

**MINUTES OF THE PATERSON BOARD OF EDUCATION
BOARD RETREAT**

April 29, 2019 – 5:45 p.m.
Administrative Offices

Presiding: Comm. Nakima Redmon, Vice President
 *Comm. Oshin Castillo, President

Present:
Ms. Eileen F. Shafer, Superintendent of Schools
Ms. Susana Peron, Deputy Superintendent
Robert Murray, Esq., General Counsel

Comm. Emanuel Capers	*Comm. Joel Ramirez
Comm. Jonathan Hodges	Comm. Robinson Rondon
*Comm. Manuel Martinez	Comm. Kenneth Simmons
*Comm. Eddy Olivares	

The Salute to the Flag was led by Comm. Redmon.

Comm. Capers read the Open Public Meetings Act:

The New Jersey Open Public Meetings Act was enacted to insure the right of the public to have advance notice of, and to attend the meetings of the Paterson Public School District, as well as other public bodies at which any business affecting the interest of the public is discussed or acted upon.

In accordance with the provisions of this law, the Paterson Public School District has caused notice of this meeting:

**Board Retreat/Training
April 29, 2019 at 5:30 p.m.
Administrative Offices
90 Delaware Avenue
Paterson, New Jersey**

to be published by having the date, time and place posted in the office of the City Clerk of the City of Paterson, at the entrance of the Paterson Public School offices, on the district's website, and by sending notice of the meeting to the Arab Voice, El Diario, the Italian Voice, the North Jersey Herald & News, and The Record.

PUBLIC COMMENTS

It was moved by Comm. Simmons, seconded by Comm. Capers that the Public Comments portion of the meeting be opened. On roll call all members voted in the affirmative, except Comm. Hodges who voted no. The motion carried.

No speakers.

*Comm. Olivares enters the meeting at 5:47 p.m.

It was moved by Comm. Simmons, seconded by Comm. Capers that the Public Comments portion of the meeting be closed. On roll call all members voted in the affirmative. The motion carried.

INTRODUCTIONS AND OVERVIEW

Ms. Shafer: Tonight we have Mr. Tanksley from New Jersey School Boards who will give us a presentation on Donaldson Hearings. Donaldson Hearings in the past have been done by Luis Rojas, as the Superintendent's designee, but that was because we were under state control. Now that we're moving into local control, the Donaldson Hearings will be done by the Board of Education. The Donaldson Hearing is for anyone who has been non-renewed. They can request a Donaldson Hearing and then come in front of the Board. They may ask you questions. You may ask them questions. And they'll go over why they want to come back to the district. This will be the first year that the Board will conduct the Donaldson Hearings.

Comm. Simmons: Is it for anyone, or is it for non-tenured?

Ms. Shafer: It's for non-tenured, non-renewal.

*Comm. Castillo, Comm. Martinez and Comm. Ramirez enter the meeting at 5:50 p.m.

DONALDSON HEARING TRAINING

Mr. Carl Tanksley: Good afternoon. First of all, my apologies for being late. I must have received some misinformation because I was at the high school waiting, but I was in the wrong place so my apologies for that. I hope I didn't delay you too long. Thank you for inviting me. School Boards is always glad to come and have a conversation and present information and answer any questions you might have on the process. My name is Carl Tanksley, Director of Legal and Labor Relations at School Boards. I'm here to hopefully get you some information and answer any questions that you might have. Knowing that I'm late, I'm going to go ahead and jump into the presentation. If you have any questions at all during the presentation, just shout out or raise your hand. I'll be more than happy to answer any questions that you have along the way. To the newcomers, there is a handout that we passed along as well as a copy of the PowerPoint. Regarding Donaldson Hearings, a great way for Boards who aren't quite used to the process to kind of understand the role and the whole procedure of Donaldson Hearings... Not surprisingly, there is a fair amount of confusion around the state as to how the process works. I'm going to start with the first slide, which is the Superintendent's authority. Unlike other personnel decisions, the Superintendent has unilateral authority to non-renew a person. That means the Superintendent alone has the power to say to an employee thank you for your services, but we won't need you back next year. If the Superintendent does that, I'm sure most of you have heard the May 15 deadline that's fast approaching. If the Superintendent does that on or before May 15, then that employee is statutorily non-renewed. That means the Board doesn't have any role in that decision. The Superintendent has made a call and the employees, after the Superintendent has made that call, either have until the end of the year or until May 17 or whatever date. But that is the end of that person's employment. That's the first thing that most Boards throughout the state kind of don't follow. What that means for the Board is that there is no Board vote on that non-renewal. The person is not renewed, the Superintendent has made that call, and the Board doesn't get involved at

that point. It's just the employee and the Superintendent. The Superintendent took the action and the employee has certain rights based on that. If the Board does get involved, the Board really has to take affirmative action to overturn the Superintendent's action. That's because the statute, as I said, gives the Superintendent the authority to make that call. So if the Board is going to reverse it, the Board has to actually use words in either its resolution or its motion to do that. It must say something like, "The Board is moving to overturn the Superintendent's personnel action and recommends offering employment to this person." The reason it needs to be this clear is because we talked about confusion in the state and this is one of the reasons for the confusion. Very often Boards will follow up the Superintendent's recommendations or personnel actions in this case and affirm the Superintendent's non-renewal, which is great. That's fine. The Board can do that. It doesn't really do anything statutorily because the Superintendent, as I said, has that authority. Where the confusion comes in is if the Board doesn't follow up and approve the Superintendent's non-renewal. The Superintendent has non-renewed, the Board is in disagreement with it, and so the Board doesn't vote to affirm the Superintendent's recommendations or personnel actions. At the Board level, the Superintendent's action fails. The motion is to adopt the Superintendent's non-renewal and that non-renewal fails by whatever vote – 1-5, 2-7 or whatever. The Commissioners say they think this person should be employed anyway, so we're not going to uphold the Superintendent's recommendation. Normally, if the Board doesn't vote to approve the Superintendent's recommendation that recommendation goes down and the matter is reversed. But because the Superintendent is delegated by our legislature to have that authority, the Board's reversal has to be affirmed. The Board can't just vote it down or fail to approve it. The Board has to affirmatively overturn the action or reverse the action. That's one of the few cases in New Jersey where the Board's action has to actually reverse the Superintendent's action in order for it to be effective. Otherwise, you have a situation where the Board has not adopted the Superintendent's recommendation. Everyone leaves the Board meeting thinking that the person has been reemployed but because Board action is not required the person really hasn't been reemployed and it creates some confusion down the line. I just want to make that clear up front. Are there any questions so far on how I've worded that?

Comm. Martinez: So in order for the Board to reverse that, do we take a unanimous vote? What action would need to be taken to actually reverse it?

Mr. Tanksley: The wording of the resolution or the motion should be exactly that. The motion would be to overturn the Superintendent's employment decision, or to reverse the Superintendent's employment decision, and offer employment regardless – wording to that effect.

Comm. Martinez: A unanimous vote is not required, or just the majority?

Mr. Tanksley: It just needs the majority, usually five. I'm sorry. How many Commissioners are there?

Comm. Martinez: Nine.

Mr. Tanksley: So it would take five people to overturn the Superintendent's non-renewal. Moving forward, teaching staff and paraprofessionals are treated a little bit differently. But as I said, according to the statute 18A:27-4.1, the Superintendent, prior to notifying the employee, has to notify the Board of Education. Somewhere between May 1 and May 10, the Superintendent is going to say here's my list of employees who

are being non-renewed this year and here are the reasons why. That way, the Board is at least aware of the fact that these non-renewals are going to be taking place. The Superintendent then notifies the employee and then it kicks off a couple of other rights of the employee that they have to exercise before the matter comes back before the Board. If the Superintendent does non-renew that person, any employee in the district, then that employee has the right to a statement of reasons, an explanation as to why they're being let go. Surprisingly, this has not always been the case. It's been the case since 1974. Before that, it was the exact opposite and I'll touch on that in just a minute. The employee has the right to a statement of reasons and he has the right to request an informal appearance before the Board, which is the Donaldson Hearing. It's the hearing that the Board gets involved in and that's where the Board can actually either support the Superintendent by taking no action, or reverse the Superintendent by reemploying that person. The Donaldson Hearing is a non-adversarial hearing. It's not where you have people going back and forth and arguing with each other about different points. Because the person has been non-renewed and because the person is now going to be unemployed at the end of the school year, the purpose of the hearing is to allow the employee the opportunity to convince the Board, all of you, to offer reemployment. They may say, "The Superintendent was wrong because they didn't consider x, y and z." Or, "I've been a fantastic teacher. I have 100 people supporting me. I should be employed because I've done such a fantastic job with my students." The Board may agree with that, or the Board may disagree with that. The point is that the person has the right to come before the Board and state to the Board the reasons they should be reemployed. Paraprofessionals are treated just a little bit differently. They don't have the right to a Donaldson Hearing, per se. The statute says that if they've been employed by the preceding September 30 they have the right to notice of nonrenewal or notice of a new contract. Practically speaking, if they were employed October 1, November 21 or January, they're still going to get notice of nonrenewal just because it's standard practice across the state. Almost every district does that, whether the employee is employed before September 30 or after. Administration will handle that. Both your teachers and your paras will get the same type of offer – a new contract or that notice of nonrenewal. One small point real quick – with your paraprofessionals the Board can enter into a midyear termination and I should clarify terms here before sometimes there is confusion. A nonrenewal is treated differently in our state than a midyear termination and that's also treated differently than a reduction in force, or a RIF. If you're going through a nonrenewal that's the procedure we're talking about tonight. If you're going through a RIF, the Board does have the right to RIF usually based on the Superintendent's recommendation, but not always. Finally, if the Board is looking at doing some type of nonrenewal with the individual then the Board cannot act arbitrarily, unreasonably or capriciously. That's in all cases, whether it's a RIF, a nonrenewal or a midyear termination. With midyear terminations, one reason they're not really favored in our state is if you're entering into a midyear termination, or you're going to terminate someone halfway through the year, a custodian, a secretary, or anybody really, they're going to have rights under the collective bargaining agreement that they don't have if they're non-renewed. Sometimes you will see the Superintendent letting the person hang on until the end of the year and you're wondering why you can't get rid of that person. That's because during the year that collective bargaining agreement is going to act to protect that person and give them additional rights that they wouldn't have during a nonrenewal. With a nonrenewal and the reason it's favored is because there really doesn't need to be a reason. The Superintendent can say, "Thank you, but we just don't need you this year" and as long as the reason is not arbitrary, capricious or unreasonable, or discriminatory or for some other improper purpose, then if that nonrenewal is challenged in court it's going to be upheld. Let me touch on arbitrary, capricious or unreasonable for a bit. Arbitrary is really standard. If you let go of

teachers for a specific reason, such as their attendance is poor or they're missing meeting or they've had too many complaints from parents, you're allowed, as Commissioners, to go ahead and do that, but you can't do it arbitrarily. You can't say to one teacher, "You missed 15 days so we're going to let you go," and say to another teacher, "You missed 20 days but that's okay, we're going to overlook that." You have to be consistent and the Superintendent has to be consistent throughout. You don't want to be arbitrary, capricious or unreasonable. What is unreasonable? That can be almost anything, but based on, for example, evaluations. A first year teacher may have a poor evaluation and the Superintendent may say, "Well, this person has done so poorly that we know it's not going to work out for them. We're just going to go ahead and cut the strings now and let the person go early because we know it's not going to work out." If that person has only been in the district for a month or two or three, and really hasn't had a chance to prove themselves, or has only gone through one evaluation, is it reasonable then for the Superintendent to say this person is not going to work out? Usually no, but in some cases yes. I talked to a Superintendent recently who was doing a tour of the building and happened to see a first year teacher put a kid in a headlock and drag him across the hallway. They were playing, of course, but that's just not appropriate behavior so the Superintendent said, "No, I can't have this person in my building. That's nothing but trouble." So, in some cases, it's reasonable to act immediately and let someone go. That's what the Commissioner has mentioned in his case law, talking about arbitrary, capricious, or unreasonable. Again, if the person is non-renewed during the year, they have a right to know the reasons for that non-renewal and the opportunity to come before you as Commissioners to explain to them why the Superintendent is wrong. Again, it's the same thing for your paras. If they're employed on or before September 30 they have to receive notice by May 15. If the Board misses that date, if the May 15th notice doesn't go out, what happens? That is considered an offer of reemployment. So it's important to make sure you hit that date administratively because if the employee doesn't receive the notice then automatically you offer that employee the job at the same position with an increase in salary for the upcoming school year. What if the Board wanted to be sure the employee gets notice, they mail out a hard copy to the employee, but it doesn't reach the employee in time? The mailbox rule says as long as it's mailed to the employee at the employee's last known address then you're covered. The employee doesn't have to actually get the notice, as long as you can prove that it was mailed, which is why back in the old days it was mailed regular and certified mail. Today, usually you have it going out through email, but you have a confirmation on that email to make sure it went to the right address. Sometimes you'll have read receipts on it to make sure it was actually read, but at least delivery receipts to make sure it was properly delivered. Administration will handle that. You just want to make sure that the Commissioners are aware that if they miss that date then the employee has an offer of employment. That doesn't mean they automatically get a job if you miss that date because pursuant to statute 18A:27-12 they have to notify the Board that they want to accept the offer by June 1 of that year. If you don't get written confirmation from the employee saying thank you for the job that you're offering me, even though I was non-renewed, then the waiver will lapse and the employment offer will cease at that point. That goes for all of your employees. The notice of acceptance has to be received by the Board on or before June 1. At the outset I mentioned the Donaldson Hearing and gave a little bit of a teaser about the Donaldson case. In 1974, we had a situation where a teacher was non-renewed and the Board down in North Wildwood did not give this teacher any reason. They just said thank you for your services, you're free to leave. The employee challenged that non-renewal before the Commissioner, the State Board of Education, and the Appellate Division, all of whom said no reason is required, there is nothing in statute, and the employee is not entitled to that statement of reasons. But the Supreme Court said that was

fundamentally unfair – that an employee who has been in district, who you trained for at least a year, you've gone through in-services with, and you've put some informal and formal training into has made strides to become a better teacher and deserves the reason why the Superintendent is letting him or her go. Maybe at their next school district they'll take the advice or information that was given in the prior school district and improve themselves. Fundamental fairness was one reason the court relied on for making sure that employees receive a statement of reasons. The other is a little more problematic but the Supreme Court said that sometimes Boards of Education and administration work together to deprive a person or teacher of their rights. The best way to make sure that does not happen is to make sure the person receives a statement of reasons for their nonrenewal. That way, we can shine the light of sunshine on the reasons for that nonrenewal, and Boards really can't go about giving false reasons or no reasons. Why is this important? Because you'd be surprised but in our state's history there are times when teachers have been let go, or other people have been let go, for political reasons. They're involved with the wrong political party, or they're involved with the union, or they're an activist in some other way. Or it can be because of their wrong gender or race. Those kinds of things obviously you can do that legally. You can't discriminate. If that's the reason, it would never be on paper and that's one of the reasons why the court has said you have to give the person a reason. That's the Donaldson case and that's why we call it the Donaldson Hearings because the employee has the right to that type of hearing. Let's go over the timeline real quick. The statement of reasons is provided by May 15th. After that May 15th deadline, the employee has 15 days to request the statement of reasons. That takes us to the end of May for administration to provide that statement of reasons to the employee, or before the employee can request the statement of reasons. Administration then has 30 days respond to that request. So by the end of June, they should have the statement of reasons in hand and can decide whether they want to pursue a Donaldson Hearing. Keep in mind the fact that everyone who is non-renewed is not going to request a statement of reasons and everyone who requests a statement of reasons is not going to ask for a Donaldson Hearing, but keep in mind they do have that right. A district this size, we want to keep in mind that there are going to be some people who are asking for a Donaldson Hearing and have procedures in place to allow that to happen. Now, how long does a Donaldson Hearing have to be? Does it have to be half an hour or 45 minutes? Donaldson Hearings are within the discretion of the Board. You are going to give a reasonable amount of time for the person to make their statement, but you are going to be consistent. But before you even get to that, if the person doesn't ask for a statement of reasons and they don't ask for the Donaldson Hearing, they don't have the right for it. Statement of reasons has to come first. So, once they've been non-renewed, they have to ask for the statement of reasons before they can come before the Board and ask to be restored or reinstated to their position. If they don't ask for that statement of reasons, and again administration will be monitoring this, they don't have the right to ask you for their job back. So as I said, the informal appearance must be scheduled within 30 days of their receipt of the statement of reasons and if the employee is not happy with the Donaldson Hearing, those results have 90 days to appeal to the Commissioner. At the Donaldson Hearing, what rights does a person have? As I mentioned previously, it's non-adversarial so you are not going back and forth. Administration is not proving their case. There is nothing to prove. Administration has made the call. The person is not employed. Their job is to take the time that the Board has allotted to them to convince all of you Commissioners that a mistake has been made or something has happened that's unfair or, for whatever reason, the Board should reconsider. They have the right to representation, which means they can bring their attorney with them, they can bring their union rep with them, or they can bring a parent. They have the right to bring whoever they want to speak on

their behalf. They have the right to present witnesses and sometimes you see more witnesses than other times. If there is going to be 15 or 20 witnesses, the Board has discretion. Are you going to allow all 15 witnesses? That's a lot of people to listen to. Are you going to give them each 10 minutes to speak? That's going to take all night. You are going to look at your Board policy and your past practice and rely on administration as to what the practice typically is with Donaldson Hearings. Usually, between 5 or 10 minutes for each hearing, they're really not long. It doesn't take a whole lot of time. If a person cannot generate enough facts or information to convince you to offer at least a review of their situation within 5 to 10 minutes, then giving them 20 minutes or 30 minutes is really not going to benefit them. So, it should be short, sweet, and non-confrontational. Witnesses should be sequestered. They shouldn't all be gathered in the hallway talking about what they are going to say to the Board or to the Commissioners when they come in. But they don't need to be sworn. This is not like a formal hearing where they need to put their hand on the Bible and swear to tell the truth, the whole truth, and nothing but the truth. But you do want the witnesses to be honest and forthright, and just the proceedings themselves should help encourage that. Are there any questions that we haven't gone through so far?

Mr. T.J. Best: The difference between the type of employee - teachers versus non-tenured, administrative staff, and so forth. They do not need to actually receive a written statement, correct?

Mr. Tanksley: Okay, let's distinguish between your tenured and non-tenured employees. Let's start there. For your tenured employees, once they are tenured you are only going to get rid of them through tenure hearings. So they wouldn't get a nonrenewal notice. It's only for your non-tenured employees. That's going to apply to both your certificated and non-certificated. So, your parents, your custodians, and your secretaries who are non-tenured, they are all entitled to this type of notice. At the hearing, the employee will receive a Rice notice prior to the hearing, which means they can move that discussion into open session, which sometimes does get a little bit uncomfortable, but the employee can ask for it. They have a right to it and as Commissioners you're going to go ahead and conduct the same exact hearing but only in open session. There's one minor point and I just want to reinforce this. Witnesses are not to be cross examined. What does that mean? Does that mean you can't ask them any questions? No, you can ask the witnesses questions. But how do you tell when a question is a cross examination question or just a clarification question? If you're asking a witness for dates, times, and locations, like "When did you say that happen?" or "I didn't quite understand what you said when?" But if you're trying to throw out "Got You" questions, like "Didn't you say that" or "Isn't it true that?," those are the types of cross examination questions you want to stay away from because the law does not allow you to cross examine witnesses in this case because it's not a formal hearing. The reason the law is more lax is because the worst thing that could happen to the employee here is they don't get a job. They're not going to jail and they're not losing any of their other rights. But the worst thing is they don't get a job. According to the law, they can go out and find another job. So therefore, the restrictions aren't as tight. Once the hearing is done, the employee has to receive notice of the Commissioners' decision within 3 days, a written notice coming from the Board Secretary, the Superintendent, or the Board attorney. On occasion, we have had building principals issue notices to staff and the Commissioner has said that is not appropriate. It has to come from one of those three – the Superintendent, the Board Secretary, or the Board attorney. That's all that I have for Donaldson Hearings. We have a couple of other hearings that we will quickly touch on because on occasion they pop up at the end of the year as well. Those are employee examinations. Pursuant to statute, the

Commissioners and administration have the right to conduct a physical or mental examination of any employee who shows deviation from normal mental health. What does deviation from normal mental health mean? It is a very wide and broad definition and the Commissioner has used it in a number of cases. But the one that stands out is a case coming out of Paramus. Gish was a teacher who, in 1976, advocated for gay rights. Because of the advocacy, the Board was concerned that students might be harmed by his advocacy. Back in 1976, it was a completely different world back then. But the Board was concerned and sought to compel this employee to go through a psychological examination just to be sure that students would be safe in his classroom. The Commissioner said that there was some concern that this person's advocacy might impact students. Therefore, the Commissioner ordered the employee to go through that psychological examination. I can't see that happening today, but back in 1976 it happened. It happened in another case. In Doss versus Wildwood, a 1978 case of a person transgendering from one sex to another, the Board had the same concern, that this employee would have a negative impact on students of tender years, third grade students. The same type of examination was required. Two extreme cases set the standard for the law, but it does happen on occasion. Unfortunately, some teachers do go through medical issues. I had a case a few years ago when I was in private practice with an employee who went through early onset Alzheimer's. She was 43, a fourth grade teacher, and could not remember her student's names anymore. It was a very sad situation. She wanted to come to work, but unfortunately at that level you have to know who you're talking to. You have to know your kids' names and she couldn't do that anymore. So, the Board called for an examination and ultimately encouraged her to retire. But you do have that authority, under 18A:16-2, to require psychiatric or physical examinations if a person shows deviation from normal mental health. It's within the Board's discretion as to what that deviation from normal mental health is. Before you do that, you have to have a policy in place. It has to be written and it has to be provided to your employees. For applicants, those who are applying for positions, drug testing, drug screenings, etc. are all allowed. If it's for your current employees, though, it's much more limited. It's only to determine whether they are mentally or physically able to perform the job, or whether to request usually with the ADA, Americans with Disabilities Accommodation, if there's some other thing the Board should be aware of, such as health risks to the person or to the student. We've heard recently about the outbreak of measles that's been going on across the country. This would be another reason why you might want to subject your employee to a physical examination, if you have reason to believe they're infected with measles. So, that's another tool that the Board has. The employee has rights too, though. The employee has a lot of rights of going through a hearing, which means the Board must conduct a hearing if it's requested to do so. It can appeal that hearing to the Commissioner of Education. The employee can refuse to waive confidentiality concerns under HIPAA and the Board has to respect that. And the Board has to pay for requested examinations. Very often what happens is the Board will request an examination through the medical inspector and will go through that examination. The employee says, "That's your guy. I want my own person to go through." The employee is entitled to a second examination with his own physician and the Board would have to pay for that, as long as the Board approves it. If the Board approves that doctor, then that's fine and the employee pays for it. But if the Board does not approve, you have to go to a third or fourth or fifth person that you all can agree on. Regarding sick leave – with your employee examinations, if the person is entitled to sick leave and you go through the examination, you can put them out on sick leave for up to two years. So, if they're going through the process or if they're disabled or something else is going on with them, you can keep them out for up to two years, but if you bring them back you bring them back with all their other rights in place. The salary, the benefits, and seniority all counts if they're out on sick leave for up to two

years. Records of examinations belong to the Board, like any other records. They stay in the employee's personnel file, but not just the personnel file, their health file, which is going to be separate from their personnel file in most cases. If the Commissioners are asking for access to a personnel file or access to evaluations, but won't give access to the health file unless access is necessary, such as if the person is asking for some type of physical accommodation. They may be asking for a special air conditioning or filter unit in the classroom because of asthma or some other breathing concerns. In that situation, then yes it would be appropriate to go into the employee's health files to make sure the Board is providing the proper accommodation. Otherwise, that health file should be segregated and the Board should not have access unless it's important to the decision facing the Board. Are there any questions for me? I guess we covered it. If any questions do pop up or if any come to mind, you have my email there in your packets so feel free to use it, or you can call School Boards at any time to ask questions and get more information. Thank you for your time. Again, I apologize for being late, but it won't happen next time.

Ms. Shafer: Thank you.

OTHER BUSINESS

Ms. Shafer: There's a document that's coming around. Up until this point, I've attended two meetings - one with the governance committee around Hinchliffe Stadium and another one a couple of weeks ago with the Board President. That's only two meetings that I went to. There were other meetings that I was asked to go to by the Mayor, but I said I would not go and I did not go because this is really a Board decision. I just wanted to make sure that everybody was clear. If you take a look at this, these are just ideas. It's certainly something that we can ask for. It's something that we can discuss if there is going to be any kind of agreement. First and foremost, let me tell you what I did say two weeks ago. I really didn't think that the condition of Bauerle Field was appropriate for our students. As all of you know, the fieldhouse, the bathrooms, and the concession stand is just horrible. The kids themselves are now painting the fieldhouse because of the condition of it. That was one thing that I talked about. The other thing I talked about was that if we are going to have first preference at Hinchliffe, I also think that we should get security at no charge from the city. If we were going to have an event there and we needed security, I don't think we should have to pay a high fee for police or security. Those were the two things that I said at that meeting, but as I thought about it over the break I did come up with some other things. I also said that we should get some percentage of the profit. There should be some type of a scale. I didn't go into detail, but there should be some type of a scale from day one when it opens. We should get some part of the profit and they said that there is not going to be any profit. I still put that in here because I do believe that whatever happens, there is going to be some type of profit. With that said, if you are going to have a profit and if someone's going to be watching the funds, you need an advisory board or board of trustees, whatever you would like to call it. This is just me making this up. It's not written in stone, but a three-year term where we would have two executive board members plus one alternate, the same representation from the city as from the Board of Education, a minimum of three. It would have oversight of the project and the revenue. If you are going to get some of the profit, then there has to be a treasurer's report and you have to know. That's why you would need a board of trustees or an advisory board. I did put together a profit scale which goes from the first five years from opening day at 80%, then years 6-10 and years 11 and 20. It could be more, it could be less, or it could be a different percentage, but this is just kind of a template. Then you look at Bauerle Field. Repair the field and the track and the fieldhouse and the concession stand. When I did

talk about the concession stand and the fieldhouse, there was some discussion around maybe the city could float a bond. At least they listened, but that was the extent of it. On the side of School No. 15, there's some room if you wanted to put a bubble and it would really be a nice complex for the kids. You would have one on the side of town by Eastside and if Hinchliffe got going, then you have one on the side over by Kennedy. Westside Park right now is what Kennedy uses. I don't know if you've ever gone past there. It's full of geese and that's about it. Kids are running in between them to catch a pass. Perhaps redo that turf, resurface the tennis courts, get a scoreboard, and there would need to be some lavatories in that area. We will own Paterson Catholic. That field is probably the only other official and legitimate field that we have. Redo that field with turf, a scoreboard, bleachers, and a concession stand. Then I just went into a little bit about Hinchliffe. We would not pay any fee. We would have first preference. For any activity, security would be provided for us at no cost and it should not be sold or leased out from the city. These are just my thoughts because I had some time to think about it. But I do think that if anything, No. 1 and 2 are important. If you are going to ask for any type of a profit, then you have to have some type of board of trustees to oversee that with representation from the Board.

Comm. Redmon: Does anyone have any questions on Hinchliffe Stadium?

Comm. Martinez: They're coming to present on Wednesday. I'd say prepare any talking points or questions. We can hear their side of it and get their take on whatever we may need to know. They haven't seen this. This is just internal.

Ms. Shafer: I did talk about the profit. I did talk about security. I did talk about Bauerle Field. That was about it.

Comm. Ramirez: According to the city, they are going to get about \$50 million in tax credits. That should be enough to do all of this.

Comm. Redmon: When I presented it back to the Board two months ago, we met to see what the plan of action was. We made no agreement. As I reported to you two months ago, they were supposed to come back and do the same presentation for the entire Board. They did not.

Comm. Ramirez: And do you know what my upset was? They have documents already being presented before the planning Board, like we gave them the property.

Comm. Castillo: During the first conversation, the question was who in the world is going to pay for this? At that point, there were zero answers. That's why it fell through the cracks because obviously they knew that they couldn't and we couldn't at the same time. Until then, they came back with the presentation that they will be presenting to us on Wednesday. Now they have come up with the payment plan and the calendar plan. Obviously, we were very upset that it was presented on the planning board. I was told that it was a mistake and it wasn't supposed to be on the planning board. It was ready to be submitted. What was supposed to be on the planning board, which wasn't on the agenda, was the \$4 million on the façade. Apparently, someone submitted the wrong item. I wasn't going to argue. I just said okay at that point. The resolution still said contingent on a Board approval or Board action regardless. I just wanted to clarify that because I had a lot of conversations that day.

Comm. Redmon: As a follow-up to what I was saying two months ago, there was no agreement between the Board members here at the Board of Education. I thought it

was fair that all Board members get to see what was being presented to the committee. I'm going to schedule another committee meeting once all Board members have a chance to see the actual plans. My frustration is that there shouldn't be any plans yet because it's our property. We should have been at the table when those plans were being made. You guys will get the chance to see and a chance to voice your opinions. Again, there's nothing written in stone. We did not make an agreement. It was not agreed with any other committee members that attended that meeting. We just want to make sure everybody knows that there was no agreement. You should have seen exactly what they were presenting to us. If there's anything different, please ask questions and please be transparent because we did not agree to anything. When I heard that it was in front of the planning board, I was a little annoyed because it should not have gone there. It should have been here first, approved, and then whatever. Because right now, we still have a Shared Services Agreement plan that has not been completed and that was presented to the city at the time when we did the joint committee meeting. We still were working on that since June and we haven't had any kind of agreement presented in front of them. That was the reason for the meeting back in June and then we followed up again two months ago. We're still working on that and we still haven't gotten it finalized. We are just waiting for the Shared Services Agreement to go and be a part of this. I think I would agree with Ms. Shafer on Bauerle Field. If you are just going to trade us with the field in Westside Park, you guys have to maintain it and keep it. Right now, we are going to get the short end of the stick. If that's the case, then we can just sell Hinchliffe Stadium outright to the city for a profit.

Comm. Ramirez: Or to a for-profit organization who is going to give us what could be more than what they're offering us. Their plans are to turn that into a profit machine. They have plans to do real estate development and all of these things. We are not going to see any of that money.

Comm. Redmon: That's the reason why Ms. Shafer brought up the profit. The Board of Education should get something because we own it. We should not give it away for free. Unfortunately, the city at that time decided to turn it over to the Board of Education. There was a bond. I have to double-check within the bond that we are able to sell it outright.

Comm. Ramirez: Are there any deed restrictions?

Comm. Redmon: I'm not sure. The only person who I think was on the Board at that time when that bond went out might have been Dr. Hodges. When that original bond went out, we just have to double-check the language of that bond to see if we made it for-profit. There is a bond.

Comm. Castillo: Do we lease it to the city?

Ms. Shafer: Right now, it's leased to the city.

Mr. Best: There was a Shared Services Agreement and a lease. The lease came after the Shared Services Agreement. No one could find a copy of the executed Shared Services Agreement. However, the lease is executed, but the lease refers to the Shared Services Agreement in several instances. A good lawyer would be able to find a lot of holes in the lease that exists. But the lease that does exist is for the purposes of renovating the stadium and it outlines the actual plan in terms of who would utilize the stadium. The district would have first preference. There was cost involved. It didn't talk from a profit-sharing standpoint because it was never really written at that time to

actually generate money, but it will cost money to operate the stadium. Whenever you utilize the field, who's going to pay for it? Lighting and security, if the district used it that day, the district would have to pay for it. If the city uses it, the city has to pay for it. I would encourage everyone to get a copy of that lease.

Comm. Castillo: I think that's what they were using to put this together on that existing lease. That's why they put the plan together and are going to come to present it to us on Wednesday. They technically have that opening on why they created the plans, which I don't agree on, but it's what they are using as their side.

Comm. Redmon: If you look at the original lease, some of the properties that were listed on there still exist, but are no longer owned by the city. The Armory was part of it and has been sold to a private developer. That was part of their lease agreement at that time.

Comm. Capers: If we do choose to go with this on Wednesday, are we going to share this information with them? Is the Board in agreement with all of these recommendations in order to swap properties?

Comm. Castillo: We're not voting on it. We're just listening to the presentation.

Comm. Capers: Are we sharing this with the city?

Comm. Redmon: No.

Comm. Castillo: These are questions.

Comm. Capers: So we can't ask questions?

Comm. Redmon: You can ask questions from their presentation.

Comm. Capers: I'm just talking about if we want to do this. I'm not going to take apart what they're doing. If we're going to do this, is this going to be on the table?

Comm. Simmons: Not at that meeting.

Comm. Redmon: This should be in-house.

Comm. Capers: What's the process? All we're going to do is sit there and ask about what developers are coming in?

Comm. Redmon: I agree with what you're saying about asking questions that we'd want to put on the table. As far as profit, I think a final number should be discussed amongst the Board members here before we present it to the city.

Comm. Capers: Why won't we just hold them back instead of them presenting and then have one big joint meeting, instead of coming back and forth?

Comm. Redmon: According to the city, the City Council has not seen the presentation.

Comm. Capers: Exactly. The city can question what developers are coming and what's going to happen. Are we able to have that discussion?

Comm. Redmon: Yes.

Comm. Capers: As a Board are in agreement on this?

Comm. Redmon: We have not agreed on this because this is the first time I'm seeing this.

Comm. Capers: So why are we going to have a meeting with the administration about this project if the Board has not agreed?

Comm. Ramirez: They're presenting.

Comm. Capers: Does that make sense?

Comm. Ramirez: They're going to pitch their ideas at us.

Comm. Capers: I get you, but it's a waste of time.

Comm. Castillo: Comm. Capers, I actually completely understand what you're saying. That's what we have to decide. My opinion is they're coming here to present their plan that we have been asking them to come to us for. They're coming here. I also know that they're going to be presenting a timeline. What that looks like, I have no idea. I just know there's a timeline because of the tax credits through the State. I believe it's fair to ask these questions. I don't know if they'll have the exactly answer because obviously they have to go back to the council and the Mayor and they might have to get back to us on something. I'm not sure. I think it is a valid point to ask some of these questions and have them come back with an answer.

Comm. Martinez: My suggestion would be to look at these points and discuss them amongst ourselves internally so we're on the same page with our approach when we meet with them on Wednesday. They're not going to have all the answers. This is the first step. This is our version of what we're trying to do. We should be on the same page somewhat.

Comm. Capers: Then they can take it back to the administration and the council. They have to get a vote from the council as well.

Comm. Redmon: But the council has never seen the presentation either.

Comm. Capers: Exactly, but let's get a copy of the presentation. You share with the Board. We share our recommendations and then we can have a meeting. Right now, we're just wasting time.

Comm. Castillo: They were supposed to send us over an executive summary for the Board to review. They haven't sent it to us.

Comm. Capers: We should cancel the meeting.

Comm. Castillo: We will have some time.

Comm. Capers: They're saying that they have to vote on this quickly.

Comm. Redmon: But that's not on our side. That's on their side.

Comm. Capers: The administration is saying they have a timeline where they have a meeting they have to get in quickly.

Comm. Redmon: The timeline that they're meeting is based on the tax credits that they're using to fund it.

Comm. Capers: I get all that.

Comm. Redmon: We don't have a timeline. That's not our problem.

Comm. Capers: I know it's not our problem, but to get the job done.

Comm. Redmon: But why are we jumping for them? I presented this two months ago. The last time we sat there as a committee, it was supposed to come back to this Board right after we met. It never happened. Now all of a sudden, it's under the gun and it's not fair to us as a Board. I don't know what the project is, but why should we always feel like we're rushed to do something and it's our property that they want? I agree with you that we should be on the same page to ask questions to the city and all that. But when we sat here tonight I thought we were going to have the executive summary so we could discuss what their plan of action is in public on Wednesday. They didn't do their part.

Comm. Capers: If they didn't do their part, we cancel on Wednesday. We have other district business to do.

Comm. Castillo: I think it's fair enough to have multiple presentations. That way we'll get the actual report.

Comm. Capers: How is that fair? If the committee is saying they want to be as transparent as possible, they want to get the information to the Board, they were supposed to have it in today and they didn't have it. Then they want to have it in on Wednesday. Then we're going to ask all these other questions they're not going to have the answers to. The Board is not on one page. It's going to look like a big cluster. It's going to be a battle and it's not going to get done.

Comm. Castillo: There's no need to be a battle. Let them come in and do the presentation. We keep all the documents that they want to give us. From there we talk about it and we decide as a Board how to move forward.

Comm. Capers: What is the Board timeline?

Comm. Redmon: We don't have a timeline.

Comm. Capers: If we're going to do that, what is the Board timeline? We're going to get the data and then what's the plan of action as a Board?

Comm. Castillo: We have another workshop. We have another committee. We can meet again if possible. We'll see what their timeline is. Let's say they need it by mid-May. We decide then if we're going to have time to meet prior to or if we're not going to. We don't know what we're getting. I haven't seen the entire presentation, so I can't tell you what it looks like, what they're asking, or how complicated it is.

Comm. Capers: We're getting Bauerle Field.

Comm. Castillo: That's a suggestion we have, but I don't necessarily have the details.

Comm. Simmons: I agree we should ask questions. What I don't agree with is that this gets presented to them on Wednesday.

Comm. Castillo: This is for us to ask these questions.

Comm. Simmons: Just hear the presentation and ask your questions based on the presentation, but not giving them this information. You have to hear it out first because this might change based on that presentation.

Comm. Castillo: These are Ms. Shafer's thoughts based on what she heard. These are just ideas for us to have as we're listening.

Comm. Ramirez: They look good to me so far. I'm very interested in making sure that they don't go ahead and sell this property to a for-profit entity and then do whatever the heck they feel they want to do with a property that was ours and that we could have maximized on if we would have had the rest of our stuff together.

Ms. Shafer: The only reason I put that in was because if they do sell or lease it, then our kids don't have first preference.

Comm. Capers: Exactly. They're not going to have it anyway.

Comm. Redmon: How do you know?

Comm. Capers: That's Paterson.

Mr. Best: We should really check on the deed because I'm almost 100% sure there are deed restrictions for 99 years. It was during 1939 or 1932. When the property was originally conveyed to the school district there were restrictions placed in there and they're valid for 99 years, which will take us to 2030.

Comm. Capers: Who has the deed?

Comm. Redmon: The city.

Mr. Murray: There was also an agreement in there with the Historical Society and some sort of preservation.

Comm. Redmon: The actual boundary of historical preservation with the stadium is only the façade. It is not the entrance. It is just the façade of the building that they are interested in. The Board of Education can do whatever they want to do within it.

Comm. Ramirez: There's also Friends of Hinchliffe Stadium.

Comm. Redmon: That is a non-profit, but they have nothing to do with us at this table. It is our property.

Comm. Capers: Everything is floating around. I never got a look at all the details. The whole plan is out there. They're saying the Mayor has developers giving \$75 million for

housing. What types of questions are we really going to be asking that the City Council has to dig into that's not really our business?

Comm. Castillo: The whole thing is our business. It's our property.

Comm. Capers: Are you guys saying that we're not going to talk about any of this stuff on Wednesday?

Comm. Redmon: That's not what he said. He felt that we should be able to ask the questions, but the city should not get this draft copy.

Comm. Martinez: We're not going to sit there and say take this. We're going to hear them out and if these questions apply to the presentation, we'll ask the questions. They're not going to get a physical copy of this.

Comm. Simmons: This is a proposal. I don't think that you can give a proposal on Wednesday when you're hearing a presentation. We haven't decided on a proposal yet. We still have to come back based on what we hear.

Comm. Castillo: This is the Superintendent's proposal to the city, which obviously you can't give to them the same time they're giving you their proposal. You have to hear them out just in case there are any changes. Then we come with a counterproposal.

Comm. Olivares: I'd like clarification. I keep hearing they're going to sell it, but we say it's our property. Whose property is it?

Comm. Castillo: Hinchliffe Stadium is a Paterson Board of Education property.

Comm. Olivares: So why am I hearing they can sell it?

Comm. Castillo: If we were to trade it off or sell it to the city, we wouldn't want the city to be able to then sell it to another organization for a profit. As Mr. Best said, we'd have to check the deed. It was something that we found in School No. 5. Over 100 years there are specifications on what it can be used for. Nine times out of ten, they probably wouldn't be able to do so and if so, it might be for educational purposes. We'd have to double-check on the actual deed.

Comm. Olivares: One of the things we're considering as a Board is selling it?

Comm. Castillo: The only thing we're considering right now is listening to the city's proposal. The only thing we have right now is listening to the City of Paterson's proposal on what they would like to do with Hinchliffe Stadium, how they would like to rehab it. Then we would have to come back as a Board and decide if we would want to take them up on their offer, or if we would not, or if we have some changes that we can compromise on. We don't know necessarily what they want. They have told us they have these tax credits, about \$75 million, to restore the stadium. They will say it's a student-centric stadium. We don't know the details until they come on Wednesday and present it to us. Then we can have a larger conversation of what we want to do. Right now, whatever we say doesn't mean much because we don't know what their presentation looks like.

Comm. Redmon: The tax credits have always been there. The tax credits that the city is trying to use were originally used for St. Joe's project for their hospital. The tax

credits have been sitting. The city is now trying to find a way to use the tax credits so they don't lose the money. They're about to lose it because they held it too long. They were thinking to use the tax credits to do the Hinchliffe Stadium property. That's the only reason they are putting us under a timeframe, but it has nothing to do with the stadium itself. It's about the tax credits.

Comm. Capers: Do you know the timeframe?

Comm. Redmon: I guess they said May 15 for the tax credits. We have more time than anything to do with it.

Comm. Capers: Whatever recommendations we have, we don't have after May 15.

Comm. Redmon: The city can't ask for an extension on a tax credit.

Comm. Capers: What if it's denied?

Comm. Redmon: If it's denied, then they lost the funding to do the project.

Comm. Simmons: Just for clarification on the tax credits, they aren't for Hinchliffe Stadium. It's for another project. Hinchliffe Stadium is the centerpiece.

Comm. Capers: We all know the plan.

Comm. Redmon: If you're talking about that development that didn't go through on the other side of Hinchliffe Stadium, we cannot build that now because that is now State-owned property.

Comm. Castillo: My suggestion is we let this conversation go for right now. We can talk about this for the next five hours and get absolutely nowhere because we have nothing to work off of. Why don't we hold off? This is Ms. Shafer's proposal or ideas. If there are any questions in the presentation then we can have them. Then we can schedule another meeting if we see fit so we can talk about it.

Comm. Redmon: My committee meeting was going to be on Thursday because we were going to hear what they were saying.

Comm. Castillo: What committee meeting?

Comm. Redmon: I asked the Board secretary at the last meeting to sit down and I was hoping to have that conversation prior to Wednesday, but it didn't happen because the district was closed. I postponed it. If we don't have to meet then I can pull it off the table and just delete it.

Comm. Castillo: My suggestion would be to pull the committee because we should meet as a Board to discuss what we want to do.

Comm. Martinez: Meet as a Board first and then the committee can report back on the Board's thoughts.

Comm. Castillo: We'll figure that out once we have that conversation.

Comm. Martinez: The variable that's forcing this whole process is the time. To my understanding, there's a lot of moving parts in this. Part of that development piece is not where the ACORN thing was proposed. It's actually a Legions Field where the garden is right there. It's essentially for those credits to kick in. They're contingent upon those credits being allocated for this project. The point I'm trying to make is that time is what we're facing here.

Comm. Simmons: Time is what they're facing.

Comm. Ramirez: Yes.

Comm. Martinez: We're included in that as well.

Comm. Capers: That's my whole point.

Comm. Castillo: We don't have a timeline until we see it. I don't know what in god's name their timeline looks like.

Comm. Capers: They said May 15.

Comm. Castillo: I didn't know that.

Comm. Ramirez: Do you know what's going to happen? The same thing with that demolition truck that now we're going to have to issue bond for.

Comm. Castillo: Did you go into public portion, Comm. Redmon?

Comm. Simmons: We did that already.

ADJOURNMENT

It was moved by Comm. Redmon, seconded by Comm. Martinez that the meeting be adjourned. On roll call all members voted in the affirmative. The motion carried.

The meeting was adjourned at 7:00 p.m.