

Board of Education Minutes

August 27, 2012

A workshop for the Board of Education was held on Monday, August 27, 2012 at 7:00 p.m. in the Wheeler High School Shaw Media Center. Present were Mr. Testa, Mr. McCord, Dr. Robert, Mr. Mathwich, Mrs. Dame, and Mr. Mendolia. Also present were Mr. Nero, Mr. McCarthy, Mrs. McCarthy, and Mr. Pont.

The workshop started at 7:40 p.m. due to the late adjournment of the special meeting preceding the workshop.

1. Freedom of Information Act Presentation/Training – Mr. Testa gave background information on the workshop. Mr. Tom Hennick of the Freedom of Information Commission said he was here because there have been some FOI issues and that he was here not to lecture but to try to help. He explained the FOI law was not meant to be an albatross to bog people down but sometimes it seems that way. He gave background information on himself. He spoke of transparency in government agencies and he elaborated. He gave the background information on the creation of the Freedom of Information Commission. He elaborated and said the law is about access to public meetings and access to public records. He had further explanation. He explained what the commission was set up to do. He read the definition of a meeting. He said any time you gather to do your work it is a meeting. He said it doesn't matter what you call it. You are still gathering to do your work and the public needs to have notice. He said sub committees need to follow the same rules. He spoke of a quorum. He said even in the absence of a quorum, you would still be having a meeting. Questions were asked and answered. He explained that if there are multiple board members on any type of committee, you must notice the public of the meeting. Mr. Hennick said if there is one board member on a committee the committee can conduct business without noticing but when there are multiple members, you have to post it. Questions were asked and answered. Mr. Hennick talked about there being three kinds of meetings: a regular meeting, a special meeting, and an emergency meeting. He explained the differences between them. He talked about posting an agenda or notice. He said to make them as specific as you can and to post it at least with 24 hours notice. He explained an item can be added to a regular meeting but not to a special meeting. He had further explanation. He reviewed emergency meetings and said he always discourages these types of meetings because they are unnoticed. He elaborated and said the legal reason is that the law has set the bar really high for an emergency meeting. He gave an example. He said the commission can declare things null and void at an emergency meeting and gave explanation. He gave further examples of what may constitute an emergency meeting. He told the Board you take care of that emergency and only that emergency and within 72 hours file minutes. He said an "oops" is not an emergency. Mr. Hennick said meetings are open and anyone can attend. Meetings can be recorded and audio recorded but you can set the parameters such as placement of the equipment. He said the law does not allow public speaking and he elaborated. He said you can limit people in their comment but you want to make sure you are fair and rational. Questions were asked and answered. Mr. Hennick said in order to have an executive session, the Board needs to vote on that and you have to notice the meeting with the executive session item. He gave the five items for an executive session. He explained the personnel item. He said if you are going to talk about an individual, that person has to be notified and the person has the option of having the discussion in open session. He said the board brings people into the executive session to help the board

with information. He gave examples of people going into executive session. He said you can only deliberate in executive session and any votes must be in open session. Questions were asked and answered. He said there is nothing in the law about prohibiting discussion that took place in executive session but it is a right or privilege. He said some of the confidentiality of executive session need to be as such. The question was asked about the Board having the right to discuss any employee. Mr. Hennick explained the person has to be notified and if they don't want it in executive session it will be in open session. It is actually up to the Board as to whether they invite that person into executive session. Questions were asked and answered. Mr. Hennick gave examples of confidential documents being discussed in executive session. He said the law talks about fairly apprising the public. He explained how to post an item with personnel and using just "personnel" is not an acceptable way to post it. Questions were asked about personal notes and drafts. If the notes become part of a permanent record, it could be FOI'd. There was discussion of texting back and forth between members. Mr. Hennick explained what does not constitute a meeting. He explained strategy and negotiations in respect to collective bargaining. Questions were asked and answered. He said executive level search committee meetings are not open to the public. The law allows the Board to caucus but once you invite others in it is no longer a caucus. He spoke of using electronic devices, including you cannot conduct meetings by phone, person-to-person. He elaborated. He spoke of using email. He cautioned about communications via email, etc. There was comment. Mr. Hennick spoke about minutes. He said the only thing required in minutes is the record of the vote and how much substance is up to the Board. He gave examples. There was further explanation. He spoke of members participating by phone. He gave some examples. Mr. Hennick explained that everything we have is a public record. He read the definition of a public record and elaborated. He said there are exceptions, exclusions and exemptions to that and gave some examples. Mr. Hennick explained when you get a request for records you have to give a response within four days. He said you should give them some kind of time line for the records to be ready and had further comment. He explained that if they want a copy, you can charge up to fifty cents a page and to request it in writing. They can also look at the documents without cost. He told the Board you must provide access to records promptly, without undue delay. He suggested producing a deadline. He said the law says you can decide what prompt is and explained. There was comment. He explained some steps that you may want to take when you get a large request for records. He suggested talking to the requester to see if it may help to narrow the scope of the request. He elaborated. Mr. Hennick said when someone wants to inspect a record, that doesn't give them the right to have them walk out the door with it. He said if we don't have it, we don't have to create it or do research. He explained. He also commented about being careful with research versus analyze. He elaborated. He said that FERPA overrides FOI. He suggested looking at state statutes regarding the laws. He gave teacher evaluations as examples. There was comment. Mr. Hennick said bid packages can be withheld until after the contract has been signed. He said there is a standard for the release of a personnel record. He had comment and explanation about them being offensive and of public concern or invasion of privacy. He explained the person has to be notified. He elaborated. He gave an example of invasion of privacy. He encouraged the board to go through the exemptions. Questions were asked and answered. Mr. Hennick had further comment. He said there is no such thing in the law as a

burdensome request. Medical records were discussed. The same rules apply when an FOI request is received from employees, Board members, etc. Questions were asked and answered regarding other boards attending each other's meetings. Questions were asked and answered about various items. Mr. Hennick said requests cannot be ongoing unless it is for an agenda and then it is good for a year. He had further comment. He said whenever there is a complaint, they try to mediate. He elaborated and explained what happens. Mr. Hennick said you can always call first with questions. He had closing comments.

The workshop ended at 9:10 p.m.

Respectfully submitted,

Roberta T. McCarthy, Secretary to  
The Board of Education