

Minutes of the Special School Board Meeting

Of the School Board of Independent School District No. 709 held at the Historic Old Central High School, 215 North First Avenue East, Duluth, Minnesota 55802, on

Tuesday, December 2, 2014

Members Present:

Annie Harala
Art Johnston
Rosie Loeffler-Kemp
Mike Miernicki
Judy Seliga Punyko
Harry Welty
Bill Westholm

Others Present:

Bill Gronseth, Superintendent
Bill Hanson, Deputy Clerk
Melinda Thibault, Secretary

- Chair Miernicki called the special school board meeting of December 2, 2014 to order at 4:30 p.m.

Member Johnston, S-Welty, to amend the agenda to allow public comment.

M-Loeffler-Kemp, S-Seliga Punyko, to call the question. Upon a vote, the same was approved 5-2 as follows:

Yea: Harala, Loeffler-Kemp, Miernicki, Seliga Punyko, Westholm

Nay: Johnston, Welty

Upon a vote to amend the agenda to include public comment, the same failed 2-5 as follows:

Yea: Johnston, Welty

Nay: Harala, Loeffler-Kemp, Miernicki, Seliga Punyko, Westholm

Chair Miernicki read a statement outlining how the meeting would be run.

- Question and answer period with Mary Rice, Investigator, with Fafinski, Mark & Johnson Law Firm
 - Mary Rice gave a presentation of the investigation process and her findings.
 - Board Members asked questions of Ms. Rice

➤ Action taken

Member Westholm introduced the following Resolution and moved its adoption:

RESOLUTION PROPOSING REMOVAL OF A SCHOOL BOARD MEMBER

WHEREAS, on June 10, 2014, the School Board authorized an investigation into allegations against Board Member Art Johnston;

WHEREAS, Mary Rice, an independent investigator and attorney, has conducted a comprehensive investigation into the allegations against Mr. Johnston and has submitted her final report to the District;

WHEREAS, individual School Board members have had an opportunity to review and carefully consider the findings outlined in Ms. Rice's investigation report;

WHEREAS, the School Board has determined the results of the investigation provide a legitimate basis to move forward with the proposed removal of Mr. Johnston from the School Board.

NOW, THEREFORE, BE IT RESOLVED by the School Board of Independent School District No. 709, as follows:

1. The School Board is satisfied that Ms. Rice's investigation fully and completely examined the allegations against Mr. Johnston in a neutral and unbiased manner.
2. The School Board proposes the removal of Mr. Johnston from the School Board upon proper cause for the following reasons:
 - a. Mr. Johnston's conduct during an interaction with the District's Superintendent William Gronseth following the June 4, 2014 Duluth East High School graduation ceremony amounted to conduct unbecoming a School Board member. By way of example, the following findings in Ms. Rice's report support this conclusion:
 - i. Mr. Johnston publicly confronted Mr. Gronseth about a personnel issue following the June 4, 2014 Duluth East High School graduation ceremony. Mr. Johnston and Mr. Gronseth had already met the previous day to privately discuss the same issue.
 - ii. During the confrontation, Mr. Johnston approached Mr. Gronseth from behind and gave him a shove, which was offensive under the circumstances.
 - iii. After Mr. Johnston shoved Mr. Gronseth, he proceeded to angrily point his finger at Mr. Gronseth, continued to discuss the personnel issue, and threatened to initiate litigation against the District.
 - iv. Mr. Johnston's conduct was intimidating, threatening, and abusive, and caused Mr. Gronseth to reasonably fear for his safety.
 - v. Mr. Johnston's conduct was disruptive and interfered with his duties as a School Board member and Mr. Gronseth's role as Superintendent following the graduation ceremony.
 - vi. Mr. Johnston's conduct was motivated by a personal conflict of interest, demonstrated a public refusal to support the Superintendent

- in a personnel matter, and compromised the administration and School Board's ability to appropriately address personnel matters.
- b. Mr. Johnston's conduct during an interaction with School Board Chair Mike Miernicki following the June 4, 2014 Duluth East High School graduation ceremony amounted to conduct unbecoming a School Board member. By way of example, the following findings in Ms. Rice's report support this conclusion:
- i. Mr. Johnston publicly confronted Mr. Miernicki about a personnel matter in the parking lot as Mr. Miernicki and School Board Member Bill Westholm left the East High School graduation ceremony.
 - ii. During the confrontation, Mr. Johnston approached Mr. Miernicki, grabbed Mr. Miernicki's arm, and turned Mr. Miernicki to face him.
 - iii. After grabbing Mr. Miernicki, Mr. Johnston proceeded to angrily yell at Mr. Miernicki about the personnel matter and accused Mr. Miernicki of participating in an attempt to target him through a District employee.
 - iv. Mr. Johnston's conduct was intimidating, threatening, and abusive, and caused Mr. Miernicki to reasonably fear for his safety.
 - v. Mr. Johnston's conduct was disruptive and reflected poorly on his role as a School Board member, Mr. Miernicki's role as the School Board chair, and the School Board as a whole.
 - vi. Mr. Johnston's conduct was motivated by a personal conflict of interest, demonstrated public disparagement of a fellow Board member, and compromised the administration and School Board's ability to appropriately address personnel matters.
- c. Mr. Johnston's conduct with respect to a personnel issue involving a District employee demonstrated a personal conflict of interest and an abuse of his authority as a School Board Member. By way of example, the following findings in Ms. Rice's report support this conclusion:
- i. As discussed above, Mr. Johnston's personal involvement in a personnel matter concerning a District employee motivated his confrontation with Mr. Gronseth on June 4, 2014.
 - ii. As discussed above, Mr. Johnston's personal involvement in a personnel matter concerning a District employee motivated his confrontation with Mr. Miernicki on June 4, 2014.
 - iii. Mr. Johnston made public comments on June 6, 2014 in which he falsely claimed the District's personnel decision involving an employee was motivated by the fact the administration and other School Board members do not like him.
 - iv. Mr. Johnston made public comments on June 6, 2014 in which he falsely claimed an administrator initiated a personnel decision involving an employee for personal reasons, as opposed to legitimate work-related reasons.

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- v. Mr. Johnston's decision to accompany a District employee to a non-disciplinary meeting with supervisors and the comments Mr. Johnston made during the meeting demonstrate a personal conflict of interest and an abuse of his authority as a School Board member. Mr. Johnston had not attended meetings between other employees and their supervisors in the past.
- vi. Mr. Johnston has made false and misleading comments to the media when discussing a personnel matter involving a District employee.
- d. On several occasions, Mr. Johnston has engaged in conduct that violates School Board Policy 8050. By way of example, this conclusion is supported by the following:
 - i. Mr. Johnston's conduct, as described in Paragraphs a and b, violates sections (4), (5), (8), (9), and (10) of School Board Policy 8050.
 - ii. Mr. Johnston's June 4, 2014 threat to initiate legal action against the District due to his disagreement with the administration's handling of a personnel matter violates sections (8), (9), and (10) of School Board Policy 8050.
 - iii. Mr. Johnston's June 6, 2014 comments in which he publicly disparaged several District employees, including the Superintendent, violate sections (5), (8), (9), (10), and (11) of School Board Policy 8050.
 - iv. Mr. Johnston's false public claims that the District's personnel decision involving an employee was motivated by the fact that the administration and other School Board members do not like him violate sections (4), (5), (8), (10), and (11) of School Board Policy 8050.
 - v. Mr. Johnston's false and misleading comments to the media when discussing a personnel matter involving a District employee violate sections (5), (8), (9), (10), and (11) of School Board Policy 8050.
 - vi. Mr. Johnston's decision to accompany a District employee to a non-disciplinary meeting with supervisors and the comments Mr. Johnston made during the meeting violate sections (5), (8), (9), and (10) of School Board Policy 8050.
 - vii. Mr. Johnston has a history of engaging in behavior that violates School Board Policy 8050, which includes the following examples: (1) during a Board meeting on February 25, 2014, Mr. Johnston publicly accused District administration of not providing information to him and later admitted he had not checked his District e-mail when he learned the information had been provided to him by e-mail; (2) at a Board meeting on March 18, 2014, Mr. Johnston openly criticized the job performance of the District's Superintendent; (3) at a Board meeting on May 20, 2014, Mr. Johnston falsely claimed most of a May 12, 2014 business committee meeting was spent "bashing" him; (4) at a Board meeting

on September 16, 2014, Mr. Johnston falsely claimed a District employee was hired for a position because the person supported a referendum; (5) at a Board meeting on September 16, 2014, Mr. Johnston falsely accused District administration of misrepresenting financial information; and (6) at a Board meeting on September 16, 2014, Mr. Johnston interrupted a discussion on racial disparity to discuss allegations against him and falsely accused District administration of harassing a District employee.

3. The above described conduct demonstrates that Mr. Johnston abdicated his responsibilities as a member of the School Board in favor of his personal private interests. In addition, Mr. Johnston has demonstrated that he is willing to use his authority and influence as a member of the School Board to further his personal private interests.
4. Based upon the information available at this time, the School Board believes the conduct described above, and described in more detail in the investigation report, constitutes proper cause for the removal of Mr. Johnston from the School Board and hereby proposes his removal.
5. Mr. Johnston shall have ten (10) days from the date of the passage of this Resolution to request, in writing, a hearing over his proposed removal. If Mr. Johnston fails to timely request such a hearing, he shall be deemed to have acquiesced in his removal from the School Board. The School Board shall then have the authority to proceed directly to take action to remove Mr. Johnston from the School Board.
6. In the event Mr. Johnston timely submits a written request for a hearing over his proposed removal, the School Board hereby appoints the Honorable Myron S. Greenberg to serve as the independent hearing officer. Judge Greenberg shall have the authority to take whatever action is necessary to conduct the hearing on behalf of the School Board over the proposed removal of Mr. Johnston. The hearing shall be transcribed. Judge Greenberg shall submit a written document constituting his recommended findings of fact, conclusions, and decision on whether Mr. Johnston may be removed from the School Board.
7. After Judge Greenberg has submitted his recommended findings of fact, conclusions, and decision, the School Board will meet to take action on the removal of Mr. Johnston from the School Board.

The motion for the adoption of the foregoing Resolution was duly seconded by Member Seliga Punyko.

M-Loeffler-Kemp, S-Seliga Punyko, to call the question.

Member Johnston made a point of order stating that there were other members lights on and there should be discussion. Chair Miernicki denied his request indicating that he did not see any other lights on.

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M-Johnson, S-Welty, to appeal to the decision of the chair.

Chair Miernicki denied the appeal.

Upon a vote to uphold the Chairs decision, the same was approved 5-2 as follows:

Yea: Harala, Loeffler-Kemp, Miernicki, Seliga Punyko, Westholm

Nay: Johnston, Welty

Upon a vote to call the question, the same was approved 5-2 as follows:

Yea: Harala, Loeffler-Kemp, Miernicki, Seliga Punyko, Westholm

Nay: Johnston, Welty

and upon a vote being taken thereon, the following voted in favor of the motion:

Harala, Loeffler-Kemp, Miernicki, Seliga-Punyko, Westholm

And the following voted against the motion:

Johnston, Welty

Whereupon said Resolution was declared duly passed and adopted.

HR-12-14-3215

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**M-Loeffler-Kemp, S-Harala to adjourn. Upon a vote the same was approved –
unanimously.**

- Chair Miernicki adjourned the Special School Board meeting of December 2, 2014 at 7:08 p.m.