

ENNIS PUBLIC SCHOOLS
*******TUESDAY, MARCH 5, 2013*******

SPECIAL BOARD MEETING
FINAL AGENDA
5:00 P.M. - ROOM #3

PLEDGE

- I. VISITORS AND PATRONS**
- II. PUBLIC COMMENT**
- III. NEW BUSINESS**
 - A. Teachers' Retirement System Update/Litigation Strategies - Elizabeth Kaleva via telephone

**SCHOOL DISTRICT 52
ENNIS, MADISON COUNTY, MONTANA
TUESDAY, MARCH 5, 2013**

SPECIAL BOARD MEETING - 5:00 P.M.

Lisa Frye	Chairperson
Craig George	Vice-Chair
Jim McNally	Trustee
Mike McKittrick	Trustee
Bill Clark	Trustee
John Overstreet	Superintendent
Ginger Martello	District Clerk

Chairperson Frye called the meeting to order. The pledge to the flag was recited.

VISITORS

Per Attached

Public Comment

Chad Coffman stated he was disappointed in Trustee George's behavior at the last meeting. He felt that leaving the meeting because the issue did not end in his favor was disrespectful to his fellow board members and the community. He said trustees are held to a higher standard.

NEW BUSINESS

Teachers' Retirement System Update/Litigation Strategies - Elizabeth Kaleva via Telephone

Trustee George explained the new board members are getting up to speed on the TRS issues and they are at different ends of the spectrum. He said this meeting should not be an attack of Ms. Kaleva, but a free flow of information. He felt the board needs to know where we are at and how to move forward. Trustee George felt the board's issue and Mr. Walsh's issue needs to be separate. He said we need to resolve the issue and not debate how we got to this point.

Ms. Kaleva was called and Chairperson Frye asked her to give a recap of the situation and

discuss the district's options. Ms. Kaleva said the two-year statute of limitations does apply although TRS can argue fraud and concealment back to 2001. She said this is a high standard to prove and can be quite costly. She felt it would be best to try to mediate a resolution. Ms. Kaleva explained Mr. Walsh's attorney sent a letter to the district and TRS requesting mediation. She said Denise Pizzini, counsel for TRS, agreed to mediation.

Trustee McNally said he understood that the two-year statute of limitations applied, but the specific starting date was not addressed, would this be done in mediation?

Ms. Kaleva said if TRS argued concealment which would require a lot of discovery and staffing then a hearing would be required. Mediation will address the two-year statute of limitations and when it applies. Mediation could possibly happen in Helena with all three groups attending. Superintendent Overstreet and Ms. Kaleva would represent the district, Mr. Walsh and his attorney would be present and David Senn and Denise Pizzini would represent TRS. The only party that could settle at this point is Mr. Walsh. The other two parties would have to come back to their respective boards with the negotiated offer for final approval.

The board questioned Ms. Pizzini's authority to agree to mediation. Ms. Kaleva explained that TRS doesn't have to formally approve mediation. Their board chair can approve mediation.

Trustee George asked if the three parties should be separate? He asked if mediation was appealable and if arbitration was binding? How does the board convey to her what they want?

Trustee McNally asked if they agree to the same date and not the same room, is this a one day event?

Ms. Kaleva said the district's mediation has zero to do with Mr. Walsh. One party may settle and the other may not settle. All parties may start out together to discuss ground rules and then break out from there to separate rooms. This allows everyone the opportunity to give frank comments. She said they could possibly ask the mediator not to have Mr. Walsh attend at the same time. She explained mediation usually takes a month to six weeks. She agreed that arbitration is binding. Ms. Kaleva said it is hard to determine a settlement range at a public meeting because it shows the district's hand. Sometimes a range can be determined.

Trustee McNally asked if the TRS board is held to the same requirements as the district? What do they do if they don't have a meeting scheduled?

Superintendent Overstreet asked if we go through the process and come to a fair solution and one party does not agree what happens?

Ms. Kaleva said she was not sure what TRS does. She said mediation is not public. Ms. Kaleva said if the parties don't agree, they can come back to mediation again or can move to litigation. She explained when the parties agree to mediation they generally try to make it work because it is timely and there are risks involved on all sides.

Trustee George thanked Ms. Kaleva for her time and said the board will talk to the community and see where they want to go and get back to her as to the board's decision.

The board opened the floor to public comment.

Dave Kelley said this is a two-part issue with the employer's contribution in the amount of \$100,000 and the employee's contribution in the amount of \$100,000 that the district should have collected from Mr. Walsh. He said the employee side would have to come from the general fund and the employer side would be from the retirement fund. He said the comment that there is no conflict was not correct and he did not want to give money to a man that was stealing. The district had a duty to collect his fees. He said Denning and Downey agreed the contracts were illegal.

Trustee McNally said he did not agree with the dollar amounts. If they went to mediation, they can agree to anything they want and it does not have to come from the general fund.

Superintendent Overstreet said the money could come from the flex fund or general fund excess revenues. This would not affect the balance this year. He said the district can agree to the district's contributions and not Mr. Walsh's contributions.

Eli Thompson said we are teaching our students bad things. We need to pay the bill and get it finished. He said we need to keep the lawyers out and quit trying to cover things up. He agreed mediation needs to be done but the statute of limitations was a bunch of bull. Unless you are dealing with the Fish and Game.

Trustee McNally presented a scenario to the public. He asked if you receive a letter from the IRS stating you owe \$200,000 and they give you three ways to pay them back, what would you choose? First, pay the bill in full or pay \$5,000 and it may or may not be paid in full or last, pay nothing and it may or may not be paid in full. He said most of you would probably look into the situation further and get more information. He said just because someone says you owe it, does not make it right.

Dave Hunt said he is not averse to mediation, but you don't need an attorney in this process.

Trustee McKittrick said we need to stick to the issue.



Eileen White felt the district should pay and move on. We are honest people.

Chairperson Frye said we don't need to rehash the same old things. We need to move forward and mediate. There would be more cost to litigate and we need to gain back community trust.

The board all agreed that Mr. Walsh's issues should be separate from the district's and mediation was the right path to take. It was more cost efficient and the range for settlement could be determined at a later date.

Trustee McNally made a motion to proceed with mediation with Teachers' Retirement System and set the guidelines at the March 11th regular board meeting if Elizabeth Kaleva is available. Trustee McKitrick seconded the motion. All trustees present were in favor.

As there was no other business for the attention of the board, the meeting was adjourned at 5:36 p.m.

Attest	 _____ Ginger R. Martello, District Clerk	 _____ Lisa Frye, Chairperson
	<u>4-10-13</u> Date Approved	

Ennis School Board Meeting

Visitor Sign In

Date: March 5, 2013

1. MIKE RICHMAN
2. LIZ MCPHILL
3. Sonnie & Kyle
4. Brenda Shive
5. Ellos Thompson
6. Chad Goffman
7. Don & Martha Smedley
8. Brandy Hill
9. Cindy Pederson
10. Melissa Newman
11. Cindy McKittrick
12. Brian Hilton
13. Cunnally
14. Maria Lake
15. Susanne George
16. Nicki Davis
17. Sally Lee
18. Marlene Fazio
19. _____
20. _____

21. Eileen White
22. Lous Walsh
23. Mike White
24. Elena Korsmo
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