

Lehigh Area School District

1000 Union Street
Lehigh, PA 18235
Wednesday, December 8, 2021 at 7:00 PM
SPECIAL BOARD MEETING - MINUTES



1. Opening Exercises

A. Pledge of Allegiance

B. Moment of Silence

C. Call to Order

Board President called the Board Meeting to order at 7:12 PM

D. Announcements

A Board Reorganization Meeting was held on December 6, 2021 at 7:00 PM.

An Executive Session was held on December 6, 2021 at 8:30 PM for personnel and legal discussions.

An Executive Session was held on December 7, 2021 at 8:00 PM for personnel and legal discussions.

An Executive Session was held on December 8, 2021 at 6:00 PM for personnel and legal discussions.

A Special Board Meeting will be held on December 20, 2021 at 7:00 PM for General Business.

The next regularly scheduled Board Meeting will be held on Monday, January 24, 2022.

E. Roll Call

PR/AB

PR	Ms. Joy Beers	PR	Mr. Nathan Foeller	PR	Mrs. April Walker
PR	Mr. Richard R. Beltz	PR	Mr. Jeremy Glaush	PR	Mr. Walter Zlomsowitch
PR	Ms. Barbara Bowes	PR	Mrs. Kerry Sittler		Vacancy

Also Present:

Mr. Edward Rarick, Business Administrator

Mr. Jonathan Cleaver, Superintendent

Attorney Jeffrey Sultanik, Solicitor (via Zoom)

Ms. Janine Partenio, Recording Secretary

Janice Bowman, Brian Shaner, Jamie Zelrick, June Potts, Ryan Bowman, Autumn Abelovsky, Suzanne Howland and Gail Maholick.

F. Purpose of Special Meeting

Request for Meeting regarding General Business

G. Public Comment

J. Bowman congratulated everyone and thanked J. Cleaver, J. Partenio and the Board for the book list she had received today. She invited the Board in January to a meeting discussing grants and mentioned how the \$14,000 given per child is only about \$1,000. She said she wanted to speak with the governors and will send a paper with the schedule to the Board. She hoped the Board would consider a student representative from the High School to give updates. She discussed the COVID grant and mentioned how people were dying from the vaccines. She was concerned about the vaccines being given in the schools and the District being responsible for any injuries. She asked about surety bonds and if anyone else in the District has the bonds besides the Board Members. E. Rarick said the back-up secretary, Rebecca Karpowicz and the notaries. J. Beers asked if the nurses have bonds. E. Rarick said they do not. He mentioned that they have insurance. J. Bowman asked to check the 1, 2, 3, 4 tier in mental health. She said the surveys ask suggestive questions which lead the school to take control of the child. She asked the Board to look into this before approving clinics.

B. Shaner discussed the resignations and retirements and asked if there was any discussion to encourage them to stay and asked if it was common to resign mid-year. J. Cleaver said it was common due to movement and negotiations were limited due contracts. He said exit interviews were being performed.

J. Zelrick welcomed the Board. He questioned the legalese of item Q and why the relationship would be terminated. Atty. Sultanik explained that the process was due to a contract extension in lieu of a new contract. He mentioned that it runs counter to written guidelines. He said subsequent contracts were not in accordance with school code and PDE requirements. He explained the specifics of the term elections and contract renewals versus MOU extensions. He stated that the contract was extended for 12 years, which was impossible under law, and the contract did not comply and was legally void. He felt they could not legally pay the salary and benefits for the contract of a non-employee. J. Zelrick did not feel it was right and that it reeked of vendetta and revenge. He felt they should issue a new contract. He believed terminating someone's livelihood was not moral and to do it in the middle of the school year was wrong. He hoped this would be a year of morality, transparency and accountability.

J. Potts was concerned about the library issues discussed at the public comment portion of the meetings. She read an article published from Meg Medina who was an author and school Volunteer stating the dangers of removing books from libraries.

R. Bowman discussed the retirements. He felt the District should incentivize employees to retain them. He felt it was a huge loss to the District. He mentioned how the issue with Mr. Cleaver was ongoing and believed there was accountability on both ends. He felt it was unfair to terminate leadership because of the ignorance of others.

2. General Business

A. American Rescue Plan Elementary and Secondary Schools Emergency Relief Fund – Homeless Children and Youth (ARP-HCY II) Allocation

MOTION by W. Zlomsowitch, SECONDED by J. Glaush, to accept the American Rescue Plan Elementary and Secondary Schools Emergency Relief Fund grant as an individual allocation of \$16,933 from PDE for the purposes of identifying homeless children and youth, providing wraparound services in light of the impact of the COVID-19 pandemic, and providing assistance needed to enable homeless children and youth to attend school and participate fully in school activities, including in-person instruction, out of school time and summer learning, and enrichment programs.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

B. Transfers

MOTION by B. Bowes, SECONDED by K. Sittler, to make the following transfers from the General Fund to the Food Service Fund as per the Reimbursements from the Commonwealth:

\$3,712.56 for August 2021; \$207.76 for September 2021; \$142,868.71 for October 2021.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

C. Per Capita/Occupational Tax Exemptions

MOTION by W. Zlomsowitch, SECONDED by N. Foeller, to approve the attached exemptions from Per Capita and/or Occupational Tax.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

D. Tax Refunds

MOTION by J. Glaush, SECONDED by K. Sittler, to refund the following:

1. Occupational Tax for 2020 in the amount of \$250.00 to Robert Newman.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

E. Ohiopyle Royalty Agreement

MOTION by B. Bowes, SECONDED by N. Foeller, to approve the Royalty Agreement for Ohiopyle Prints, Inc and the Lehigh Area School District, for the 2021-2022 school year. At no cost to the District.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

F. PJM Capacity Market Demand Response Program

Presentation given by Business Administrator, Edward Rarick to participate in the PJM Capacity Market Demand response Program at no cost to the District. He explained that there was no Finance Meeting this month to bring it to, so it was being brought to the Board Meeting. He mentioned that they would only need to commit to one hour to dump power back to PJM. B. Bowes was afraid it may affect Gym floors with humidity or pipes may freeze. E. Rarick recommended running power at 25% when it is not operating hours, so no harm would be caused to the buildings. He stated that PJM could come and give a more in-depth presentation to the Board at a later time. He mentioned how the District would need to be signed up by March for 2022. B. Bowes wished to table until December 20, 2021. The Board agreed. N. Foeller and E. Rarick discussed payment for the tests and how there would be 3-weeks notice for a scheduled event or a 3-hour notice with a natural event. R. Bowman asked if there were set rates or if it was negotiable. E. Rarick said the rates were set through the Borough.

VOTE TO TABLE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

G. Act 80 Proposal

MOTION by N. Foeller, SECONDED by B. Bowes, to accept the Act 80 proposal from BerkOne to include Bundle A and mailing labels at a cost of \$851.80 to the District.

B. Bowes asked E. Rarick to explain what this item was for. E. Rarick explained that last year 1600 individuals with Act 80 and forms went out to other districts or students at college. He said this would be for BerkOne to research and mail to those individuals. B. Bowes asked if it was for per capita. E. Rarick said yes.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

H. Reports

MOTION by N. Foeller, SECONDED by B. Bowes, to approve the following Reports:

December 2021

1. Condensed Board Summary
2. Expenditure Report
3. Revenue Report

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

I. Payment of Bills

MOTION by B. Bowes, SECONDED by A. Walker, to approve the following Payment of Bills:

December 2021:

General Fund:

--Non-Negotiables	\$ 10,981.86
--Regular Checks	\$1,104,026.80
--Manual Checks/Void	\$ 0.00
--Credit Card	\$ 0.00
Payroll (November):	\$1,194,659.57

Total: \$2,309,668.23

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

J. Use of School Property

MOTION by W. Zlomsowitch, SECONDED by K. Sittler, to approve Use of School Property for the following requests:

1. **Middle School Art (Rachel Watts)** - December 16, 2021 - 3:45-7:45 PM - Middle School Lobby/Foyer - Art Club Fundraising Sale
2. **LAEC PTO (Nicole Dick/Lindsay Hittner)** - December 9, 13, 16, 20 - 6:00-8:00 PM -Elementary Center PTO Room - Race for Brilliance Accounting.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

K. Candidates for Athletic Coaching/Manager or Extracurricular Activities

MOTION by B. Bowes, SECONDED by K. Sittler, to approve the following requests for Athletic Coaching/Manager and Extracurricular Activities Candidates, as per contracted rates, pending any necessary paperwork:

Volunteer Wrestling - **Brandon Brownmiller**

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

L. Pre-Approval of Courses/Programs of Study

MOTION by N. Foeller, SECONDED by K. Sottler, to approve the following requests for pre-approval of courses/Programs of Study for continuing education:

- Employee #1434** - January 10-February 27, 2022/Tech to Support All Learners (\$1,566.00) 2.
Employee #1434 - February 28 - April 17, 2022/Tech to Support Curriculum & Instruction (\$1,566.00) 3.
Employee #1434 - January 10 - February 27, 2022/Computer Assisted Language Learn(\$1,566.00) 4.
Employee #459 - January 4 - May 23, 2022/Letter of Eligibility - Communication Theory (\$1,566.00)

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

M. Acknowledgment of FMLA Leave

MOTION by B. Bowes, SECONDED by J. Glaush, to acknowledge FMLA leave for the following employees, not to exceed 12 weeks:

1. **Employee #1102** - effective February 16 - May 18, 2022

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

N. Uncompensated Leave

MOTION by B. Bowes, SECONDED by K. Sittler, to approve an uncompensated leave for the following employees:

1. Employee #1102 - Effective May 16 - June 2, 2022.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

O. Resignation for Retirement

MOTION by J. Glaush, SECONDED by N. Foeller, to approve the resignation for retirement for the following employees:

Kim Mychalyszyn-Simko - High School Teacher - effective June 10, 2022, after 35 years of service to the District.

Janice Scherer - Middle School Teacher - effective June 10, 2022, after 32 years of service to the District.

Cynthia Smith - Middle School Teacher - effective June 10, 2022, after 19 years of service to the District.

J. Cleaver thanked the retirees for their dedication to teaching a quality education and discussed all their years of service that the students benefited from. W. Zlomsowitch asked to see if they would be willing to stay. J. Cleaver said they needed to put their notice in by December in order to keep their benefits.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

P. Resignations

MOTION by B. Bowes, SECONDED by W. Zlomsowitch, to approve the resignations for the following employees:

Angela Gogno - Middle School Teacher effective January 28, 2022.

Rachel Watts - Middle School Teacher effective February 4, 2022

Michele Flexer - Part-Time Cleaner effective December 3, 2021

B. Bowes said she was sorry to see them go. W. Zlomsowitch asked if there was anything that could be done to keep them. J. Cleaver said no, it was all contractual.

VOTE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

Q. Termination of Compensation and Benefits for Superintendent

MOTION by B. Bowes, SECONDED by J. Glaush, to approve the resolution to terminate compensation and benefits for Superintendent Jonathan J. Cleaver effective December 9, 2021, and to authorize the solicitor to take any and all actions to protect the Lehigh Area School District as the result of having void employment contracts and appointments for Superintendent Jonathan J. Cleaver

E. Rarick mentioned that it did not make sense that they were terminating the compensation and benefits and not terminating employment. He asked if J. Cleaver was allowed to still access everything in the District. Atty. Sultanik said they were unable to terminate a position that was void under the circumstances. He said the contractual obligations were void and J. Cleaver should not have access to anything in the District. He said they should work out a cessation of the situation amicably since he was not suggesting J. Cleaver had done anything criminal and should not be treated as such. E. Rarick stated that he was not in favor of this decision. He mentioned that he would have to verify the resolution as the Board secretary and he did not have the ability to vote. He felt it had no benefit to the District and would cost the District a considerable amount of money. N. Foeller said it was a shame of a way to treat someone after 12 years of service to the District. He felt it set a poor precedent and gave a poor representation to the staff. He asked where it would leave the administration without a Superintendent. J. Beers said there was a plan but it had not been appropriate to discuss without the resolution passed first. Atty. Sultanik stated the Board would be addressing a transition process at the December 20, 2021 Special Board Meeting with formal action. He said in the meantime, it would be no different than if J. Cleaver was out with illness or on vacation. N. Foeller asked if there was a plan in place but it was not shared with the Board yet. Atty. Sultanik mentioned there was a discussion at the Executive Session yesterday in preparation should the resolution be passed.

J. Cleaver thanked everyone for their comments and stated he did wish to continue to serve the District. He felt it was important for the District to move forward with this regardless of what the outcome of the vote would be. He asked who the commissioned officer would be to sign District documents until someone would be seated on December 20, 2022. Atty. Sultanik mentioned S. Howland could sign documents as the current Assistant Superintendent. J. Cleaver said S. Howland was not working in the capacity of Assistant Superintendent. B. Bowes said T. Tkach could handle it. J. Cleaver explained that he is not commissioned. Atty. Sultanik mentioned that S. Howland was currently titled as Assistant Superintendent and they were addressing that issue. J. Cleaver asked if the position was not terminated and never existed, who would go back and sign the documents since 2012. Atty. Sultanik said J. Cleaver was legally appointed in 2012 and it was the extensions that changed that. He said he cannot change history and it is what it is with the Superintendent acting beyond the scope. J. Cleaver asked if it was correct that the Pennsylvania Department of Education had approved it and commissioned him for all the years he had been in the District. Atty. Sultanik said he had been commissioned but it was based on inappropriate information contained in the PDE-5529 form. He said he spoke with PDE and they understood the position he was taking and if the contract was voided they would take the commission backwards. J. Cleaver asked who he spoke to at PDE. Atty. Sultanik said it was multiple people and he would rather not share that information publicly.

J. Beers asked to move on to the roll call vote. R. Bowman asked if there could be public comment on this item. J. Beers said there was an opportunity to speak in the beginning of the Meeting. B. Shaner asked how many hours Fox Rothschild was paid for this. B. Bowes asked to vote. J. Beers asked for a roll call vote.

Roll Call Vote:

	Yes	No	Absent	Abstention
Ms. Barbara Bowes, Treasurer	X	0	0	0
Mr. Nathan Foeller, Member	0	X	0	0
Mr. Jeremy Glaush, Member	X	0	0	0
Mrs. Kerry Sittler, Member	X	0	0	0
Ms. April Walker, Member	X	0	0	0
Mr. Walter Zlomsowitch, Member	X	0	0	0
Mr. Richard R. Beltz, Vice President	X	0	0	0
Ms. Joy Beers, President	X	0	0	0

VOTE: YES - 7 NO - 1 ABSENT - 0 ABSTENTIONS - 0

R. Board Vacancy

MOTION by W. Zlomsowitch, SECONDED by J. Glaush, to approve Brian Shaner as a Board Member for the term of December 8, 2021 until the Reorganization Meeting following the municipal election in 2023.

VOTE: YES - 7 NO - 1 ABSENT - 0 ABSTENTIONS - 0

S. Carbon County Area Vocational-Technical School Authority Representative to the Operating Committee

The CCAVTS Authority Representative to the Operating Committee would have a 5-year term of January 2022-December 2026

B. Bowes recommended tabling this item until December 20th. Seconded by J. Glaush. J. Beers explained there were no volunteers coming forward yet. N. Foeller reminded J. Beers that it would not have to be a Board Member. B. Bowes asked J. Hades if he could add this position to the article in the Times News.

VOTE TO TABLE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

T. Carbon Career and Technical Institute Joint Operating Committee Representative Alternate

The CCTI JOC Representative Alternate would have a 1-year term of December 2021-December 2022

W. Zlomsowitch recommended tabling this item until December 20th. Seconded by B. Bowes. N. Foeller said the alternate was Steve Holland, so the position has been vacant since his resignation. He said this position needed to be filled by a Board Member.

VOTE TO TABLE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

U. Carbon Lehigh Intermediate Unit Board of Directors Representative

The CLIU Board of Directors Representative would have a term for a term beginning immediately until June 30, 2022.

J. Glaush recommended tabling this item until December 20th. Seconded by J. Beers. B. Bowes said this position needed to be filled by a Board Member. J. Cleaver stated the meeting would be once a month.

VOTE TO TABLE: YES - 8 NO - 0 ABSENT - 0 ABSTENTIONS - 0

3. Communications

A. Public Comment

S. Howland reminded the Board that the District only has a High School Principal since the Board has not approved her commission as an Assistant Superintendent and the contract was not being recognized. She mentioned that she is not obligated to sign off on anything for PDE.

G. Maholick asked if she could stay on the committee for the Library. B. Bowes said it will be added to the December 20, 2021 Special Board Meeting agenda.

R. Bowman felt there was a different and better way to go through with the removal of the Superintendent. He hoped there was a clear plan with a smooth transition for the administration. He said they were sending a ripple effect to the employees and they need to ensure a smooth transition.

A. Abelovsky felt the need to speak as she did not agree with the decision of the Board regarding the Superintendent. She said this was another Board Meeting where there was no discussion on student education.

B. Shaner mentioned that he appreciated the opportunity to join the Board. He did not feel all positive changes would occur with the new legal firm and the dismissal of the Superintendent. He asked how many billable hours the firm had so far. Atty Sultanik stated that he did not have the itemization at that time. He said it would be a public record and would be acted upon when it is submitted. He said they are issued 2-4 weeks after entry electronically. B. Shaner asked to bring itemized billable hours for the project they were working on for dismissal of the Superintendent.

B. Adjournment

MOTION by B. Bowes, SECONDED by K. Sittler, to adjourn the Meeting.

The December 8, 2021 Special Board Meeting adjourned at 8:35 PM.

Respectfully Submitted,

Edward Rarick, Board Secretary
by Janine Partenio, Recording Secretary