

MEETING OF THE LAKEWOOD BOARD OF EDUCATION, HELD ON WEDNESDAY, MARCH 1, 2017, AT 6:30 P.M., AT THE LAKEWOOD HIGH SCHOOL COMMONS, 855 SOMERSET AVENUE, LAKEWOOD, NEW JERSEY 08701

I. PLEDGE OF ALLEGIANCE – Barry Iann, President

Regina Robinson, Interim Business Administrator/Board Secretary called the Public meeting to order at 6:35 p.m. She then read the following:

SUNSHINE LAW

Pursuant to the provisions of Chapter 231, of the Laws of 1976 (THE OPEN PUBLIC MEETINGS ACT), Ms. Robinson notified the public that notice of the date, time, location and agenda of this meeting, to the extent known, was provided at least forty-eight (48) hours prior to the commencement of this meeting in the following manner:

1. By posting such notice on the public announcement board of the Lakewood Board of Education Offices, and the Lakewood Township Municipal Building.
2. By e-mailing such notice to the office of the Asbury Park Press.
3. By filing such notice with the Board Secretary.
4. By mailing such notice to all individuals who requested and paid for a copy of same.

II. ROLL CALL

Board Members Present: Mr. Moshe Bender
Ms. Thea Jackson
Mr. Moshe Newhouse
Mr. Moshe Raitzik
Mr. Heriberto Rodriguez
Mr. Isaac Zlatkin
Mrs. Ada Gonzalez
Mr. Barry Iann

Board Members Absent: Mr. Joshua Weinberger

Also Attending: Ms. Regina Robinson, Interim Business Administrator/Board Secretary
Mr. Kevin Campbell, Assistant Business Administrator/Board Secretary
Mr. Marc Zitomer, Esq., Board Attorney

III. OATH OF OFFICE:

At 6:40 p.m. Marc Zitomer, Board Attorney, administered the Oath of Office to the newly appointed Board member, Moshe Bender, whose term will run from March 1, 2017 through January 4, 2018, the 2018 Reorganization Meeting.

Mr. Bender was seated as a new member of the Board.

IV. EXECUTIVE SESSION - RESOLUTION

Whereas, Public Law 1975, Chapter 231, known as the Open Public Meetings Act, provides that a public body may not exclude the public from any meeting to discuss any matter described therein until the public body has first adopted a Resolution; and

Whereas, the Board of Education of the Township of Lakewood has determined that the following items must be discussed in closed session and that the public must be excluded from said deliberations; and

Whereas, the Board of Education of the Township of Lakewood has determined that the subject matter of the closed discussion falls within those matters described in subsection 7b of the Open Public meetings Act;

Now, Therefore, Be It Resolved, by the Board of Education of the Township of Lakewood, Count of Ocean, State of New Jersey, that

- A. The Board of Education, in closed session, may discuss one or more of the following subject matters:
1. Confidential under Federal/State Law or rule of Court
 2. Involving the employment, appointment, termination of employment
 3. Any deliberations occurring after a public hearing

Which subject matters constitute a subject matter described in the sub-section 7b of the open Public Meetings Act.

Be It Further Resolved that, the Board of Education, of the Township of Lakewood, will disclose to the public the subject matter of said closed discussions, as soon as the matters have been resolved and the determination can be disclosed to the public.

Resolved, that the Board of Education goes into the closed session for matters of Attorney Client privilege and personnel.

Mr. Rodriguez made a motion for the Board to go into Executive Session. Mrs. Gonzalez second the motion

MOTION TO GO INTO EXECUTIVE SESSION BY A VOTE BY VOICE (passed)

Motion: Mr. Rodriguez **Second:** Mrs. Gonzalez

8 Ayes: Mr. Bender, Mrs. Jackson, Mr. Newhouse, Mr. Raitzik, Mr. Rodriguez, Mr. Zlatkin,
Mrs. Gonzalez, Mr. Iann

0 Nays:

0 Abstained:

1 Absent: Mr. Weinberger

At 6:40 p.m. the Board went into Executive Session.

At 7:13 p.m. the Board returned to Public Session

V. ROLL CALL

Board Members Present: Mr. Moshe Bender
Ms. Thea Jackson
Mr. Moshe Newhouse
Mr. Moshe Raitzik
Mr. Heriberto Rodriguez
Mr. Isaac Zlatkin
Mrs. Ada Gonzalez
Mr. Barry Iann

Board Members Absent: Mr. Joshua Weinberger

Also Attending: Ms. Regina Robinson, Interim Business Administrator/Board Secretary
Mr. Kevin Campbell, Assistant Business Administrator/Board Secretary
Mr. Marc Zitomer, Esq., Board Attorney

VI. RECOGNITION OF THE PUBLIC - NONE

STATEMENT BY BOARD PRESIDENT

Pursuant to Board Policy 0164, Roberts' Rules of Order shall govern the Board of Education in its deliberations and in the conduct of its meetings. As such, all comments from the public and from other members of the Board should be directed to the Board President who is responsible for presiding over the meeting.

The President shall direct all inquiries or comments to the appropriate Administrator or Board member for response, as appropriate. The law requires a period of public comment at our meetings, not a question or answer session or debate. The board president at his discretion may or may not feel it is appropriate to answer questions raised during the public comment period. The board and administration do take all public comments seriously and consider them when conducting business.

The President may interrupt, warn, or terminate a participant's statement when the statement is too lengthy, abusive or obscene. In addition, Security Personnel may direct any individual to leave the meeting when that person does not observe reasonable decorum, whether the person is at the microphone or at any other place in the meeting room. New Jersey law makes it a crime for any person to intentionally disrupt a public meeting. Law enforcement will be contacted if a person disrupts the meeting and fails to desist after being directed to do so.

Finally, we ask that you silence all electronic devices.

VII. NEW BUSINESS

1. Resolved, that the Board of Education hereby ratifies the February 15, 2017 paid suspension of Employee ID # 6933 until further notice and pending further investigation.

MOTION TO APPROVE NEW BUSINESS TO THE AGENDA (passed/failed)

Motion: Mr. Rodriguez **Second:** Mrs. Gonzalez

8 Ayes: Mr. Bender, Mrs. Jackson, Mr. Newhouse, Mr. Raitzik, Mr. Rodriguez, Mr. Zlatkin, Mrs. Gonzalez, Mr. Iann

0 Nays:

0 Abstained:

1 Absent: Mr. Weinberger

Michael Azzara, State Monitor, in a letter to the Board dated March 4, 2017, overruled the Board's decision to suspend employee #6933. Therefore, the motion failed.

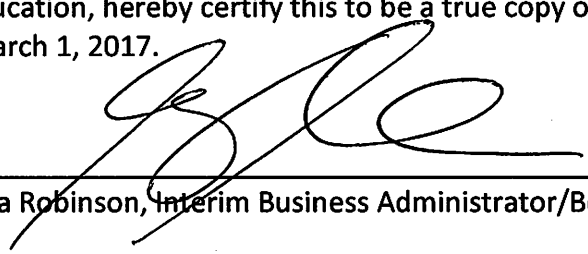
VIII. ADJOURNMENT

Motion to Adjourn:

Motion: Mr. Iann **Second:** Mr. Rodriguez

Meeting was adjourned at 7:15 p.m.

I, Regina Robinson, Interim Business Administrator/Board Secretary, of the Lakewood Board of Education, hereby certify this to be a true copy of the Minutes from a special meeting held on March 1, 2017.



Regina Robinson, Interim Business Administrator/Board Secretary

March 16, 2017



State of New Jersey

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DEPARTMENT OF EDUCATION
OFFICE OF THE STATE MONITOR
LAKEWOOD PUBLIC SCHOOLS
200 Ramsey Avenue
Lakewood, NJ 08701
Phone: 732-364-2400 Ext. 7008
Fax: 732-905-3687
Email: mazzara@piners.org

Kimberley Harrington
Acting Commissioner

Mike Azzara
State Monitor

March 4, 2017

Mr. Barry Iann
Board President
Lakewood Township Board of Education
200 Ramsey Avenue
Lakewood, NJ 08107

Dear Mr. Iann:

I am writing in regard to disciplinary action against *Employee #6933* taken by the Lakewood Board of Education at a special meeting on March 1, 2017. I have multiple concerns regarding both the procedure and substance of the disciplinary action taken.

At its February 15, 2017, regular meeting, the Board voted to suspend *#6933* for an indefinite period of time pending an investigation into actions the Board had determined constituted wrong doing prior to the investigation. However, in my opinion that action was procedurally flawed as there was no recommendation by the Superintendent for any suspension or removal, *see N.J.S.A. 18A:27-4.1(a), N.J.S.A. 18A:25-6, and #6933* was never provided the required Rice notice. *See Kean Federation of Teachers v. Ada Morell, Bd. Of Trustees of Kean University, (App. Div., 2/8/17).*

At the special meeting on March 1, 2017, the Board ratified the action taken on February 15 to correct the Rice notice violation. However, there still was no recommendation by the Superintendent. The reason for vesting the Superintendent with the powers conferred by the statutes cited above is that chief school administrators are presumed to have educational administrative experience, and access to information, that school board members acting on their own do not. The Superintendent has determined that -- in fact -- the conduct was not as egregious, pervasive and harmful as the Board has preliminarily concluded. Based on the written justification for the suspension provided me by the

Board attorney, I agree with the Superintendent. In my opinion given the absence of the Superintendent's recommendation and disregard for her professional opinion, the board violated both N.J.S.A. 18A:27-4.1(a) and Board Policy 3150, which states "The **Superintendent** shall deal with disciplinary matters on a case by case basis."

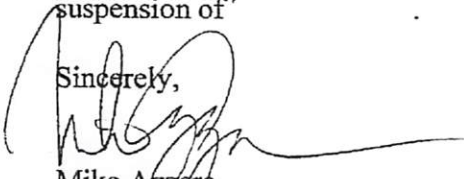
Additionally, in my opinion the indefinite suspension was overly harsh and also violated Board Policy 3150 which states:

Discipline measures will include *verbal and written warnings as appropriate* and will provide, wherever possible, for *progressive penalties for repeated violations*. Penalties may include suspension, withholding one or more increments, and dismissal.

Clearly, even assuming that any discipline was called for in this case, the discipline approved by the Board did not comply with the progressive discipline approach contemplated by the Board's own policy. This was the first alleged violation formally made against #6933. ID#6933 had never received any verbal or written warnings from the Superintendent. Therefore, the matter did not include repeated violations that called for more enhanced penalties such as suspension. While there might conceivably be a circumstance where misconduct is so egregious that it requires removal from employment without this sort of progressive discipline, I am satisfied that this is not such a case.

Accordingly, for the above stated reasons I am overriding the board's indefinite suspension of'

Sincerely,



Mike Azzara
State Monitor

c. Laura Winters, Superintendent
Members, Board of Education
Regina Robinson, Business Administrator/Board Secretary
Dr. Judith DeStefano-Anen, Interim Executive County Superintendent
Glenn Forney, Executive Director, State Monitors
Carol Smeltzer, Esq., NJPSA
David Rubin, Esq.
Marc Zitomer, Esq., Board Attorney