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FILED

November 15, 2022
KITSAP COUNTY CLERK
DAVID T. LEWIS III

SUPERIOR COURT OF WASHINGTON
FOR KITSAP COUNTY

JEFFREY DAILY,

Petitioner,

v.

SOUTH KITSAP SCHOOL BOARD,

Respondent.

No. 21-2-01233-18

**RESPONDENT'S AMENDED
RCW 28A.645.020 CERTIFIED
TRANSCRIPT**

Pursuant to RCW 28A.645.020, Respondent South Kitsap School Board (Board) submits this amended transcript of the evidence, papers, and exhibits relating to the decision for which a complaint has been filed. The earlier Certified Transcript filed in this docket on October 4, 2021 is superseded.

Dated: November 15, 2022.

PATTERSON BUCHANAN
FOBES & LEITCH, INC., P.S.

By: /s/ Duncan K. Fobes

Duncan K. Fobes, WSBA 14964
Donald F. Austin, WSBA 35293
Attorneys for Respondent
South Kitsap School Board

	Date	Description	Bates Pages	Author
1	9/23/14	District Policy GP 2: Governing Style	SKSB_000001	Board
2	2/21/18	District Policy GP5: President's Role	SKSB_000011	Board
3	11/4/20	District Policy GP 12: Process for Addressing Dir. Violations	SKSB_000012	Board
4	8/4/21	District Policy GP2-E5: Meetings	SKSB_000002-10	Board
5	4/21/21	Board Meeting Minutes	SKSB_000014-16	Board
6	4/21/21	Board Referral Request	SKSB_000013	Director Berg
7	5/5/21	Board Meeting Minutes	SKSB_000030	Board
8	"	Transcript: 5/5/21 meeting excerpt	SKSB_000017-29	Board
9	Undated	Ltr: Dir. Daily to Pres. Gattenby	SKSB_000039-40	Director Daily
10	5/11/21	Ltr: Dir. Daily to Pres. Gattenby	SKSB_000033-36	Director Daily
11	5/13/21	Ltr: Dir. Daily to Pres. Gattenby	SKSB_000037-38	Director Daily
12	5/19/21	Response to Dir. Daily's allegations: Dir. Berg to Board	SKSB_000041- 110	Director Berg
13	5/19/21	Board Meeting Minutes	SKSB_000121- 124	Board
14	"	Transcript: 5/19/22 meeting excerpt	SKSB_000111- 120	Board
15	7/21/21	Board Meeting Minutes	SKSB_000134- 136	Board
16	"	Transcript: 7/21/21 meeting excerpt	SKSB_000125- 133	Board
17	8/2/21	Cappel Investigation Report	SKSB_000347- 354	K. Cappel
18	"	Appendix A to Report	SKSB_000137- 328	K. Cappel
19	"	Appendix B to Report	SKSB_000329- 346	K. Cappel
20	10/20/21	Board Meeting Minutes	SKSB_000361- 364	Board
21	"	Transcript: 10/20/21 meeting excerpt	SKSB_000355- 360	Board

CERTIFICATE OF SERVICE

I hereby declare that on November 15, 2022, I caused to be delivered via the method listed below the document to which this Certificate of Service is attached (plus any exhibits and/or attachments) to the following:

ATTORNEY NAME & ADDRESS	METHOD OF DELIVERY
Ms. Sarah Lippek Law Offices of Sarah Lippek 1424 11 TH Avenue, Suite 400 Seattle, WA 98122 slippek@looslpllc.com	<input checked="" type="checkbox"/> Electronic Mail <input type="checkbox"/> ABC Legal Messenger Service <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Other
Mr. Brandt Kreitzberg Law Offices of Sarah Lippek 1424 11 TH Avenue, Suite 400 Seattle, WA 98122 bkreitzberg@looslpllc.com	<input checked="" type="checkbox"/> Electronic Mail <input type="checkbox"/> ABC Legal Messenger Service <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Other

I certify under penalty of perjury, under the laws of the State of Washington, that the foregoing is true and correct.

DATED this 15th day of November, 2022 at Seattle, Washington.

/s/Kevin R. Smith
Kevin R. Smith
Legal Assistant

The Board will govern with emphasis on our stated Ends policies; respect diversity in viewpoints; focus on strategic leadership rather than administrative detail; observe clear distinction between the Board and Superintendent roles; make collective rather than individual decisions; and govern proactively rather than reactively.

Accordingly:

1. The Board will be responsible for excellence in governing. The Board will use the expertise of individual Board members to enhance the ability of the Board as a body, but will not substitute individual judgments for the Board's collective values.
2. The Board will exercise self-discipline as it applies to preparation for meetings, policymaking principles, respect of roles, and ensuring the continuity of governance capability.
3. The Board will lead and inspire the district through the careful establishment of policies reflecting the Board's values and perspectives. The Board's major policy focus will be on the intended long-term benefits for students, not on the administrative or programmatic means of attaining those benefits.
4. Continuous Board development will include orientation of candidates and new members in the Board's governance process and periodic Board discussion and evaluation of process to assure continued improvement.
5. The Board will allow no officer, individual, or committee of the board to be an excuse for not fulfilling its commitments.
6. The Board will monitor the Board's process and performance at each business meeting. Self-monitoring will include comparison of Board activity and discipline to policies in the Governance Process and Board-Staff Relationship categories.
7. The Board, by majority vote, may revise or amend its policies at any time.

Meeting Conduct, Order of Business and Quorum

(WSSDA 1400 - Essential)

Board meetings will be scheduled in compliance with the law and as deemed by the board to be in the best interests of the district and community. The Board will function through (1) regular meetings, (2) special meetings, and (3) emergency meetings.

Regular Meetings

Regular meetings shall be held at 5:00 p.m. on the first (except for the first week of July), and third Wednesdays of each month in the District Office, 2689 Hoover Avenue SE Port Orchard, WA 98366 or at other times and places as determined by the presiding officer or by majority vote of the Board. An agenda of business to be transacted must be posted on the district website not less than twenty-four (24) hours in advance of the published start time of the meeting, unless the district does not have a website or employs fewer than ten full-time equivalent employees.

If regular meetings are to be held at places other than the District Office or are adjourned to times other than a regular meeting time, notice of the meeting will be made in the same manner as provided for special meetings. All regular meetings of the board shall be held within the district boundaries.

Special Meetings

Special meetings may be called by the president or at the request of a majority of the board members. A written notice of a special meeting, stating the time and place of the special meeting and the business to be transacted will be delivered to each board member. Written notice will also be delivered to each newspaper and radio or television station that has filed a written request for such notices. Written notice may be delivered personally or by mail, facsimile or electronic mail. The notice must be posted on the district's website unless the district 1) does not have a website, 2) employs fewer than ten full-time equivalent employees; or 3) does not have an employee whose job description or employment contract provides a duty to maintain or update the website.

The district must also prominently display the notice at the main entrance of the district's headquarters as well as at the location of the meeting if the meeting is held at a location other than the headquarters.

All required notices must be delivered or posted not less than twenty-four (24) hours prior to the meeting.

The written notice requirement will be deemed waived if a member:

1. Submits a written waiver of notice to the board secretary at or prior to the time the meeting convenes. The waiver may be given by telegram, fax, or electronic mail; or
2. Is actually present at the time the meeting convenes.

Final disposition shall not be taken on any matter other than those items stated in the meeting notice.

Emergency Meetings

In the event of an emergency involving fire, flood, earthquake, possible personal injury or property damage, the Board may meet immediately and take official action without prior notification.

Public Notice

Public notice will be properly given for any special meeting; whenever a regular meeting is adjourned to another time; or, when a regular meeting is to be held at a place other than the District Office.

All meetings will be open to the public with the exception of executive or closed sessions authorized by law. Final action resulting from executive session discussions will be taken during a meeting open to the public as required by law.

Individuals with disabilities who may need a modification to participate in a meeting should contact the superintendent's office no later than three days before a regular meeting and as soon as possible in advance of a special meeting so that special arrangements can be made.

During the interim between meetings, the office of the superintendent, as board secretary, shall be the office of the Board. The district's public records shall be open for inspection in the manner provided by and subject to the limitation of the law.

Quorum

Three directors shall be considered as constituting a quorum for the transaction of business.

Meeting Conduct and Order of Business

All board meetings will be conducted in an orderly and business-like manner using the most recent edition of *Robert's Rules of Order Newly Revised* as its parliamentary authority, except when such rules are superseded by board bylaws or policies. The order of business will be that indicated in the agenda. Any additions or changes in the prepared agenda may be requested by the superintendent or a director and must be approved by majority vote of the directors present. At a special meeting final action may be taken only on that business contained in the notice of the special meeting.

Board members are not required to be physically present to attend a board meeting. Any or all board members may attend a board meeting and vote via any communication platform—including videoconference or teleconference-- that provides, at a minimum, simultaneous aural communication between those present, provided: 1) the meeting is properly noticed with any required passwords or authorization codes; 2) the meeting is accessible to the public; 3) the meeting accommodates any member of the public who wishes to participate and 4) the communication platform is generally known and accessible to the public.

The Board shall establish its regular order of business but may elect to change the order by a majority vote of the members present. All votes on motions and resolutions shall be by "voice" vote unless an oral roll call vote is requested by a member of the Board. All votes will be approved by majority of those present and voting, unless otherwise required by law. No action will be taken by secret ballot at any meeting required to be open to the public.

An oral roll call vote of all the members of the Board is required for the election of board officers, filling a vacancy on the board, or for the selection of the school district superintendent, and a majority vote of all the members of the board is required for any person to be elected or selected for such positions.

Public Comment

The board recognizes the value of public comment on educational issues and the importance of involving members of the public in its meetings. In order to permit fair and orderly expression of such comment, the board will provide a period at the beginning and/or the end of the meeting during which visitors may present to the board. Unless the entire board meeting is conducted electronically, oral public comment will be received only in person.

The board will also allow individuals to express an opinion prior to board action on agenda items that the board determines require or will benefit from public comment. Individuals wishing to be heard by the board will first be recognized by the chair/president.

Individuals, after identifying themselves, will proceed to make comments within the time limits established by the board. An individual will be allowed three minutes and a representative of a group five minutes. Only district stakeholders will generally be allowed to address the board. The chair/president may interrupt or terminate any statement when it exceeds the time limits, or is vulgar, obscene or grossly disruptive to the Board process. Any restriction imposed must be viewpoint neutral. The board as a whole has the final decision in determining the appropriateness of all such rulings.

Public comment is an opportunity to direct comments to the board and is not intended to permit interrogation of the board or its members nor to engage in a dialogue. Any specific questions raised in the public comment will be addressed to the chair/president, who will typically refer the question to the superintendent for a detailed response to the individual at a later time. The superintendent will then also report the response to the board at a subsequent public meeting.

Cross References:	WSSDA Policy 1220	Board Officers and Duties of Board Members
	WSSDA Policy 1410	Executive or Closed Sessions
	WSSDA Policy 1420	Proposed Agenda and Consent Agenda

Legal References:	RCW 28A.330.020	Certain board elections, manner and vote required – Selection of personnel, manner
	RCW 28A.320.040	Bylaws for board and school government
	RCW 28A.330.070	Office of board — Records available for public inspection
	RCW 28A.343.370	Vacancies
	RCW 28A.343.380	Meetings
	RCW 28A.343.390	Quorum – Failure to attend meetings
	RCW 42.30.030	Meetings declared open and public
	RCW 42.30.050	Interruptions - Procedure
	RCW 42.30.060	Ordinances, rules, resolutions, regulations, etc., adopted at public meetings – Notice – Secret voting

	prohibited
RCW 42.30.070	Times and places for meetings –
	Emergencies – Exception
RCW 42.30.080	Special Meetings
Ch.42 U.S.C. 12101-12213	Americans with Disabilities Act

Management Resources: 2014 – June Issue
 2013 – April Issue
 2012 – June Issue
 Policy News, June 2005 Special Meeting Notice Requirements

PROCEDURE
 (WSSDA 1400P)

All meetings, including study sessions and retreats, must be advertised as meetings that are open to the public. If a board wishes to devote all or most of a special meeting to an issue(s) to be discussed in executive session (Policy 1410), the special meeting should be called to order and recessed to an executive session. The purpose of the executive session should be announced and recorded in the minutes (e.g., real estate matters, litigation).

All regular meetings must be held within the district boundaries. Special meetings may be held outside the district with proper notice of the time and location.

Meeting Notices

A regular meeting does not require a public notice if held at the time and place provided by board policy. If the board does not meet at its regular location, the meeting should be treated as a special meeting with proper notice to the press stating the time, place and purpose of the meeting. Each director should receive a printed or electronic copy of the agenda at least three days in advance of the meeting.

For special meetings, a district is required to notify newspapers and radio and television stations which have filed a request for such notification. Written notice must also be provided to each school director 24 hours prior to the meeting. Notice to a director is deemed waived if the director files a written notice of waiver with the board secretary before or at the time of the commencement of the meeting or by the director's actual attendance at the meeting.

The notice of the meeting must also be posted on the district's website, the door of the main district offices and the door at the location of the meeting if it is different from the district's offices. The district does not have to post on its website if it: (1) doesn't have one; (2) employs fewer than ten full-time equivalent employees; or (3) does not have an employee whose job description or employment contract provides a duty to maintain or update the website.

All public notices of board meetings should inform persons with disabilities that they may contact the superintendent's office so that arrangements can be made for them to participate in board meetings.

Each director should receive a printed or electronic copy of the agenda twenty-four hours in advance of the meeting. While other items of business may be discussed at a special meeting, no final action can be taken on topics which have not been identified on the printed agenda. If an item is to be discussed in executive session in accordance with Policy 1410, the item of business must also appear on the agenda if final action is to be taken following the executive session.

No meeting notice is required when the board is acting as a quasi-judicial body in a matter between named parties (e.g., hearing on discharge, nonrenewal or discipline of an employee, unless the employee requests a public meeting; hearing regarding suspension or expulsion of a student) or for the purpose of planning or adopting strategy or positions to be taken in collective bargaining, grievance or mediation proceedings, or reviewing such proposals made by a bargaining unit.

Meeting Recess and Continuation

The board may recess a regular, special or recessed meeting to a specific future time. Notice of such a recess and continuation must be posted at or near the door of the meeting room. Notification to the press is not required.

Executive or Closed Session

(WSSDA 1410 - Discretionary)

Before convening in executive session, the president shall publicly announce the general purpose for excluding the public from the meeting place and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the president.

An executive session may be conducted for one or more of the following purposes:

- A. To consider, if in compliance with any required data breach disclosure under RCW 19.255.010 and 42.56.590, and with legal counsel available, information regarding the infrastructure and security of computer and telecommunications networks, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities, and other information that, if made public, may increase risk to the confidentiality, integrity, or availability of agency security or to information technology infrastructure or assets;
- B. To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;
- C. To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price; however, discussion of factors comprising the minimum value of the property and the final action of selling or leasing public property will be taken in a meeting open to the public;
- D. To review negotiations on the performance of publicly-bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;
- E. To receive and evaluate complaints or charges brought against a director or staff member; however, upon the request of such director or staff member, a public hearing or a meeting open to the public will be conducted on such complaint or charge;
- F. To evaluate the qualifications of an applicant for public employment or to review the performance of a staff member; however, discussion of salaries, wages, and other conditions of employment to be generally applied within the district will occur in a meeting open to the public, and when the board elects to take the final action of hiring, setting the salary of an individual staff member or class of staff members, or discharging or disciplining an employee, that action will be taken in a meeting open to the public;
- G. To evaluate the qualifications of a candidate for appointment to the board; however, any interview of such candidate and final action appointing a candidate to the board will be in a meeting open to the public; or
- H. To discuss with legal counsel representing the district matters relating to district enforcement actions, or litigation or potential litigation to which the district, the board, or

a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the district. Potential litigation means matters protected by attorney-client privilege related to litigation that has been specifically threatened; litigation that the district reasonably believes may be commenced; or the litigation or legal risks of a proposed action or current practice of the district, if public discussion is likely to result in an adverse or financial consequence to the district.

Closed Sessions/Private Meetings

The Open Public Meetings Act does not apply to certain board activities and public notice is not required prior to holding a closed session for any of the following purposes:

- A. Consideration of a quasi-judicial matter between named parties as distinguished from a matter having a general effect on the public or a class or group; or
- B. Collective bargaining sessions with employee organizations or professional negotiations with an employee, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement, or that portion of a meeting in which the board is planning or adopting the strategy or position to be taken during the course of collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress while in progress.

Legal References:	RCW 19.255.010	Disclosure, notice – Definitions – Rights, remedies
	RCW 42.30.110	Executive sessions
	RCW 42.30.140	Chapter controlling — Application
	RCW 42.56.590	Personal information – Notice of security breaches

Management Resources: 2017 – July Issue
 Policy News, June 2011 Legislature Addresses Executive Session

Audience Participation

Individuals with disabilities who may need a modification to participate in a meeting should contact the superintendent's office no later than three days before a regular meeting and as soon as possible in advance of a special meeting so that arrangements for the modification can be made.

Legal References:	RCW 42.30.030	Meetings declared open and public
	RCW 42.30.050	Interruptions — Procedures
	42 U.S.C. §§ 12101-12213	Americans with Disabilities Act

Minutes

(WSSDA 1440 – Discretionary)

The secretary of the board keeps the minutes of all board meetings. Minutes become official after approval by the board’s next regularly scheduled meeting and must be retained as a permanent record of the district. Minutes must be comprehensive and shall show:

- A. The date, time and place of the meeting;
- B. The presiding officer;
- C. Members in attendance;
- D. Items discussed during the meeting and the results of any voting that may have occurred;
- E. Action to recess for executive session with a general statement of the purpose;
- F. Time of adjournment; and
- G. Signature of presiding officer and date minutes approved.

When issues are discussed that may require a detailed record, the board may direct the secretary to record the discussion. Audio or video recordings will be maintained on file as follows:

- A. If the recording is transcribed verbatim (word for word), the recording must be retained for one (1) year; or
- B. If the recording is only used as a reference to create written minutes, the recording must be retained for six (6) years.

Unofficial minutes will be provided to board members in advance of the next regularly scheduled meeting of the Board and will also be available to other interested citizens. Minutes need not be read publicly, provided that members have had an opportunity to review them before adoption.

A file of permanent minutes of all board meetings will be maintained in the office of the board secretary to be made available for inspection upon the request of any interested citizen.

Cross Reference:	WSSDA Policy 6570	Property and Data Management
Legal References:	RCW 28A.400.030 RCW 40.14.070 RCW 42.32.030	Superintendent's duties Destruction, disposition, donation of local government records – Preservation for historical interest – Local records committee, duties – Record retention schedules – Scaled record Public meetings—Minutes
Management Resources	2010 – April Issue	

Absence of a Board Member

(WSSDA 1450 – Priority)

Whenever possible each board member shall give advance notice to the president or superintendent of his/her inability to attend a board meeting. A majority of the Board may excuse a board member's absence from a meeting if requested to do so.

The Board may declare a board member's position vacant after four (4) consecutive unexcused absences from regular board meetings, if the absences were for reasons other than illness, active or training military duty, or those authorized by resolution of the Board.

If a board member is on active duty or training status with the military, the Board will grant an extended leave of absence to cover the period of service or training. The extended leave of absence may not have the effect of extending the board director's term. The Board also has the authority to appoint a temporary successor to the absent board member's position. The temporary successor shall serve until the board member's returns or the end of the board member's term.

Cross References:	WSSDA Policy 1220	Board Officers and Duties of Board Members
	WSSDA Policy 1114	Board Member Resignation and Vacancy
Legal References:	RCW 28A.343.390	Quorum — Failure to attend meetings
	RCW 42.12.010	Causes of vacancy
	RCW 73.16.041	Leaves of absence of elective and judicial officers
Management Resources:	2016 – July Issue	
	Policy News, October 2001	Law Grants Board Member Military Leave

GP-5
PRESIDENT'S ROLE

(SKSD Language)

The President of the Board ensures the integrity of the Board's processes and normally serves as the Board's official spokesperson. Accordingly, the President has the following authority and duties:

1. Monitor Board behavior to ensure that it is consistent with its own rules and policies and those legitimately imposed upon it from outside the organization:
 - a. Conduct and monitor Board meeting deliberations to ensure that only Board issues, as defined in Board policy, are discussed.
 - b. Ensure that Board meeting deliberations are fair, open, and thorough, but also efficient, timely, and orderly.
 - c. Chair Board meetings in accordance with law and using the most recent edition of *Robert's Rules of Order Newly Revised*.
 - d. Provide a means of collecting monitoring data from all directors, collate and present data to the board for discussion and action.

2. Make all interpretive decisions that fall within the topics covered by Board policies on Governance Process and Board/Staff Relationship, except where the Board specifically delegates such authority to others, using any reasonable interpretation of the provisions in those policies:
 - a. Refrain from making any interpretive decisions about policies created by the Board in the Ends and Executive Limitations policy areas.
 - b. Refrain from exercising any authority as an individual to supervise or direct the Superintendent.

3. Represent the Board to outside parties in announcing Board-stated positions and in stating decisions and interpretations within the areas assigned to the President, delegating this authority to other directors when appropriate, but remaining accountable for its use.

4. With the Superintendent, plan and approve the annual meeting schedule and associated agendas.

5. When necessary, sign documents as required by law and authorized by the Board.

6. Appoint directors to Board-approved subcommittees with input from the Board. In the absence or inability of the President, the Vice President shall have all of the powers and duties of the President.

Policy Type: Governance Process

GP-12

PROCESS FOR ADDRESSING DIRECTOR VIOLATIONS

The Board, individually and collectively, is committed to full compliance with the provisions of its own policies. In the event of a director's willful and continuing violation of policy, the Board may seek remedy by the following process:

1. Conversation in a private setting between the director and the Board President or other individual member.
2. Discussion in a private session between the offending director and the Board (as permitted by law).
3. Consider public censure of the offending director of the Board.
4. Remove the offending director from any committee or other Board-designated responsibility, as appropriate.
5. In cases of nonattendance, declare the seat vacant in accordance with law.

BOARD REFERRAL REQUEST FORM

An incidental main motion to refer

Topic: Resolution of Censure

Submitted for Consideration John Berg
by:

Submitted for Board Meeting April 21, 2021
On:

Desired Resolution Date: May 19, 2021

Board Policy Related To: GP-12

Objective of This Respond to alleged offences and improprieties of Director Jeff Daily.
Conversation/Topic:

Board Motion: Establish two sub-committees composed of Directors Gattenby and Sebren on one, and Directors Berg and Diehl on the other, to draft alternate resolutions of censure, or to recommend that no action be taken.

Board Decision: **Motion Approved:** _____ **Motion Fails:** _____

Guidance Provided to the Research and draft alternate resolutions
Committee:

Outside Resources Needed: District's legal counsel and/or WSSDA recommended policies as deemed necessary.

Information to be Provided to Draft resolution censuring Director Daily, or recommendation that no
the Board by the Committee: action be taken.

The Decision That the Board Adoption of Resolution Censuring Director Daily
Will Make:

Referred to: _____ **Date:** _____

Board Chairperson Signature: _____

REGULAR MEETING OF THE BOARD
Wednesday, April 21, 2021
Minutes

The meeting was held at the District Administration Building with remote access via Zoom. Notice was provided to community members wishing to access the meeting.

Present:

Eric Gattenby	President
John Berg	Vice President
Liz Sebren	via Zoom
Rebecca Diehl	Director
Jeff Daily	Director

Tim Winter	Superintendent
Jennifer Farmer	Assistant Superintendent of Business and Operations
Dr. Andy Rogers	Executive Director of Special Services
Amy Miller	Communications and Public Information Officer
Robbie Bell	Recorder

CALL TO ORDER

President Gattenby called the meeting to order at 5:00 pm and provided information regarding the nature of the meeting. The in-person meeting was held in compliance with the safety requirements contained in the State of Washington's Miscellaneous Venues – COVID-19 Guidance.

Pledge of Allegiance: President Gattenby led the flag salute.

Establish Agenda: Superintendent Winter requested that Item 4.05 *Donations to the South Kitsap School District* be removed from the agenda. The board approved.

MOTION: DIEHL moved to remove Board Discussion topic *Resolution of Censure*. The motion failed.

MOTION: BERG moved to limit discussion on Item 2.04 *Board Budget Planning 2021-2022* to 10 minutes. The motion carried. The agenda, as amended, was approved by general consent.

NIB Awards: The first Board Meeting of the month begins with a brief and inspiring presentation of "Caught Being a NIB" awards. A "NIB" award salutes those who truly "walk the talk" of our district Vision Statement, "Nurturing Growth, Inspiring Achievement, and Building Community". We honor and value those who exhibit a "whatever it takes" approach to their work with South Kitsap kids, colleagues, and families. Join us in thanking these "NIBS" for embracing our vision. *A list of this month's NIB's can be found on the April 21, 2021 Board Meeting Agenda.*

Staff and Student Recognition: The Board recognized with appreciation the retirement of 5 long-time SK staff members. They also recognized student Cadet Ensign Regina Obnial for winning the American Revolution Essay Contest and CTE Director Sara Hatfield for being named a member of Leadership Kitsap's 20 under 40! *A copy of the presentations can be found on the April 21, 2021 Board Meeting Agenda.*

Public Comment: None

PRESENTATIONS/REPORTS

Priority Plan Focus: Dr. Andy Rogers Executive Director of Special Services presented an overview of the summer school program planned for SK students and staff. *A copy of the presentation can be found on the April 21, 2021 Board Meeting Agenda.*

Thought Exchange Community Survey: Amy Miller Communications and Public Information Officer reviewed the results of the recent survey. *A summary of the results can be found on the April 21, 2021 Board Meeting Agenda.*

At 6:15 pm, the Board took a five-minute break.

Facility Long-Range Planning Advisory Committee Report: Committee member Lee Fenton updated the Board on the committee's mission statement and work to date.

MOTION: BERG moved that the Facility Long-Range Planning Advisory Committee be directed to examine the current capital levy projects, identify those that will be completed by the end of 2022, those that will not be addressed with current funding, and advise the Board on the specific capital improvement needs and priorities for the years 2023 through 2026. The motion failed.

Board Budget Planning 2021-2022: Each Director shared his/her budget priorities.

MOTION: DAILY moved to extend the discussion 10 additional minutes. The motion failed.

BOARD DISCUSSION/LINKAGE

Board Linkages:

- Director Sebren attended the WSSDA Regional Meeting; she would like the Board to work together to build trust with the community;
- Director Daily drove down the Oregon Coast, visited Catalyst Charter School, and rode along on a bus route;
- Director Berg has been attending the WSSDA weekly updates; he attended the WSSDA Regional Meeting; he has been corresponding with citizens; and he reported that no applications have been received from student representative.

Legislative Report: Director Diehl shared the Board's budget planning report with local legislators; the legislative session ends April 25. She reported that the filing period for School Board positions is May 17-21 and resources for candidates are available on the WSSDA website.

WIAA Report: None

Board Discussion:

The board discussed the following topics:

- Agenda planning for April 28 Work Session

MOTION: BERG moved to approve the meeting format he presented. The motion carried.

- Resolution of Censure

MOTION: BERG moved to adopt the Board Referral Form to establish two committees of two Directors each to pursue the matter and report back to the Board in executive session. The motion carried.

MOTION: DAILY moved to censure Director Daily for his behavior and remarks. The motion failed.

Director Daily delivered a letter to President Gattenby regarding Director Berg.

- Application to Facility Committee

MOTION: GATTENBY moved to approve Mr. Mann's application to the Facility Committee. The motion failed.

- Addressing correspondence to the Board; Director Berg will draft a new policy on communication.

- Director Daily scheduling "office" hours to meet with constituents at the district office on the first and third Tuesday of the month.

CONSENT AGENDA

- Consent Agenda
- Minutes of the Regular Meeting of March 31, 2021
- Human Resources Employment Reports

- Affidavit of Vouchers and Payroll
 - ~~Donations to the South Kitsap School District~~
 - Authorization to Call for Bids Central Kitchen Backup Generator Project
- The Consent Agenda was approved by general consent. *Attachments to Consent Agenda items can be found on the April 21, 2021 Board Meeting Agenda.*

NEW BUSINESS/ACTION ITEMS

Resolution No. 1342 Emergency Waiver of High School Graduation Credits

MOTION: The motion to approve Resolution No. 1342 Emergency Waiver of High School Graduation Credits carried.

Coherent Governance Training

MOTION: DIEHL moved to approve the contract with the Aspen Group to provide professional development to the Board. The motion carried.

Open Public Bargaining

MOTION: BERG moved to cancel the public hearing set for May 5, 2021 and to postpone the entire matter indefinitely. The motion carried.

BOARD POLICY REVIEW

Review Operational Expectation 7: Budget Planning

MOTION: BERG moved to increase the fund balance to 8% (Item #7). The motion failed.

The Board asked Superintendent Winter to report on the advantages and disadvantages of raising the fund balance.

SUPERINTENDENT REPORT

Superintendent Winter updated the Board on the following topics:

- OSPI is requiring an Academic and Student Well-being Recovery Plan by June 1. The plan will be submitted to the board for approval on May 19;
- State assessments will not be conducted this spring, they have been moved to the fall;
- The Audit Exit Conference is scheduled for April 27 at 12:30 pm;
- The return to school plan will be shared at the May 5th meeting;
- SKHS planning graduation on June 19, more details will be known next week;
- He will provide an update on the pool at the May 5th meeting.

ADJOURNMENT

Meeting adjourned at 8:29 pm.

Eric Gattenby, President

Tim Winter, Superintendent

Board Meeting Excerpt

Daily v. South Kitsap School Board

May 5, 2021



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SUPERIOR COURT OF WASHINGTON
FOR KITSAP COUNTY

JEFFREY DAILY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 21-2-01233-18
)	
SOUTH KITSAP SCHOOL BOARD,)	
)	
Defendant.)	

BOARD MEETING EXCERPT

May 5, 2021

Present:

- President Eric Gattenby
- Vice President John Berg
- Director Jeffrey Daily
- Director Rebecca Diehl
- Director Liz Sebren
- Superintendent Tim Winter

TRANSCRIBED BY: Cynthia M. Allen, RMR, CRR, CRC
Court-Approved Transcription

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May 5, 2021

PRESIDENT GATTENBY: -- the 19th. So the item I wanted added here was to revisit to provide a proposed amendment to the Board referral form that we approved on the 21st of April in that (inaudible) discusses to let the individual director and the Board motion to establish two committees.

Superintendent Winter and I discussed this and have discussed with the District's counsel, and counsel referred us to risk pool; and risk pool has offered to provide us with a (inaudible) investigator, somebody to gather the facts and do the -- the leg work so that we do not try to circumvent open public meeting act stuff by having just two members doing something, and to provide just the facts (inaudible) provide information on what is and what was not (inaudible) both Director Daily and Director Berg (inaudible) the amendment to Board referral form (inaudible) discussion with Director Daily.

DIRECTOR DAILY: Well, first I've heard of it, so no comment.

PRESIDENT GATTENBY: Director Diehl?

DIRECTOR DIEHL: (Inaudible) so --

UNIDENTIFIED SPEAKER: (Inaudible).

DIRECTOR DIEHL: I don't want to do (inaudible). It was

1 voted on by the Board. So...

2 DIRECTOR BERG: Well, we don't -- we don't have any
3 specific charges. I mean, specific charges were leveled
4 against Director Berg, but no specific charges were leveled
5 against Director Daily. So I'm not sure exactly what it is
6 they're going to investigate.

7 PRESIDENT GATTENBY: Well, we were -- committees of two
8 were charged to look into all things Director Daily and see
9 if there were any things that went afoul with our
10 governments or (inaudible).

11 VICE PRESIDENT BERG: (Inaudible).

12 DIRECTOR DAILY: So then the only comment I would make is
13 obviously handled very poorly then because you've already
14 put it all over the newspapers, and you've already sent that
15 out, and we've already decided what the issue is.

16 So next time perhaps maybe you ought to think before you
17 just put a motion out to the entire world since this has now
18 gone all the way across the country. Okay?

19 Before you just send out -- since we don't have any
20 specific charges, I would think there's probably a legal
21 issue there if you had no charges and you just thought that
22 somebody was bad.

23 So perhaps a little thought next time, huh?

24 PRESIDENT GATTENBY: Director Sebren?

25 DIRECTOR SEBREN: In response to your comment just now,

1 Director (inaudible) -- or Director Daily, we didn't make
2 charges because we didn't feel that it was appropriate to do
3 so in a public forum until we gave you a chance to respond
4 (inaudible).

5 DIRECTOR DAILY: It doesn't matter. The damage is done.

6 DIRECTOR SEBREN: I think -- I think -- I think following
7 what we decided before would have worked, but having legal
8 in there, also.

9 So -- so what you were saying is that the legal would only
10 speak to Director Daily and Director Berg, or they would
11 speak -- this person would speak to all five members?

12 SUPERINTENDENT WINTER: We were (inaudible) we were asked
13 to look at (inaudible). And -- and there are two things
14 happening here amongst the Board, and so both of those
15 were -- the recommendation of legal counsel was, if the
16 Board (inaudible) it had somebody from the outside
17 (inaudible) look at it on both, both sides.

18 DIRECTOR SEBREN: So what's --

19 SUPERINTENDENT WINTER: I don't know what that entails. I
20 don't (inaudible).

21 DIRECTOR SEBREN: They would -- so they would speak to all
22 five Board members (inaudible)? Okay.

23 Because when I first read that, it sounded like they would
24 only speak to Director Berg and Director Daily.

25 So this would be someone (inaudible) to all five of us,

1 and then coming back with --

2 UNIDENTIFIED SPEAKER: And potentially others.

3 (Inaudible) no idea what that person (inaudible) come
4 across. So...

5 DIRECTOR SEBREN: I have a little -- with censure, my
6 understanding of that is just to publicly state that we have
7 found a director in violation of our policies, and state
8 those policies that we believe they've -- that director has
9 not followed. I didn't think of it as becoming something so
10 big as to having to have people going and interviewing
11 different people that had different feelings about that.

12 And so, I mean, I will go with whatever the Board decides,
13 because we know my -- my feelings on this, and I voted for
14 this. So obviously I'm for censure.

15 I don't -- I don't know if all the information that we
16 have is enough for -- well, actually, what I understand is
17 the Board can censure just from saying a certain person did
18 not follow policy. So I don't believe (inaudible).

19 PRESIDENT GATTENBY: Okay. And I guess from my
20 perspective, that counsel and risk pool were concerned that
21 the course of action that we had voted on could -- could get
22 us into some issues with (inaudible) and with -- since this
23 involved two -- two sitting members, that really complicated
24 things.

25 So they recommended an unbiased third party to gather

1 facts, not passing judgment on or anything, just to gather
2 facts and say these were the things -- because there were
3 specific fallouts in Director Daily's submittal, that it was
4 (inaudible) administratively burdensome upon us as a Board,
5 and offered (inaudible) independence and recommendation from
6 our counsel that the way we were going was not (inaudible)
7 the best course of action.

8 DIRECTOR DIEHL: So they would then give that information
9 to the Board, and then we would continue from where we are
10 now to decide whether to vote this into or not?

11 PRESIDENT GATTENBY: Yes.

12 DIRECTOR DIEHL: Okay. Then (inaudible).

13 VICE PRESIDENT BERG: I think the original motion only
14 addressed Director Daily. He had submitted some charges to
15 the Board President and asked the Board President to
16 investigate them.

17 There was no Board action directing an investigation of
18 Director Berg.

19 If the -- if the charges were submitted to the Board
20 President, the only action that the Board President can take
21 under our GP-12 would be to discuss the -- discuss it with
22 the offending member.

23 The Board -- the Board has never directed any
24 investigation of the charges against Director Berg, and I --
25 and I don't think that that needs to be included in this.

1 The Board voted to investigate charges against Director
2 Daily, and that's what we need to address. The other -- the
3 other is a separate matter, whether the Board wants to -- to
4 take that up or not.

5 PRESIDENT GATTENBY: (Inaudible).

6 VICE PRESIDENT BERG: So I -- I would propose deleting the
7 reference to Director Berg from the revised motion, and have
8 them investigate the charges against Director Daily.

9 PRESIDENT GATTENBY: I believe that in my role as having
10 (inaudible) that I can utilize (inaudible) asset for the
11 second portion of it.

12 SUPERINTENDENT WINTER: So I (inaudible) President
13 Gattenby to forward that to legal counsel, as well as to --
14 the original motion.

15 Legal counsel looked at both sides and said this is really
16 (inaudible). I would recommend outside third-party
17 investigation. That -- that was the gist of the
18 conversation.

19 VICE PRESIDENT BERG: Well, this action as initially
20 proposed would initiate investigation against Director Berg,
21 also, which was not part of the original Board action.

22 UNIDENTIFIED SPEAKER: I think Director Gattenby said it
23 was amending it. I think he said I'm offering an amendment.
24 That's what I heard.

25 UNIDENTIFIED SPEAKER: Yes. The amendment did include

1 Director Berg. But because of the volume of the information
2 that (inaudible). So...

3 VICE PRESIDENT BERG: Well, let me ask President Gattenby,
4 does -- does the information received from Director Daily
5 warrant any further investigation, in his opinion?

6 PRESIDENT GATTENBY: I have not had sufficient time to --
7 to make that -- that call yet.

8 DIRECTOR DIEHL: (Inaudible).

9 PRESIDENT GATTENBY: But I believe that we can handle --
10 we can split this into two pieces (inaudible). I think that
11 (inaudible) propose that we accept your amendment of
12 removing Director Berg's name from my amendment, and move
13 forward with it just to take the Board motion (inaudible)
14 risk pool asset to look into the matter, and then in my
15 authority as the Board President, I will gauge if the -- the
16 same resource could help me in gathering the facts so that I
17 can move to decision (inaudible). It may be no -- no
18 further action.

19 DIRECTOR SEBREN: I'm really confused here. There's been
20 so much thrown in here, and this was just a motion to
21 censure Director Daily for not following our policy.

22 VICE PRESIDENT BERG: Actually (inaudible) look into the
23 matter and see if there was.

24 DIRECTOR SEBREN: And then to present at the next meeting
25 what our finding was. It had nothing to do with Director

1 Berg.

2 Can we not just follow through with that? And then if
3 Director Daily has an issue with Director Berg after we do
4 what we originally voted to do, then that can continue,
5 and -- and that would be -- that would be something that
6 (inaudible). But it's separate from what we originally
7 voted.

8 UNIDENTIFIED SPEAKER: Yes. They are separate matters,
9 but they intertwine.

10 UNIDENTIFIED SPEAKER: There's a reason the District has
11 legal counsel. Use it.

12 DIRECTOR SEBREN: But there's a reason we have policy.
13 Use it.

14 PRESIDENT GATTENBY: I thought this was actually going to
15 be an easy lifeline for us (inaudible) to use because they
16 were concerned that we were going to go off on a tangent and
17 do something that could do more harm than good to the entire
18 Board. Trying to find the best course of action that
19 represents (inaudible) for us all. And...

20 DIRECTOR SEBREN: Okay. So I'm to assume you have had
21 counsel that we're not privy to, so I will defer to your
22 judgment.

23 VICE PRESIDENT BERG: So is it -- is it the President's
24 intent to revise his original motion?

25 PRESIDENT GATTENBY: Yes.

1 VICE PRESIDENT BERG: To address only Director Daily? So
2 exactly what is -- what is the motion before us?

3 PRESIDENT GATTENBY: The motion before us would be to take
4 from the Board referral form that -- to strike out all the
5 pieces that were establishing subcommittees comprised of,
6 and to draft alternate resolutions, and to recommend -- or
7 to recommend no issue -- no action to be taken, strike that
8 out, and to utilize the counsel-recommended State risk pool
9 asset to look into the matter.

10 And in conjunction with that, the Board President will use
11 the same asset provided to us of looking into the matter
12 that this (inaudible) regards to Director Berg.

13 DIRECTOR SEBREN: May we separate those two?

14 PRESIDENT GATTENBY: I think they are separate.

15 DIRECTOR SEBREN: Okay. Thank you.

16 PRESIDENT GATTENBY: That's an awful lot to say, and I'm
17 trying to find the best way to do it.

18 VICE PRESIDENT BERG: (Inaudible) exact wording
19 (inaudible).

20 DIRECTOR SEBREN: We've got it taped.

21 PRESIDENT GATTENBY: Okay. Is there any objection
22 (inaudible)?

23 VICE PRESIDENT BERG: (Inaudible).

24 PRESIDENT GATTENBY: All opposed to (inaudible) motion to
25 strike (inaudible) committees and to research (inaudible)

1 utilize the State risk pool asset to look into the matter?

2 All those in favor say aye.

3 VICE PRESIDENT BERG: Aye.

4 PRESIDENT GATTENBY: Aye.

5 All those opposed say no.

6 DIRECTOR DIEHL: I'm going to have to vote aye because I
7 have to vote. Everyone should vote.

8 VICE PRESIDENT BERG: (Inaudible). It can pass two to
9 zero.

10 DIRECTOR DIEHL: It's our job.

11 PRESIDENT GATTENBY: Okay. Is there any other --

12 (Conclusion of excerpt)

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C E R T I F I C A T E

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STATE OF WASHINGTON)
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COUNTY OF KING)

I, the undersigned, do hereby certify under penalty of perjury that the foregoing recorded statements, hearings and/or interviews were transcribed under my direction as a certified transcriptionist; and that the transcript is true and accurate to the best of my knowledge and ability, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of October, 2022.

Cynthia M. Allen



s/Cynthia M. Allen, RMR, CRR, CRC

REGULAR MEETING OF THE BOARD
Wednesday, May 5, 2021
Minutes

The meeting was held at the District Administration Building with remote access via Zoom. Notice was provided to community members wishing to access the meeting.

Present:

Eric Gattenby	President
John Berg	Vice President
Liz Sebren	Director
Rebecca Diehl	Director
Jeff Daily	Director

Tim Winter	Superintendent
Jennifer Farmer	Assistant Superintendent of Business and Operations
Amy Miller	Communications and Public Information Officer
Robbie Bell	Recorder

CALL TO ORDER

President Gattenby called the meeting to order at 5:00 pm and provided information regarding the nature of the meeting. The in-person meeting was held in compliance with the safety requirements contained in the State of Washington's Miscellaneous Venues – COVID-19 Guidance.

Pledge of Allegiance: President Gattenby led the flag salute.

Establish Agenda: President Gattenby added to Board Discussion further dialogue regarding the Board Referral Form regarding censure submitted at the April 29, 2021 meeting. The agenda, as amended, was approved by general consent.

NIB's: The first Board Meeting of the month begins with a brief and inspiring presentation of "Caught Being a NIB" awards. A "NIB" award salutes those who truly "walk the talk" of our district Vision Statement, "Nurturing Growth, Inspiring Achievement, and Building Community". We honor and value those who exhibit a "whatever it takes" approach to their work with South Kitsap kids, colleagues, and families. Join us in thanking these "NIBS" for embracing our vision. *A list of this month's NIB's can be found on the May 5, 2021 Board Meeting Agenda.*

Staff and Student Recognition – Certificated Staff Appreciation Week:

Superintendent Winter read the Board's Proclamation declaring May 3-7, 2021 as Certificated Staff Appreciation Week in the South Kitsap School District.

The Board also recognized with appreciation Jay Villars, Assistant Superintendent of Student Success, who is leaving South Kitsap after 34 years in education, 20 of which at SK. They also recognized seven SK students who advanced to the state level of History Day 2021. The recent clean financial audit was also highlighted. *A copy of the presentation can be found on the May 5, 2021 Board Meeting Agenda.*

Public Comment: None

PRESENTATIONS/REPORTS

Priority Plan Focus: Superintendent Winter shared a presentation on "Target for Success" that included student achievement data from around the state. He and the Board discussed where to focus resources to meet the Board's goals (Results).

MOTION: SEBREN moved to select Math as a priority focus with a goal of 75% of students meeting standard by 2025. The motion carried.
Superintendent Winter will present topics from the priority plan to discuss and establish goals at upcoming board meetings.

2021-2022 School Year Plan: Superintendent Winter reviewed the plans for the 2021-2022 school year that includes most students returning to full time, in-person instruction. A remote learning option will also be offered for a limited number of students. The District will comply with guidance from the Governor, OSPI, and the Department of Health.

Review Draft of OSPI Academic & Student Well-being Recovery Plan: Superintendent Winter briefed the Board on the purpose of the plan. It will be presented for approval at the May 19th meeting.

Monthly Financial Report for March 2021: Assistant Superintendent Jennifer Farmer reviewed the March 2021 Budget Status Report. *A copy of the report can be found on the May 5, 2021 Board Meeting Agenda.*

At 6:24 pm, the Board took a ten-minute break.

PERFORMANCE REVIEWS

Results and Operational Expectation policies are monitored through the evaluation of the Superintendent's evidence of compliance submitted by the superintendent to the Board. Tonight, the Superintendent presented for initial review, his Interpretation and Indicators of Compliance for:

- **Operational Expectation 5: Staff Compensation – Initial Review**

MOTION: The Board, having reviewed the Superintendent's Interpretation and proposed Indicators of Compliance on OE-5, finds that the Interpretation and Indicators of Compliance are reasonable and directs the Superintendent to report back on May 19, 2021 with data on the Indicators of Compliance.

- **Operational Expectation 6: Staff Evaluation – Initial Review**

MOTION: The Board, having reviewed the Superintendent's Interpretation and proposed Indicators of Compliance on OE-6, finds that the Interpretation and Indicators of Compliance are reasonable and directs the Superintendent to report back on May 19, 2021 with data on the Indicators of Compliance.

BOARD DISCUSSION/LINKAGE

Board Linkages:

- Director Diehl attended the WSSDA conference calls and has been review legislation;
- Director Berg also attended the WSSDA calls and sat in on the grant application for the Indian Education program;
- Director Sebren has been talking with neighbors excited to have students back in school.

Legislative Report: Director Diehl shared the WSSDA legislative session overview. She announced that the filing period for School Board positions is May 17-21 and offered to be a resource for any potential directors. *A link to the WSSDA report can be found on the May 5, 2021 Board Meeting Agenda.*

WIAA Report: None

Board Discussion:

The board discussed the following topics:

- Director Berg reviewed proposed Governance Process Policy 14 Community Engagement and Linkages;
MOTION: BERG moved to refer this to the training session with Aspen Group. Motion approved by general consent.
- School Board Student Representative interview process.

MOTION: GATTENBY moved to schedule time at the May 19th meeting for each applicant to make a ten-minute presentation to the Board. The motion carried.

- **MOTION:** **GATTENBY** moved to delete from the Board Referral Request Form submitted for the from April 29 board meeting, the section stating, "Establish two sub-committees . . ." and replace with "utilize the risk pool asset to look into the matter". The motion carried. President Gattenby will also work with the risk pool to look into the matter concerning Director Berg.

CONSENT AGENDA

- Consent Agenda
 - Minutes of the Regular Meeting of April 21, 2021
 - Minutes of the Special Meeting of April 28, 2021
 - Human Resources Employment Reports
 - Affidavit of Vouchers and Payroll
 - Donations to the South Kitsap School District
 - Overnight Travel for SKHS Equestrian Team to attend the State Competition June 17-20, 2021 in Moses Lake, Washington
 - Request for Approval to Bid on SKHS Phase 2 ADA Facility Improvements Project
 - Request for Approval to Bid on Discovery Alternative High School ADA Facility Improvements Project
 - Authorization to Reject All Bids for the Burley Glenwood ADA and Site Improvements Project
- The Consent Agenda was approved by general consent. *Attachments to Consent Agenda items can be found on the May 5, 2021 Board Meeting Agenda.*

SUPERINTENDENT REPORT

Superintendent Winter updated the Board on the following topics:

- SKHS graduation is scheduled on June 19 at Cheney Stadium; each graduate will receive two tickets;
- The SKHS prom is scheduled on June 12;
- Aspen Group professional development: The Board agreed to schedule virtual training on Friday, June 25 from 12:00 – 5:00 pm. Directors will attend in-person and board candidates will be invited to observe;
- Balanced school calendar: Superintendent Winter recommended a survey to gauge interest in an adjusted school year;
- Pool update: The design team and district met with the city regarding permitting; design documents are in final review; looking at a bidding process this summer; the initial proposal of the project was inaccurate and it will be a challenge to complete the project within the original scope.

ADJOURNMENT

Meeting adjourned at 7:38 pm.

Eric Gattenby, President

Tim Winter, Superintendent