school code. That policy says we

are supposed to maintain our schools. Those maintenance items, as listed in the feasibility study, included safety items and he never motioned, many on this board never motioned, under the guidelines of our policy to fix those safety items. He also did not motion for a referendum, where as one was not legally required, there was definitely a town that asked for it. He also raised taxes when we had a surplus. Duane Eidem didn't motion to pay off the existing high-interest debt with the cash we had bearing little interest. We all just witnessed that there was a box on top of that 4 foot by 4 foot cube representing hundred dollar bills stacked 4 feet high, 4 feet wide by 4 feet wide. That's how much debt we're in now and that little box is how much debt we were in prior to the actions of people like Duane Eidem and some of the incumbent board. This man's actions show lack of the most basic financial management skills to serve on a board. This board voted to renovate and we had done what the people wanted. The town voted this man off the board. We need academic excellence and financial savvy members on this board. For a person to motion to only give back some of a taxpayer's overpayment and the motion to spend money to remove educational programs is too much to ask of this town after you've already taxed them to near extinction. I strongly submit my vote of no confidence to Duane Eidem for his demonstrative inability to following Pennsylvania state law school code and our own district policy. I then would like to yield the floor, per Pennsylvania Sunshine Act number 710 to the citizens of this town at your discretion, Mr. Stern.

Mr. Stern – You had your chance and you stated what your issue was with Mr. Eidem. There was no point in that we had discussed to include citizens in the voice of representing or un-representing an individual. At this time, I'd like to call for a vote.

Mr. Bradley – Before you do, let me caution you, that violating Pennsylvania Sunshine Act 65 PA 67, 701 to 716, Section 710.1 in reference to public meetings. Are you going to violate that today?

Mr. Stern – Counsel?

Mr. Bradley – Let's start over, I move that we motion to remove Larry Stern from this board for actions in violation of his oath. Can I get a second on that motion?

Mr. Stern – There's a motion on the floor.

Mr. Bradley - This supersedes that for your violation of not letting people speak.

Mrs. Maholick – I'll second that motion.

Mr. Bradley – Would anyone in the public like to have a statement for that motion because we have a motion and a second on the floor and Larry has not obligated his oath of office to allow the public to speak.

Atty. Schwab – Mr. Bradley, Mr. Stern just asked me for an opinion.

Mr. Bradley - Mr. Stern does not have the right to ask you. If he wants his own personal lawyer, he can hire one. You're the lawyer for the district. For the benefit of the district, either go to executive session and give the advice to the entire board, or, as the district solicitor, you are hired by the district. If you're going to share with the entire board, you can do it here or in executive session.

Atty. Schwab – We can do it right here. When you’re talking about an open meeting under the Sunshine Law, we have to have a time for public participation on the agenda. If this was a new meeting, there would have had to be a time before the meeting to allow the public to speak. We’re not in that. This was recessed by the chair. This is the same meeting from December 4 where the public was afforded an opportunity to talk on the reorganization issue. At the end of this meeting, there should be another time for the public to speak. So, my position reading the 65 consolidated statutes is that this is the same meeting we had December 4 and there was public input at that point. You may disagree with it. You’re free to disagree with it.

Mr. Bradley – I concede you are correct.

Atty. Schwab – Five (5) members of the board are free to disregard my advice, four (4) members, but you need a majority.

Mr. Bradley – I agree that the words you just said are correct. But, they are irrelevant to what I suggested. Let me read to you what the statute says. General rule, public participation 710.1, I check with the state by the way and they gave me the same reading...

Atty. Schwab – First of all, that’s not the statute, that’s a regulation.

Mr. Bradley – Right, and it says, and you can check the statute, that both the taxpayers and the board have to have a right to comment on matters of concern of official action or deliberation which are or may be before the board or council prior to taking action. I concede at the beginning of the meeting, you had a public comment for what was on the agenda when this motion was not listed on that agenda it became a new item and as a new item, prior to it’s execution of government by this board, those people have a right to speak.

Atty. Schwab – You’re right. You’re absolutely right. Because it wasn’t on the agenda, the public has a right and opportunity...

Mr. Bradley – Correct, and as such, that man (Larry) has violated his oath regularly including last meeting, this meeting and without any understanding, we have given him warning after warning. We gave him a reprimand more than ten (10) days ago, and according to my motion and a second that is currently on the floor to remove Larry Stern from this board for actions in violation of his oath. Policy states that he may be removed from office with prior notice, which we gave, an affirmation vote of the majority of the remaining board members, said notice was provided by a letter of reprimand on December 6. Whereas, school policy has been treated in the past as our solicitor has so eloquently said, as a guideline, I would submit that an oath of office, not unlike the oath taken by our service men and many people in this community, is more than a guideline. The community needs persons of character of this board. His ignorance of the law, like his arrogance with the gavel, is not an excuse to violate the rights of the constituents or violate the oath or violate the law set forth by this commonwealth. He took an oath and within an hour of taking an oath, after years of being on this board, this man chose to violate them and that is a gross misconduct. My motion stands, we have a second, I suggest we take the vote, if we are not going to go into executive session, with the remaining school board members and decide whether he gets removed from office. If you’d like to go further, I have a whole list of other violations that this man has done within the district to the people in this community. The community would be best served with the enforcement of state law. Whereas ignorance of this law is not a legal defense and this

avenue has been exhausted because these board members were informed of the Sunshine Act upon acceptance of office. This action is about restoring the order to the community and moving forward with lawful proceedings.

Mr. Bradley – Wayne, you're in charge, you can take a vote on that motion.

Mr. Wentz – No, Larry's president.

Mr. Bradley – He has been removed.

Atty. Schwab – No, he hasn't. There has not been a vote of five (5) people to remove him.

Mr. Bradley – I would agree.

Atty. Schwab – You can't do anything with just one person saying remove. You need five (5) votes for that.

Mr. Bradley – Actually, it's the remaining board. So let's take a vote from the remaining board, Bill. Look at the code. Keep paging. You'll find it. I'm here to help you.

Atty. Schwab – Well, then what section of the school code are you referring to because normally we do not, the School District does not have the power to remove a school director.

Mr. Bradley – When they have grossly misused their power, the answer is 100%.

Atty. Schwab – And, the courts have said basically that's when they don't show up for meetings. Unfortunately...

Mr. Bradley – This man, under your supervision, violated state law, multiple state laws, multiple violations that charge a criminal code for such violation.

Atty. Schwab – And, can you, I've asked you before when you made your wild allegations to be specific. Time, date and specific instance, and you've refused to on repeated cases.

Mr. Bradley – Actually, Bill, I offered it to you twice including I offered my consultation services for your benefit.

Atty. Schwab – And practicing law without a license for \$250 an hour for a minimum of four (4) hours?

Mr. Bradley – Actually, I'm just the consultant, I'm not practicing law, I'm teaching you to read, sir, teaching you to read.

Atty. Schwab – The School Board does not have the power, based on the issues you've said, to remove any other director. You have the right to remove Mr. Stern, by the majority vote of five (5), as president.

Mr. Bradley – Hold on, here you go, ready? If in attendance at any meeting, neglects or refuses to act in his or her official capacity as school director, may be removed from his or her office, with prior notice, on the affirmative vote of the majority of the remaining members of the board.

Atty. Schwab - And that law...

Mr. Bradley - If the person elected or appointed have been notified, they shall refuse to elect to qualify for such director. So, with his violation, he no longer act as that school board member because this group of nine (9) people, eight (8) now, seven (7) because of his actions is left.

Atty. Schwab - You have my ruling. You don't have the authority. That section of the school code has been neglect has been interpreted meaning two (2) board meetings.

Mr. Bradley - I'm interpreting it as neglect of oath of office and as you have said before, the policy is a function of the people within the meeting and a majority or quorum in such that we have. We have a quorum of seven (7) people. Those seven (7) people can take a vote, whether this man has violated his oath of office, should still have a seat.

Atty. Schwab – You don't have the right to take the right to vote from Mr. Stern away.

Mr. Bradley – Why? He violated his oath, he took it away. I didn't take it away.

Atty. Schwab – He may want to abstain, but you can't make the decision unilaterally without the entire board. If you have five (5) votes and Mr. Stern abstains, no problem. But, you can't disenfranchise him on your say so.

Mr. Bradley – I didn't say it on my say so. I made a motion, we have a second and according to school policy and code and Pennsylvania state law, when he violated his oath, he no longer was a school board member.

Atty. Schwab – You're making a conclusion before...

Mr. Bradley – You said he violated the law as well.

Atty. Schwab – No I didn't.

Mr. Bradley – Yes you did. You said we have to have this opportunity to speak.

Atty. Schwab – Yes, and...

Mr. Bradley – On December 4, hold on (*directed toward Atty. Schwab*), and on December 4, relax (*directed toward Atty. Schwab*) on December 4, when we had a motion for Richard Beltz...

Mr. Stern – We can vote.

Mr. Bradley – You cannot vote. I'll protest it. On December 4...

Atty. Schwab – You can protest but my opinion...

Mr. Bradley – Your right, it's your opinion. On December 4, Mr. Stern violated section 710 of the Sunshine violation when he refused to let the public speak prior to taking a vote of action for Richard Beltz.

Mr. Stern – If I recall, we let Mr. Beltz speak and we let his representation speak.

Mr. Bradley – I would agree you let two (2) people speak.

Atty. Schwab – You left Mr. Hauser speak too. Mr. Hauser spoke at the time.

Mr. Stern – What I don't recall is any other members asking for the permission to speak.

Mr. Bradley – Yet, did you...

Mr. Stern – Ms. Wagner, did anyone else request to speak before recess?

Mrs. Wagner looked through the minutes.

Mr. Bradley – Let's see if we have anyone here who knows of people who wanted to speak. I wanted to speak. Fran Flickinger wanted to speak. That lady wanted to speak. They had their hands raised. You ignored them in violation of Pennsylvania state Sunshine Law.

Atty. Schwab – The court would have to disenfranchise you.

Mr. Stern – Which would you like to go first. One to remove me or the one for Mr. Eidem?

Mr. Bradley – You (Larry) cannot vote and we can have the one to remove you.

Mr. Stern – I have that I can vote.

Atty. Schwab – My opinion is until a court disenfranchises him, he has a right to vote.

Mr. Bradley – Then we should recess until the court can realize what is important because your reading of this law and your reading for this board has been slanted, Mr. Schwab. We have found it to be err. And, once we get Larry off the board and we have a majority, we may change solicitor that not err. For years, years sir, on this violation.

Atty. Schwab – Go to court and have the court do it. Right now, you have two (2) motions on the floor Mr. President. You can take either motion as you wish.

Mr. Stern – Or, we can recess?

Atty. Schwab – Or, you can recess as requested by Mr. Bradley. You can do either one.

Mr. Stern – And, should we not have a resolution to this particular issue prior to January 3?

Atty. Schwab – It's January 4. Then, 10 taxpayers can request to fill the vacancy.

Mr. Stern – Then, at this point, Mr. Bradley, you can pursue and I will call recess. The meeting is recessed. Ms. Wagner, please save Courtesy of the Floor until the resumption of the meeting.

The board recessed at 7:23 p.m. with no date set for resumption of the meeting.

Courtesy of the floor / Public Comment

Adjournment

Next regular scheduled meeting is January 22, 2018, at 7:00 p.m.

A. MOTION by _____, SECONDED by _____ to adjourn the meeting.

VOTE: YES - _____ NO - _____ ABSENT - _____ ABSTENTIONS - _____

Respectfully submitted



Brian Feick
Board Secretary

(Minutes of December 21, 2017, includes Pages 1 through 8.)