

Attleboro Public Schools  
Attleboro, Massachusetts  
School Committee Meeting  
Monday, April 23, 2012 @ 7:00 p.m.  
School Committee Conference Room - Attleboro High School  
Minutes

Present: Michael Tyler, (At Large), Chairman, Brenda Furtado, (Ward IV), Vice Chairperson, Barbara Crow (At Large), Secretary, William Larson, (Ward II), Christopher O'Neil (Ward III), Frances Zito, (Ward V), Kenneth Parent, (Ward VI), David Murphy, (At Large)

Absent: Teri Enegren, (Ward I)

Also Present: Pia Durkin, Ph.D., Superintendent, Nancy Sprague, Director for Teaching and Learning Excellence, David King, interim Business Manager, Student Representative, Taylor Beland, and Judy Nelson, Recording Secretary.

The meeting was called to order at 7:01 p.m.

Salute to the Flag: Mr. Tyler led the Committee in the Pledge of Allegiance.

Notice of Electronic Recording: Chairman Tyler noted the meeting was being electronically recorded.

Community Update: School Sponsored Events: Ms. Beland updated the committee on the upcoming events.

Open Forum: Mr. Tyler explained the guidelines of Open Forum.

Rebecca Tsevetzis - a parent of a student at Willett spoke about a problem she had been having with her child. Superintendent Durkin noted she would meet with the parent along with Principal Zinni at 10:00 a.m. tomorrow morning to resolve this issue.

Consent Agenda:

A donation in the amount of \$186.42 from Follett to Hyman Fine for deposit in the gifts/donation fund: Vote: 8-0.

A donation for funding for classroom projector for Mrs. Martin's Grade 2 Class In-Focus Projector valued at \$330.81 from DonorsChoose.org: Vote: 8-0.

A donation in the amount of \$500 from the Rebeckha Lynn Whitefield Scholarship Fund for AHS Swim Athletic Program: Vote: 8-0

New Business:

New Principal: Dr. Durkin introduced Linda McSweeney to the committee. Ms. McSweeney will be the new principal at Studley Elementary School. Ms. McSweeney briefed the committee on her educational experience and thanked the committee for this opportunity.

Elementary Times: Nancy Sprague, Director for Teaching & Learning Excellence: Ms. Sprague explained the options (see Power Point attached hereto and therefore made a part hereof).

The Chairman noted the committee would like to move forward with a vote in order to plan for the FY13 Budget.

The committee inquired if Option F created longer bus routes.

It was noted this option consolidated the district areas. Ms. Sprague noted a decision would be necessary to allow the correct times to be posted in the handbooks which will need to be approved for the printing process to happen. Ms. Sprague noted the two-tier options should shorten the time a student is on a bus as requested by the committee.

Mr. Murphy noted the reducing of the time on the bus would most likely have a budgetary impact.

The administration confirmed with the addition of buses the district would incur costs. The administration will also need to incorporate the change that would occur if/when full-day kindergarten begins. We cannot predict where students live and what impact this might have at this time.

The committee noted this was the third year for a time change to the school hours.

The administration explained with these options instructional time would be maintained, a reduction with the bus ride, and students arrive home earlier at the end of the day.

Ms. Furtado noted if Option F were to be considered the professional days would have to be the same across the district. She would not consider an option that would disrupt a families' schedule to this degree. The district needs to accommodate all families.

It was noted the last time the two-tier schedule was in place there was a lack of consistency across the district with regard to professional development. The administration stressed the importance of consistent professional development.

The committee did not like the possibility of inconveniencing parents/families even if it were six times per year. It was noted parents work and it would be very difficult to make arrangements for their children. The option of opening the school early for students on those days was weighed.

The administration noted contractually that would not be possible. Liability wise the district would not want to offer this option.

The committee weighed the different options.

Mr. King explained the financial implications of each option.

Ms. Furtado noted this should be decided. It was noted the handbooks would be coming forward to the Policy Sub-Committee for approval and this information needs to be included.

Ms. Craw inquired about the late buses.

Ms. Sprague noted the late buses for MCAS were provided through grant funds. This was only provided for a short-period of time.

A motion was made to accept Option F as presented with all elementary schools having the same early release days:  
Discussion: None: Vote: 8-0

The committee thanked Ms. Sprague for all the work done on this process.

Technology Council Update: Pia Durkin, Ph.D. Superintendent; Nancy Sprague, Director for Teaching & Learning Excellence: The administration believed the report, latest minutes, and documents were self-explanatory. The need for upgrading at the middle school was stressed. It was noted the increased Chapter 70 funds would help in this area. The consolidation of printers has been done. This has been a learning process, but appears to be working well.

The committee asked about teacher feedback.

Mr. Newman noted the process works. Cartridges are very expensive. The consolidation controls this expense and people are adapting to the process.

FY 13 Budget: Mr. King explained the timeline to the committee. A Public Hearing will need to be held on May 7<sup>th</sup> for public comment. The committee will need to vote on the budget at the May 21<sup>st</sup> Meeting in order to forward the recommendation to the Mayor in accordance with the time constraints. Mr. King explained the budget (see PowerPoint presentation attached hereto and

therefore made a part hereof). Mr. King noted the committee approves a bottom line figure. The final designations would be decided by the committee.

The committee asked what the time table for the decision on the line items was.

Mr. King noted the committee could make a decision when ready, but the sooner the better.

Mr. Parent stated the line for the Business Manager mentor should go into the budget. Mr. Rose begins on July 1<sup>st</sup> and a smooth transition is important.

Mr. Murphy asked if it were appropriate to move forward at this point.

Mr. Larson noted all the information has been previously discussed at the finance sub-committee level.

Ms. Craw stated the need noting the deplorable condition of the textbooks and the importance of having teachers in front of students.

Ms. Sprague explained the details of the textbooks and supply budgets (see Power Point attached hereto and therefore made a part hereof).

A motion was made to approve the business manager mentor amount of \$6,250: Discussion: None: Vote: 8-0

A motion was made to approve the compensation increase for non-union personnel Group 2 administrators: Discussion: Ms. Furtado noted due to the current economical conditions she could not approve this amount: Vote: 7-1(Furtado)

The committee needs to discuss the human resource allocation at greater length. This warrants further discussion. The \$70,000 could remain at this point. Priorities will need to be made. The committee asked Mr. King if he were able to move forward at this time.

Mr. King confirmed he would move forward with what needs to be done.

## **Committee Reports**

### **Finance, Facilities and Procurement Sub-Committee**

Mr. Parent updated the committee on the Special Meeting held on 04-11-12. The following motions were brought forward:

A motion to approve the user fee schedule listed in File: JQ-E1 as is with the addition of \$125 per year for cheerleading: Discussion: It was noted this fee has always been in place, but not documented. This formalizes the process. Vote: 8-0.

A motion: to approve a 3% increase in the ELC Peer Model Program for the 2012-2013 school year:

Discussion: the committee discussed the reason behind this increase noting there has not been an increase in several years. The committee inquired as to why the peer model fee was being increased by three percent and the other program was not being increased. The cost of the daycare program was a fair fee and comparable. Ms. Furtado did not feel it was fair to increase one without increasing the other.

The Superintendent noted the ELC Program cost has not changed in four (4) years. This was the reasoning behind this increase. This price is compatible with other programs.

Vote: 7-1 (Furtado).

A motion for approval of form KFB-R as presented: Discussion: None. Vote: 8-0.

A motion for approval of the employee daycare program to remain the same: Vote: 7-1 (Furtado)

A motion was made that the fee structure for the ABACUS program remain the same: Discussion: None: Vote: 8-0

Mr. Parent noted he did not feel comfortable bringing this motion forward at this time due to the fact that the committee needs time to research and with that being said the following motion was withdrawn: Motion: to bring to the full School Committee for Mr. King to negotiate with H. L. Bloom on the parameters of the bid they submitted. A roll call vote was taken. (2:1:0)[Larsen and Parent voted in favor][Craw voted against]

Mr. King stated he did not understand the reasoning for the withdrawal of this motion.

Mr. Parent stated the committee needed more time to do all the research related to this item.

Mr. Tyler spoke with the committee's counsel. The legal recommendation was not to move forward at this time until all the information is gathered regarding the contents of the RFP.

Mr. Parent felt it might be best to go back out to bid. The Inspector General's Office did note that generally having one bid is considered not to be in the best interest of the district. For that reason, it might be best to go back out to bid.

A motion was made to go back out to bid for the contract regarding transportation of pupils: Discussion:

Ms. Furtado had reviewed the contract and the RFP. It was her belief that this bid should not have been accepted. Ms. Furtado believes this should have been automatically sent back out to bid.

Mr. Tyler asked if we were to go back out to bid what the timeframe would be.

Mr. King explained the timeline.

Ms. Zito asked how many attended the pre-bid meeting.

Mr. King noted approximately five or six vendors.

Ms. Craw felt it would be in the best interest of her constituents if the district goes back out to bid; and the pre-bid meeting should be held at night to allow school committee to be present to oversee the process to ensure the needs of the committee are being met.

Mr. Parent asked if there would be issues with that and if this was uncommon.

Mr. King stated that was quite uncommon.

Mr. Murphy noted it was unfortunate that we only received one bid. Mr. Murphy asked why we would expect more bidders the next time.

Mr. O'Neil stated concerns that the district risks the bid coming in at a higher price. If the district were to go back out to bid, the RFP should be reviewed carefully. Mr. O'Neil noted in 2009 there was only one bidder at that time as well.

Mr. Parent noted if the bid were denied, we would have the ability to contact other bidders and ask why they did not move forward with bidding the contract.

Ms. Craw commented the Addendum to the RFP contradicts some of the information in the RFP. The committee did not vote on the Addendum.

The Superintendent asked that Mr. King be given the opportunity to speak given the level of his expertise and time that involved with this process.

Mr. Parent noted the committee should vote on the RFP. Mr. Parent stated Mr. King is excellent at what he does and noted his complete faith in his abilities.

Ms. Crow asked that the Addendum be reviewed and voted upon. It is the committee's job to make any changes.

Mr. Tyler noted it is common practice that other bus companies will not come in and bid on another bus company's territory. Mr. Tyler noted if there were a re-bid the companies might feel this would be an opportunity.

Mr. Larson voiced concerns with going back out to bid. He acknowledged the 2009 bid process that produced one bidder. Mr. Larson attended the pre-bid meeting. All concerns of the committee were personally addressed by Mr. King. Mr. Larson noted concern that the re-bid could increase the district's costs and stated concerns with the time table as well. Mr. Larson would be reluctant to go back out to bid.

Mr. Parent noted it would be close, but believed the district had enough time. Mr. Parent asked the Superintendent if we had enough buses to cover the summer program.

The Superintendent stated we did not. Ms. Sprague had spoken with Ms. St. Cyr about this and the Superintendent deferred to Ms. Sprague.

Ms. Sprague stated transportation could not cover the summer programs with the buses that we have at this time. Transportation must be provided for every student that is eligible for the special education summer school program. Ms. Sprague noted over the summer periods some students might not attend the entire time. Even with the decrease in numbers that might occur, we do not have the capacity to cover these needs. The buses are primarily wheel-chair access vans. The age of our buses was noted. The district needs back up vehicles in case of a problem.

Mr. Parent asked if there were other bussing companies in the area whose buses may be sitting idle. There might be a possibility of a lease. This only if we do not have a bussing contract by July 1<sup>st</sup>.

The committee voted to have a contract: a bid of 3:1:1; a 7:1:1; The committee requested this be brought to counsel for approval. A bidder would be more likely to bid if the contract were longer.

Mr. Parent asked Mr. King to explain. The Mayor attended a finance meeting and explained there could not be a blanket approval of contracts.

Mr. King explained the way the law is written, the city council has to approve the contract before the contract is awarded. In general, when this is done it is approved before the bid goes out.

Ms. Furtado noted in general you would be able to have these options on the floor so that when someone was to bid, they have options.

Mr. King stated that is what we were pursuing, but that the City Council through the Mayor indicated that they wanted to see what the bids were before they would approve a multi-year extended contract. This allowed us to go out to bid for the three year contract with alternate options for five years and ten years. The alternates are in there. H&L Bloom bid on them. If the committee were to award the contract, the committee could decide whether or not to submit the extended contract to the City Council.

Ms. Furtado stated concerns. She stated grey areas with this process. Ms. Furtado has made several calls regarding this to other towns/cities. In order to promote Attleboro to other bidders, options need to be given.

Mr. King stated the process does not allow us to do this.

The Superintendent noted the Mayor explained the process to the Finance Sub-Committee. Once the bid was accepted, a letter comes from the Superintendent to the City Council and at that point the School Committee could advocate for a longer term. The Superintendent believes this process is defined in the Charter. This process is consistent with the process the Mayor used for the telephone contract.

Mr. King noted this is done so that one could not "pick and choose" who gets the contract. The only one awarded the contract is the low bidder for three years. This is defined in the Inspector General's rules on how to award a bid. This is dictated by City Council procedures.

Ms. Furtado noted there is a part of the contract that states all general liabilities need to be updated and paid in full. The RFP was regarding the excise tax.

Mr. King discussed the real estate tax situation stating in his opinion the real estate tax bill is invalid because one cannot charge a school's vendor real estate taxes for working on their property. In Mr. King's opinion this would not hold up in court. The attorneys are discussing this issue.

Ms. Furtado asked if this was done in writing. The time frame for dispute or request for abatement has passed.

Mr. Tyler stated there is a motion on the floor to go back out to bid for the transportation contract.

Mr. Parent stated this is based on the fact that it is in the best interest of the district to go back out to bid.

Mr. King stated the bid was not discussed in detail at the finance committee meeting because the bid was just opened that morning. Since that time, over the past few weeks, a great deal of research has been done. The price of the bid has been researched to determine if it is good, bad, or indifferent, and based on what people would expect. Based on bids that are going out right now, the bid Attleboro received: \$309/day/bus which is what most of the money is for; is a pretty good number. Plymouth had a bid of \$341; Westwood: \$312; West Bridgewater: \$325; Sharon: \$317. There were two lower: \$295 and \$290, but most of the bids for the next three years are higher. If Attleboro goes out to re-bid a risk is that the price will be higher.

Mr. King noted another issue that could happen with a re-bid, in his experience, the price is always higher. Some of the things out there is that the vendors did not bid possibly because they wanted a longer contract and as discussed we cannot offer a five year contract upfront at this time. He noted some companies will not bid against another company that is already in place. Another feeling is it is difficult to bid against Bloom because they are already here, they own the buses, and have already established themselves. A person would not want to come in with a price that will lose them money.

Mr. King stated his recommendation would be to award the contract. It is a fair price and with the time constraints, it only seems logical at this time.

Mr. Parent noted if we go back out to bid we will be sending a clear message: that we do want competition and that would allow us the option to speak with the members at the pre-bid conference to find out why they did not bid. Mr. Parent re-read the motion:

A motion was made to go back out to bid for the contract regarding the transportation of pupils:

Mr. O'Neil:	No
Mr. Murphy:	No
Ms. Furtado:	Yes
Mr. Tyler:	Yes
Ms. Crow:	Yes
Mr. Parent:	Yes
Mr. Larson:	No
Mrs. Zito	No

Vote: 4-4 (Motion Fails)

The committee will concur with legal counsel before any decisions are made.

The Superintendent asked that Ms. Sprague be able to address the administrations' concerns with summer bussing.

Ms. Sprague inquired if it were feasible for Attleboro to lease with another company just for the summer. Ms. Sprague expressed concern for the type of transportation. Companies that have this type of vehicle generally transport all-year-round. This type of leasing could prove to be difficult.

Ms. Crow asked if we could explore this before a decision is made.

Ms. Sprague noted transportation has been in contact with at least five companies. She did not have that information on-hand.

Mr. Tyler noted there have been legal questions regarding the RFP. If all the legal questions are not answered, the committee will need to call a special meeting to address this.

The Superintendent asked the Chairman if the Finance Committee meeting could be before May 23<sup>rd</sup>. She noted the time constraints that involve 300 special education students.

Mr. Murphy agreed with the time constraints. He asked if perhaps the committee should reconsider the motion from finance that was passed over this evening. Mr. Murphy stated in the interest of saving time, perhaps the committee should consider authorizing Mr. King to continue the negotiation process.

Mr. Parent explained once negotiations occur, the district does not have the ability to go back out to bid.

Mr. King stated the Inspector General's Office would need to be called regarding that. He believed the wording would imply that you would be awarding the contract if you start negotiations. He would have to confirm this.

A motion was made to send to the Finance Sub-Committee the Transportation Pupil Contract to further discuss and that this committee be updated on any correspondence and/or legal opinions be provided to the full committee for review: Discussion:

Mr. Murphy stated by sending this down to the Finance Sub-Committee we would be authorizing them to continue to work through this issue rather than the full committee.

Mr. Parent agreed, that then the Finance Sub-Committee would have to make a recommendation and come back. This would allow us to review the legalities and go through the Addendum and vote on each piece. The Finance Sub-Committee will bring this back with any additional information to full committee.

Vote: 8-0. Motion passes

Notification of bills and warrants

Warrant: 5BS040: 04-11-12: \$280,771.26

Warrant: 5BS041: 04-18-12: \$336,513.74

The next meeting is scheduled for 5-23-12 @ 7:00 p.m. Mr. Parent will get back to sub-committee members about a possible date for a meeting in order to move forward with the time sensitive items.

### **Curriculum and Instruction Sub-Committee:**

The next meeting will be held on 05-16-12 @ 6:30 p.m.

### **Policy Sub-Committee**

The following tabled policies from the 04-09-12 meeting will now go into effect:

- Policy EEAA: Kindergarten Transportation:
- Policy Exhibit: EEAA-E1: ABACUS Procedures for Students Not Picked Up By Their Parents;
- Policy Exhibit: EEAA-E2: Sample Letter from School Principal;
- Policy EEAB: Special Education Transportation:

The next meeting will be held on 5-14-12 @ 7:00 p.m.

Mr. Tyler acknowledged School Committee Counsel, Ed Lenox.

Chairman entertained a motion to go into Executive Session to discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints against, a

public officer, employee, staff member, or individual. Mr. Tyler stated according to MGL Dr. Durkin has the right to have this in either Open Session or Executive Session.

The Superintendent asked that the meeting be held in Open Session. Representing Dr. Durkin was Attorney Mike Long.

Mr. Tyler noted the committee would take a ten minute recess and return to open session. The meeting went into recess at 8:58 p.m.

The meeting reconvened at 9:12 p.m.

Mr. Tyler stated the seriousness of this matter. This meeting will be organized and respect both parties involved.

Attorney Lenox explained the reason for the meeting. Attorney Lenox read correspondence dated April 12, 2012 into record. A copy of which is attached hereto and therefore made a part hereof.

April 12, 2012

Dear Dr. Durkin:

I am writing at the request of Mr. Michael Tyler, the Chairman of the Attleboro School Committee.

Mr. Tyler has asked me to inform you, consistent with the terms of G.L. Chapter 30A, Section 21, Subsection (a)(1), that he intends to schedule an executive session to be held at the conclusion of the School Committee's meeting on Monday, April 23, 2012. The purpose of this executive session will be to discuss a complaint that you violated School Committee Policy CBD in regard to the negotiation of your contract. The relevant portion of Policy CBD reads as follows:

"The Officers of the Committee (comprised of the Chairperson, Vice Chairperson, and Secretary) will negotiate with the Superintendent a contract that will be presented to the Full Committee for approval based on the parameters set by the Committee."

The complaint to be discussed is that you violated this policy when, after receiving a memorandum dated March 29, 2012 from Mr. Tyler on behalf of the Executive Board (i.e. the officers) of the Attleboro School Committee conveying a contract offer being made by the Executive Board which the Executive Board intended to discuss with you at a negotiation meeting scheduled for April 12, 2012, you responded by sending a letter dated April 5, 2012 to the entire Attleboro School Committee. The complaint is that your April 5, 2012 letter bypassed the Executive Board, bypassed the process set out in Policy CBD, and thereby violated that policy.

Please regard this letter as written notice of the proposed April 23, 2012 Executive Session. You are entitled to all the rights contained in G.L. Chapter 30A, Section 21 Subsection (a)(1).

Mr. Tyler then read into record the correspondence sent via mail by Dr. Durkin to all committee members (a copy of which is attached hereto and therefore made a part hereof).

April 5, 2012

Dear Chairman Tyler and Members of the Attleboro School Committee:

I have received the attached memorandum outlining the parameters of my contract extension previously agreed upon to June 30, 2013. As you are aware, at the Committee's request, I had forwarded to you on February 2, my request for a 0% salary increase with no change in benefits or terms in my current contract for the extension.

The attached proposal from the committee, with the elimination of the annuity clause, reflects a reduction in my compensation. To provide context, in 2009, when my current contract was negotiated, the annuity clause was added as an acknowledgement by the School Committee that my salary was comparatively lower than my colleagues, many of whom who were leading smaller and far less complex districts with less experience as a superintendent. At the time, the annuity clause was a fair and

reasonable addition to my contract and I accepted it as such. Today, those same issues remain with Attleboro's superintendent's salary still lower when compared to other communities with superintendents with far less than six years of experience being compensated at a higher rate.

I can well appreciate the challenges of our economic times and it is in that spirit of good faith that I presented my original proposal to you regarding a 0% increase in compensation for my contract extension until June 30, 2013. Since I made that proposal, we have learned that our district will receive a significant increase in Chapter 70 funding. Yet, my proposal remains the same to retain the same compensation and benefits I contractually have.

I respectfully decline the offer. I have consulted with Michael Long, legal counsel for the Massachusetts Association for School Superintendents (MASS) who will be communicating with Edward Lenox, the committee's legal counsel. At this time, if you wish, I will still meet with the Executive Board on April 12 to discuss possible adjustments to the committee's current proposal.

Mr. Tyler then read the letter sent dated March 29, 2012 from the Executive Board:

The purpose of this Memorandum is to provide the Superintendent, the desired parameters of the previously agreed upon extension, to extend the Superintendent's contract to June 30, 2013. The Executive Board is in complete agreement with the terms outlined in your letter to the committee, with the exception of the currently language in regard to the annuity clause. The current language, in Section 11, of the Superintendent's contract, stated that the Committee shall contribute Ten Thousand (\$10,000) to said annuity. The Executive Board feels this clause should be eliminated. We will soon be preparing the FY13 Budget and though we are cautiously optimistic that our fiscal situation may slightly improve, all of us remain very concerned knowing the challenges, difficulties, and costs ahead in order to sustain the reforms reflected in the Journey Toward Excellence for Attleboro's children. The Executive Board is looking forward to continue working with you on behalf of the students of Attleboro and their families, when we meet to discuss the parameters of the Superintendent's contract, on April 12, 2012 at 6:30 p.m.

Mr. Tyler explained the Policy language being referred to in Policy CBD:

The Attleboro School Committee, upon the election of a candidate or upon the re-election of the incumbent Superintendent, will enter into written contract with the Superintendent that will meet the requirements of law and will protect the rights of both the committee and the Superintendent. The Officers of the Committee (comprised of the Chairperson, Vice Chairperson, and Secretary) will negotiate with the Superintendent a contract that will be presented to the Full Committee for approval based on the parameters set by the Committee.

Under the laws of the Commonwealth, the School Committee may award a contract to a Superintendent of Schools for a period not to exceed six years.

Mr. Tyler stated the Superintendent broke this policy when in her letter to the full committee she actually negotiated with the full committee, respectfully declining the offer before she spoke with the Executive Board. Mr. Tyler stated it was his opinion as well as the opinion of the committee's counsel that once the superintendent provided parameters to the committee and they in turn responded to her their offer, negotiations had commenced. The Superintendent was trying to bargain her position with the full committee which is against the current Policy CBD.

Attorney Lenox confirmed that Policy CBD states Chairperson, Vice Chairperson, and Secretary will negotiate with the Superintendent.

Mr. Tyler noted the school policies are how the committee governs the schools. Every policy is important. When a policy is broken, this needs to be addressed. He noted especially when we are dealing with a person who is considered our CEO who needs to endorse these policies.

Mr. Tyler turned the floor over the Dr. Durkin and/or her Attorney.

Attorney Long noted Dr. Durkin had the background information and on his advice sent an e-mail to the entire committee. His sense of the policy is that the policy controls the manner on which the committee defines its level of participation in the negotiations with the Superintendent and that the policy could not restrict the Superintendent's ability to communicate with the rest of the committee. Attorney Long noted the issue is that there is a pattern of communication between Dr. Durkin and the Full

Committee which is a historical pattern. She has regularly communicated with the entire committee via e-mail on a number of different issues. It was not her intent nor does she wish to find herself in a public meeting such as this. It was her intent to be in contact with her employer which is the complete and entire school committee over a matter of some importance to her. She had made a proposal not to seek a salary increase. As you can imagine she was surprised because of the success that has occurred to find herself in a situation that would actually take away a significant benefit. She was not looking to increase her benefits or salary. It was her sense that in communicating with her employer, that is the entire school board, which is the manner that she has communicated on a number of different levels for quite some time, and that there was nothing unusual about this manner of communication. It was not her intent to raise the ire of the Chair or anybody else.

Dr. Durkin noted, in January, specific to this issue, I was asked by the Chairman that was cc'd to all members "to sketch out my demands" of the contract extension. She reframed it back to whole committee that she would be happy to give the "scope of the parameters" of her contract, which she did. On February 2<sup>nd</sup> a memo was sent to the Full Committee outlining that she would accept a zero percent increase and asked for no changes in the terms or benefits of her contract. On February 5<sup>th</sup> she received an e-mail from the Chairman cc'd to the entire committee asking for answers to specific questions. The questions related to benefits, sick time, as well as increases to administrators for the 2011-12 school year. She explained the different expenses incurred in detail. She reminded the committee there is no monetary benefit for her accumulated sick days. Dr. Durkin provided the percentage increases to the administrators for the last three years as well. Dr. Durkin noted she asked the Chairman for the proposal on several occasions in order to determine if she would need legal counsel. This was forwarded to her. To that, she responded to the full committee. Essentially she has responded to the committee as a whole. She does not work for a specific subgroup. Dr. Durkin gave examples of previous communication practices. This was why the response went to the Full Committee respectfully declining the offer to decrease her compensation.

Mr. Tyler noted the e-mails that went back and forth when setting the parameters of the contract were all to compile information so that the committee could talk to discuss the parameters of the contract. Mr. Tyler referenced what Attorney Long had stated. He noted this is a policy of the Attleboro School Committee. This is a current policy and dictates how we govern the schools. He noted once the letter went to the entire committee, not only put in the packets, but sent by mail, made certain the information would get there. The letter stated "reject". When someone rejects something, you were rejecting the proposal. The verbiage was "respectfully decline" the offer. The information spelled out in the correspondence leading up to the declining of the terms, appears to be negotiations. We are not here to debate the validity of the policy. It is currently in the Policy Binders. The Superintendent has worked for this district for over six years. Mr. Tyler noted when he previously served on the committee; the Executive Board did all negotiations with the Superintendent. This was brought to the full committee after an executive session. It was never brought to full committee. The Superintendent is questioning the clarity of the policy. Mr. Tyler believes the policy is clear and the policy was breached.

Attorney Lenox stated it is a valid policy. It is commonplace that a school committee when they negotiate with the Superintendent will do so through a sub-committee. Sometimes it is an ad hoc committee established for that purpose. In Attleboro there has been a standing policy that states: Chairperson, Vice Chairperson, and Secretary. This policy states they will negotiate a contract with the Superintendent and then this will be presented to the Full Committee. This is clear. A negotiation session was scheduled for the 12<sup>th</sup>. Further demonstrating it was the intent of the Executive Board to do the negotiating. If the committee is asking if the policy is valid; it certainly is. Does the policy state the negotiation will be carried on by the Executive Board; it certainly does. The issue about what the committee chooses to do with a breach; is up to the committee.

Mr. Tyler noted it also states in the Superintendent's Contract under Section 5 Subsection A: The Superintendent shall at all times faithfully, industriously, and to the best of her ability, experience and talents, perform all the duties and functions of the Superintendent of Schools pursuant to all applicable federal, state, and local laws, by-laws and regulations, and all policies and regulations including those of the Massachusetts Board of Education and the Attleboro School Committee, providing same are not in conflict with any law or regulation. Mr. Tyler stated he sees no reason why the breaking of a policy would be acceptable.

Mr. Tyler explained how the previous negotiation process was handled: the Executive Board met with the Full Committee in Executive Session to explain the parameters that were negotiated with the Superintendent. Dr. Durkin had previous knowledge and experience of negotiating with the Executive Board.

Attorney Long asked at what point in the process of this series of e-mails do you believe negotiations commenced; and at which point this policy would apply. Was it when the April 12<sup>th</sup> Meeting was set or was it when Dr. Durkin responded initially to all the requests for information and responded to the entire committee.

Mr. Tyler noted an Executive Session was scheduled to negotiate with the Superintendent on April 12<sup>th</sup> which was approaching when the committee received this letter on April 5<sup>th</sup>. The letter was from the Executive Board to the Superintendent of Schools. It was not to the entire Committee. It was his understanding that once the parameters were given by the Superintendent and the Executive Board gave a counter-offer, the negotiations began. When the Superintendent sent the letter, she circumvented the whole process. The words "I respectfully decline the offer".

Attorney Long stated the issue for him was when is the employer supposed to be aware that the regular means of communication is now improper. Attorney Long did not believe the wording of the policy was clear. Where in the spectrum of that continuum of communication it becomes improper to communicate with one's employer, the entire body. This appears to be an overly narrow reading of the policy. Attorney Long acknowledged the Chairman's position. Attorney Long noted you have a policy that even the committee has violated in any exchange with the Superintendent about her contract. In theory the negotiate starts as soon as information is exchanged. It does not start when a meeting is set. The committee exchanged information about the Superintendent's Contract over a period of several months. The talk about the benefits, and that her respectful declination of the offer is.

Mr. Tyler respectfully disagreed. He stated he was following policy. The parameters have to be set in Executive Session. The information requested by him to Dr. Durkin would allow the committee to set the parameters in Executive Session before the Executive Board met with Dr. Durkin. It is clear the policy was violated. Mr. Tyler asked Dr. Durkin if in past negotiates she has ever communicated with the full committee.

Attorney Long asked when the committee took a vote to cut Dr. Durkin's pay. Was this at a meeting that occurred prior to April 12<sup>th</sup>.

Mr. Tyler noted this was done by the Executive Board. This is how any collective bargaining is handled whether it be union or administration. Parameters are set before the negotiations begin. We would not enter into a meeting without preparing for such a discussion.

Attorney Long noted he understood that the Open Meeting Laws allows one to go into Executive Session to discuss contract negotiations/strategies with union or non-union personnel. Attorney Long just noted there is a history of communication with all parties. He felt the Chairman was being selective about the application of the policy.

Mr. Tyler opened the floor up to other members for questions noting this is a meeting regarding a policy violation.

Ms. Furtado noted when Attorney Long stated this was the Superintendent's way of communicating with the whole committee. This was not always true. The only time this usually happens is through our Friday Updates. She does not always communicate with the full committee on all levels. There are times she only contacts the Chairperson and times when certain members have asked questions and had to go to the Chairman and have the Chairman answer those questions to certain members. Usually all communications are through Chairperson and the Superintendent. She feels she works for the Chairperson and the Chairperson is the one who directs what should be or should not be told or said to other committee members.

Attorney Long noted in the context of this subject matter and her contract, the pattern seemed to be set by the Chairman and by the Superintendent that everyone was included.

Mr. Murphy noted after hearing from both counsels, there appears to be a distinction between a violation of a policy and an act that could have been more consistent with the policy. He would agree if the communication in question had gone only to the Executive Board would have been more consistent with the policy, but he would have to disagree that this is an explicit violation. Reasonable people can disagree as to when the commencement of negotiations took place. Frankly, even more so what constitutes the negotiations began. He suggested treading very carefully for making accusations as to a violation. If the communication had gone to the Executive Board, we would not be in this meeting. With regard to the parameters of the contract, it is also true that his understanding of the policy was that the parameters are set by the committee as in the full committee. The parameters of this contract were not set by the full committee. The negotiating team needs room to negotiate. This is such an ambiguous grey area. He would not fault the Executive Board for needing some flexibility on how to negotiate. He would also not fault the Superintendent for communicating in a way that was both consistent the legal advice she received and how she had done those communications. This is an unfortunate situation. We have an obligation to work through difficult situations. For this reason he would be hesitant to agree that this is an explicit violation.

Mr. Tyler noted we cannot pick and chose what policies we want to enforce or not. We have to follow all to the best of our ability. We are not here to debate whether or not we like what the policy states. Mr. Tyler asked Attorney Lenox if he had any more to add.

Attorney Lenox noted respectfully it is the role of the committee to decide what if any action will take place. It is a valid policy that clearly indicates the Officers comprised of the Chairperson, Vice Chairperson, and Secretary will negotiate with the Superintendent. Mr. Murphy's point as to whether this was intentional violation; this is the type of decision the committee needs to decide.

Ms. Craw noted with all due respect, whether it was intentional or not legal counsel states it is a violation of our policy. There were e-mails sent to the Superintendent to set times for the meetings with the Executive Board. The Superintendent was aware that she was going to meet with the Executive Board to discuss parameters. It was not that she was going to meet with the whole committee.

The Chairman noted it is his discretion as Chairman to write the letter to the Superintendent. This is not how he has handled things. The Chairman prefers to involve the full committee with the decision. He does have a right as Chairman, however, to write a letter of reprimand.

Mr. Larson noted he believed the committee was getting themselves into a very dangerous situation. Mr. Larson noted we have heard both counsel's opinions. We have a policy that is somewhat vague. Part of the policy talks about parameters set by the entire committee. Mr. Larson agreed with Mr. Murphy he does not believe this was something the committee discussed. Mr. Larson agreed if the letter had gone just to the Executive Board the situation would be different.

Mr. Tyler stressed the confidentiality of the negotiation procedure for both sides.

Attorney Long noted it appears the full committee did not decide the parameters.

Mr. Tyler stated the information discussed in Executive Session is not public information. The Minutes have not been released. He respectfully declined to comment any further on this. He noted the Superintendent respectfully declined the offer.

The Superintendent stated she was quite surprised by the offer after the events of the last six years. She was proud of her work and achievements. She stated no intent to violate the policy. The Superintendent stated the attempt to schedule the meeting. She provided three dates.

Mr. Tyler noted the policy fit the needs in the past.

The Superintendent noted she had only negotiated one time during her contract term.

Mr. Tyler noted the 2009 contract and the original contract both involved negotiations. He stated the purpose was to determine if there was a policy violation.

A motion was made to place a formal letter of reprimand in the Superintendent's file: Discussion: None:

Mr. O'Neil:	No
Mr. Murphy:	No
Ms. Furtado:	Yes
Mr. Tyler:	Yes
Ms. Craw:	Yes
Mr. Parent:	No
Mr. Larson:	No
Mrs. Zito	No

Vote: 5-3 (Tyler, Furtado, Craw). Motion Fails.

Meeting adjourned at 10:06 p.m.

Respectfully submitted,

Barbara Crow, Secretary

Attachments:

1. Agenda dated 04-23-12
2. School Sponsored Events: 04-23-12
3. Power Point: Changes in School Times
4. Power Point: APS Detail of Textbook & Supply Budgets
5. APS Technology Minutes: 02-14-12
6. APS Technology Minutes: 03-19-12
7. General Report of the Findings on Instructional Technology Implemented within the APS K-8
8. Policy EEAA: Kindergarten Transportation
9. Policy EEAA-E1: ABACUS Procedures for Students Not Picked Up by Their Parents
10. Policy EEAA-E2: Sample Letter from the Principal
11. Policy EEAB: Special Education Transportation
12. Warrant: 5SB040
13. Warrant: 5SB041
14. Memorandum: User Fees; 04-11-12