

MINUTES OF THE ANCHORAGE SCHOOL BOARD
SPECIAL MEETING OF APRIL 8, 2004

The Anchorage School Board met in Special Session on Thursday, April 8, 2004, at 10:32 a.m. in the Room 320, at the Anchorage School District Administration Building. Tim Steele presided until Jake Metcalfe arrived at 10:45 a.m.

Board Members Present: Tim Steele, Crystal Kennedy, John Steiner, Jeff Friedman, Macon Roberts, Mary Marks, and Jake Metcalfe.

Board Members Absent: Macon Roberts, (arrived at 10:40 a.m.) Jake Metcalfe arrived at 10:45 a.m.)

Others Present: Carol Comeau, Jan Christensen, Rhonda Fehlen Westover (Deputy Municipal Attorney), George Vakalis, Andie Stone, Eric Tollefsen, Jan Christensen, Robin Siegfried and the press.

Tape #04/08/04-1

A. CALL TO ORDER, ROLL CALL, Jake Metcalfe Presiding

B. SCHOOL BOARD COMMENTS

Mary Marks announced that on Tuesday of next week she will be going to Juneau for the Central Council of Tlingit and Haida Convention. On the 21st, Ms. Marks will be going to Washington DC. NSBA is sending her there to participate on the Extended Learning Opportunities Committee. Ms. Marks stated that she will meet the Board members in Juneau for the Fly-in.

C. APPROVAL OF AGENDA

The Agenda was unanimously approved.

D. PERSONS TO BE HEARD ON NON-AGENDA ITEMS

None

E. EXECUTIVE SESSION - (PERSONNEL, FINANCE, NEGOTIATIONS, LITIGATION)

ACTION:

Moved by Jeff Friedman
seconded by Mary Marks

to recess to Executive Session for the
purpose of discussing a personnel
issue.

The motion was unanimously approved with no objection.

Tape #04/08/04-2 The School Board recessed to Executive Session for the purpose of discussing a personnel issue.

There shall be no release of this tape of the executive session as it pertains to matters required to be confidential by law relative to right to privacy matters.

F. Tape #04/08/04-1 DISCUSSION

1. ASD Policies and Procedures Regarding Employee Criminal Charges

Carol

Comeau described the information provided to the Board in their packet. This included ASD Board policy. 533.7 drug free work place, information that Eric Tollefsen researched on negotiated agreements, as well as the proposed ordinance AO No. 2004-74. Ms. Rhonda Westover confirmed that the resolution brought forward previously by Assembly Member Dan Sullivan was withdrawn, but the ordinance is on the assembly agenda for April 20. Also included is a proposed amendment to House Bill 551, submitted by House Judiciary on amending legislation relating to teacher certification and revocation of teacher certificates of persons convicted of felony drug offenses.

Jeff Friedman commented that within the existing framework of the law, the existing procedures make a lot of sense. Mr. Friedman stated that he thinks there is a need for some changes in the State statute on termination, which isn't addressed by this newly proposed statute. There needs to be flexibility to terminate someone, even if it is a misdemeanor of marijuana offense. If someone gets charged, has marijuana at home but not at school and refuses to go to drug rehab, that person may need to be terminated. Whereas someone else who does other things may not. Mr. Friedman added that as he reads the current law, it is difficult for the District to terminate someone for simple possession of drugs. Mr. Friedman thinks the Board ought to recommend the legislature revisit it. When people make mistakes there ought to be consequences, but something should be in statute that allows the District to bring them back when they show that they've taken steps to improve. Some of the e-mails Mr. Friedman received from the public suggested that a one-year suspension with conditions on re-employment makes sense. Mr. Friedman stated that he would like the Board to start talking about how to ask the Legislature to look at this and make some changes to give the Board the flexibility it needs.

John Steiner stated that he agrees with Mr. Friedman in that the Legislature should look at it but he does not agree that the Board does not have the ability to do it. One of the basics under State Law for dismissal is substantial non compliance with the bylaws of the district or written rules of the superintendent. Mr. Steiner feels the concern is that there is not anything that covers this specifically in the Board policy manual. Mr. Steiner would like to get a sense of the Board in general whether it supports the policy committee taking a look at the rules under 532 in particular with regard to classroom teachers, (which may also include administrators and librarians) and look to see whether we feel our standards are adequate whether it is to drugs or other things. Under the State Law it appears the superintendent can oppose rules even without the Board doing so. Because of the degree of public opinion the Board should review the policies.

Jake Metcalfe asked Andie Stone if there would be any requirements to negotiate work rules that apply to discipline with the bargaining units. Andie Stone stated that it definitely is a potential issue and she would anticipate a problem if the Board or superintendent would chose to put some kind of guidelines in there, governing employees' conduct. Getting the union on board would be the best way to proceed. Jake Metcalfe stated that the union has a stake in this and the Board should get all interested parties involved. Carol Comeau agreed and stated that she thinks the District's policy does need to be looked at and that every bargaining official needs to be invited to weigh in on this, as well as principals and parents. It is a community issue and Ms. Comeau hopes the Assembly will understand that this is a bigger issue than just this one situation that generated this response. It does have significant bargaining unit implications for the municipality employees as well as ASD. Definitely, they would need to be part of the discussion, all the way through. It is absolutely critical. Ms Comeau stated that she is extremely concerned with the retroactive nature of the proposed ordinance and would hope that that could be thought through also. We need to engage as many as possible to weigh in on this to address what Mr. Friedman said also, on rehabilitation. Ms. Comeau stated that she would hope when the Board members are doing policies that they would think those things through too, because it's just like students - you have so much time and then after rehabilitation you are given a fresh start. This is an important discussion to have with our unions, also. Tim Steele commented that the real question is the ability or inability to do the job in terms of the reaction of the community. We have had other circumstances where classroom teachers have been accused of this, that and the other thing, and it became difficult for them to do the job even though it may have been a false accusation. The Board has to be careful how it designs this. The Board needs the flexibility to do what needs to be done and Mr. Steele does not like the

broad way the House or the Assembly have structured their response. Mr. Steele stated if the policies need to be clarified, Ms. Comeau is absolutely right, other people need to be brought in. The Board needs to be fair and adequate in how it is done. The public outcry does not mean that an employee has to be fired. Carol Comeau added that this ordinance says the District cannot place its employees in a job that they are qualified to do if it passes as written. Ms. Comeau stated that she feels this is an encroachment into management rights of both the school district and municipality the way it is written at this time.

Jeff Friedman stated that whether it is student discipline or employee discipline - he has personal trouble making decisions based on community reaction rather than the employee or student's action. Bringing in the unions and community and appointing a sub committee would help alleviate some of those concerns and give a better end product. Crystal Kennedy asked how many ASD employees would be affected. Eric Tollefsen replied that we would have to do criminal background checks. If something happens in the Anchorage area, APD would notify the District. Everyone that comes to work for ASD has a criminal background check in the beginning, and if they are a regular employee they have a background check that is nationwide. However, a lot of employees that are off for the summer could have something happen somewhere else and the District would not be notified. Criminal checks are expensive and take months to get back. Eric Tollefsen added that HR has the information when they first come in, but it is the current employees that could have something happen that the District may not hear about.

John Steiner stated that he would prefer to cover the policy issue before moving on to the other topic. Jake Metcalfe agreed and stated that there was indication that there should be discussion and that it should include various groups to come up with a process. Mary Marks agreed that the community should be brought in and suggested that the MECC and student representative should also be invited to participate.

Jeff Friedman stated that this is a big project and there should be a special task force because the Policy Committee would not be able to move quickly. Carol Comeau suggested putting together a working group with a couple Board members who would be interested in working on it, to bring in the other groups, including bargaining groups, MECC and the SAB since they are the recipients of our employees, particularly in the schools, to do some research and discuss some core issues that would need to be addressed (HR people would need to be involved too). Then they could suggest some ideas and recommendations and have a public work session. That input could

then be turned in to the Policy Committee. That has worked before for some major issues and it gets the people who are most concerned on all sides of this issue to be able to weigh in on it. It would be good if it could be done jointly and then each entity could take off after that. Then it could go to the Policy Committee for the final tweaking with the legal counsel's advice. This should be a working group that looks at the issues and ramifications on our employees. Jake Metcalfe added that it may be suggested that it be brought to the Assembly as a way to come up with a solution with their ordinance request, as well as a policy change. John Steiner agreed and suggested that the Policy Committee might want to have a special evening meeting so community people could be involved. Mr. Steiner thinks the alternative of having an administrative task force to report to the Policy Committee is a good idea. Mr. Steiner agrees that it may wind up being able to work with the municipality as well. Mr. Steiner stated he thinks he has heard now that there is a strong support in the Board to review these policies and they have a good recommendation. Jake Metcalfe stated that the direction to the Administration is to form an administrative committee to look at the policies or come up with the recommendations. Jeff Friedman stated that he would prefer that it be a Board task force with at least one Board member on it to lead it, with the Administration helping to organize the different groups that would be on it. Jake Metcalfe suggested that the Board direct the Administration to come up with a task force that includes Board members, Human Resources, students, MECC members, APD, Assembly members, etc. It was suggested that the Policy Committee member and one other Board member be involved. John Steiner stated he has a strong interest in attending the meetings. Tim Steele also stated he would attend. Ms. Comeau stated that she would give a proposal to the Board on Monday on how it will work the best.

2. Ordinance No. AO 2004-74 - An ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code by enhancing a new section 25.10.110 to prohibit Municipal and School District employment within certain municipal buildings and facilities for persons who have been convicted of drug offenses.

Tim Steele commented that he has a problem with this ordinance and thinks a policy is a better way to deal with this issue. Mr. Steele hopes working on the policy issue will help give confidence to those other organizations and show that the District is working on it. Mr. Steele is concerned that this ordinance is about individuals working in a municipal building facility or outdoor area and there is a fairness issue here. We have teachers that are working in homes and elsewhere with regards to our Charter schools and elsewhere, that are not in public facilities. Mr. Steele stated he does not know if the Assembly

has done any research in terms of how that would affect them. Mr. Steele added what about municipal employees of the Parks and Recreation Department, swimming pools, etc.? There are a lot of implications here that may have not been totally thought out. John Steiner asked if Ms. Westover had any comments from the Assembly side. Ms. Westover commented that her department is looking into it since it did not draft the ordinance. Ms. Westover informed the Board that the Municipal Charter, which is consistent with State statutes, gives the School Board authority over school policies and control over school personnel issues, including disciplinary acts. Ms. Westover suspects her department's discussion with Chairman Traini will indicate to him that as to school district employees that this ordinance is probably not going to be forcible. The discussion will happen before April 16, the date of the Joint School Board/Assembly meeting on this topic, and hopefully, some of the concerns she has heard raised at this meeting are not going to be an issue. John Steiner stated that it seems there are three levels of issues - standards for additional employment, standards for termination when things happen, and whether there should be any kind of a review of existing employees to determine whether something should happen retroactively, even though there is not a current law. Mr. Steiner hopes that we could coordinate with the Municipality in some sense, on the task force. They can participate in the District's task force, or if they prefer not to, they could table this for now until they see what the District comes up with and maybe they would decide to adopt a very similar one to the District's for the whole Municipality or only for the Municipality, leaving the School District policy to deal with its problems, which sounds like is appropriate under the law. Mr. Steiner recommends that the Board position be that the ordinance be withdrawn permanently or tabled indefinitely. Tim Steele commented that he is hoping the Assembly sees that the Board is dealing with it in the policy matter. Mr. Steele stated that he feels they are welcome to participate. Andie Stone commented that she agrees with Ms. Westover in that the Municipality, as a local government, does not have authority over school district personnel matters. This ordinance, to the extent that it clearly intends to impact employment decisions by the school district is simply going to be ineffective. Another issue looked at is retroactivity. Any individual who would end up losing their job would challenge it and would probably win. Constitutionally, a law cannot be passed that is going to impair an existing employment contract or tenure right that an individual already possesses. This law could not be applied retroactively and in terms of policy, Ms. Stone does not think that the Board can pass policy that would have retroactive implication to employees who are currently employed. Jeff Friedman stated that the discussion of whether the law of whether the ordinance can be applied to the school district is one hopefully that the Board can avoid because the sentiment of the Assembly is something that the Board needs to

address. Mr. Friedman wants to keep the good working relationship between the Board and Assembly. Carol Comeau commented that she thinks this required the District to look at the policy and that is good. The District does not want to have anything to be a problem and ruin the District's good working relationship with the Assembly. Ms. Comeau added that this ordinance would affect more than teachers. Every ASD employee could come in contact with students, i.e. maintenance, bus drivers, food service. It is far beyond just teachers. John Steiner added that as far as addressing the authority of the Assembly with respect of school district employees, it is more appropriate for Ms. Westover to notify them.

Jake Metcalfe mentioned HB551. Carol Comeau assured the Board that research will be done on HB551 and the District can show the Legislature that we are going to work together. Ms. Comeau stated that she thinks this is an overreaching way to deal with it. Jake Metcalfe commented that the Board has been talking about how teachers are held at a higher standard. So it needs to be recognized that if they are attacked, like police officers, there should be laws that protect them. Mr. Metcalfe reminded the Board that there is a bill that has sat in the Legislature for two years regarding assaults on teachers. Mr. Metcalfe encouraged the Board members to tell the Legislators that if we are going to hold teachers to a higher standard then their protections have to be held to a higher standard as well. Mr. Friedman stated that he thinks the Legislative Committee needs to look at 14.21.70, which talks about termination and give the Legislature some guidance as how to deal with that. Tim Steele stated that he would hope that the Legislators would ask the Department of Education to look at certification practices nationally and try to scope out a reasonable approach for certification. Mr. Steele stated that he will set up a Legislative Committee meeting Monday night. Andie Stone added that the bill is limited to certification and will limit the amount of people in the pool to hire from. It is very far reaching in that it is lifelong. If charged with a felony it would be a lifelong bar to teaching in Alaska. Carol Comeau stated that when she and the Board members go to Juneau it is important to talk about their concerns with the far reaching impacts of this legislation. Hopefully, when they see what the District is doing collaboratively with the Assembly, working through the policies, they will see that this issue is being taken this very seriously. Jake Metcalfe stated his concern that it only has one referral and could be on a fast track.

Crystal Kennedy asked if there is any value in weighing in on the moral turpitude section on the regulations of the Professional Teaching Practices Commission and who would be responsible for amending it. Andie Stone answered that it is the Commission itself and they could notify the Executive Director for PTCP. Ms. Kennedy stated that her thought is that this is what

limited the Administration in helping to make the decision that was made earlier. When something on possession or distribution of child pornography is on there, yet possession or distribution of illegal substances is not on there, Ms. Kennedy finds that inconsistent. Carol Comeau stated that the best course would be to talk about it at a policy committee. A letter addressing the issues could be drafted. Jake Metcalfe added that it would be something to discuss with the working group. Crystal Kennedy stated that her recommendation would be to not ignore the PTCP rules.

F. PERSONS TO BE HEARD ON NON-AGENDA ITEMS

G. COMMUNICATIONS & SCHOOL BOARD COMMENTS

H. EXECUTIVE SESSION (PERSONNEL/FINANCE/NEGOTIATIONS/LITIGATION

I. ADJOURNMENT

The Special Meeting of April 8, 2004, was adjourned by unanimous consent at 12:13 p.m. .

Jake Metcalfe, President

Mary Marks, Clerk

Robin Siegfried, Recording Secretary

Date Minutes Approved