



## **SCHOOL BOARD MEETING MINUTES December 20, 2021 Special Meeting**

Pursuant to the regulations, a special Board meeting was held on the above date in the Waupaca High School Community Room and was live streamed via YouTube.

The purpose of the Board Meeting Minutes is to capture the essence of discussions through the actions voted on. These minutes should not be interpreted to represent a transcription of the meeting. To watch a recording of this meeting, please click [here](#).

### **Call to Order:**

The meeting was called to order by President Stephen Johnson at 5:30 p.m.

### **Roll Call:**

Present in the WHS Community Room: Stephen Johnson, Dale Feldt, Steve Klismet, Mark Polebitski, Patrick Phair, Betty Manion, and Steve Hackett.

### **Also Present:**

Present in the WHS Community Room: Ron Saari, Sandy Lucas, Mark Flaten, Carl Hayek, Steve Thomaschefskey, Laurie Schmidt, Megan Sanders, Sandy Robinson, Carrie Naparalla, and Mary Kaye Ristow.

### **Approval of Agenda:**

A motion was made by Dale Feldt and seconded by Steve Hackett to approve the agenda as presented. The motion carried unanimously on a voice vote.

### **Review of Board Meeting Norms:**

The Board reviewed their collective commitments.

### **Discussion of Legal Analysis Regarding Chain Exploration Center Gardener Position:**

Board President Stephen Johnson advised that he had spoken with Chain Exploration Center (CEC) Governance Council (GC) President Megan Sanders last Friday and their concern is they don't want to add to the responsibilities of CEC Principal Carrie Naparalla or any CEC staff member in order to maintain the garden. He also advised that the GC has received input from outside (nonprofit) legal counsel on how to possibly structure the gardener position as an independent contractor rather than an employee of the District.

Mr. Saari advised that the purpose of today's meeting is to draw attention to the full Board of the significant amount of time and expense that has been involved to date regarding the CEC gardener position and it continues to be an ongoing situation. Administration's interpretation of the CEC contract is that this position is an employee of the School District of Waupaca (SDW). This interpretation is supported by the District's insurance carrier as well as its legal counsel. Administration thought an agreement had been reached, but things changed when the CEC GC entered into an independent contractor agreement without the Administration's knowledge.

Board President Johnson advised that he believes everyone has reviewed the legal analysis of the von Briesen law firm regarding when a position is considered an employee versus an independent contractor so he will entertain discussion at this time.

Board member Patrick Phair inquired as to what happened to the original agreement of the CEC raising money that would be paid to the District so that the District could run the gardener position through its payroll department. Mr. Saari advised that he's not certain why things changed, just that the CEC decided to go in a different direction. Board President Johnson added that he believes that after the GC's reflection on the matter, it decided to go in a different direction as this would make the position a District employee thereby adding to the responsibilities of CEC Principal Naparalla or a CEC staff member, which they didn't want to do.

In response to an inquiry regarding how this is different than the Suzuki program at the CEC, Board President Johnson advised that the Suzuki program is under contract – they run their own program without oversight from the CEC/District. He added it is the level of oversight that determines whether a position is an employee or an independent contractor. Mr. Saari added that the Suzuki program is a licensed vendor with an employer identification number; the gardener is not a licensed vendor.

It was suggested that perhaps we could add this position as a stipend paid position similar to an extracurricular activity and it not be a contracted service. Mr. Saari advised that individual would still be an employee of the District, therefore adding supervisory responsibilities to CEC staff and that is what the CEC GC is trying to avoid; however, it could be explored.

In response to an inquiry, Board President Johnson advised that the gardener position is different now with it being at CEC than it was when it was at WHS because now it is part of the District whereas previously it was a community garden located on School District grounds. He then asked Board member Phair to give a brief history of the Waupaca community garden.

Board member Phair advised that the Waupaca community garden never received any funding from the School District, but that funding came from a third party. It had a board that ran the garden and there was also a manager of the garden (who was not a SDW faculty member but an independent contractor) who took care of all of the recordkeeping. The Waupaca community garden had a contract with the SDW Board of Education. He added that any activity sanctioned by the SDW Board is covered under the SDW's liability insurance carrier. Many student volunteers helped in the Waupaca community garden, which sometimes was used in teaching as well. Mr. Phair advised that the Waupaca community garden was "joined at the hip" with the SDW. He added that when the CEC was formed, it was thought that farming was going to be a part of the curriculum. So it was agreed to by the Waupaca community garden board to move it to the CEC, with the understanding that it would be used by the CEC students and become part of the curriculum. Board President Johnson added that, at that point, the Waupaca community garden was disbanded and transferred to the SDW.

Board members expressed their disappointment that they could not talk about how to fill the position at tonight's meeting. Board President Johnson advised that we are still in the discussion phase of how best to fill this position and we need to confer with District legal counsel before we discuss possible options so it was not posted for discussion tonight.

Board member Steve Klismet advised he doesn't agree with going against the advice of the District's legal counsel and/or insurance carrier. Instead, at this time he believes the Board should be spending more time focusing on the bigger picture and what is needed in our schools and for our students rather than a \$2,000 gardener position.

A couple of Board members inquired as to whether the CEC has the legal authority to hire an independent contractor without SDW Board of Education approval. They were reminded that this position is not an independent contractor position at this time as it doesn't meet the 7-9 points as outlined in the legal analysis which are required in order for that position to qualify as an independent contractor.

Board member Manion inquired as to whether this can go forward with the SDW Board of Education and the CEC GC coming to some understanding on how the position could become an independent contractor. Board President Johnson advised that we are willing to explore various options as to how to possibly make this work as an independent contractor position, but we will need to bring in legal counsel to be sure it is within the law.

Board President Johnson advised he is not going to take any more of the Administration's time with this situation. The Board will need to determine whether the direction we want to go is legal, for example reinstating the old Waupaca community garden concept where they work on our property but it is not part of the District.

Mr. Saari advised that there are different ways on how to interpret the CEC contract language, therefore, there are misunderstandings. The contract is coming up next year so we need to collaborate to add clarity so we are all on the same page. He added that the Administration wants the CEC to continue and to be successful.

**Adjournment:**

A motion was made by Mark Polebitski and seconded by Dale Feldt to adjourn the meeting at 6:18 p.m. The motion carried unanimously on a voice vote.

\_\_\_\_\_ Date \_\_\_\_\_  
Stephen Johnson, President  
Board of Education

\_\_\_\_\_ Date \_\_\_\_\_  
Elizabeth Manion, Clerk  
Board of Education