



The Board of Education of School District No. 61 (Greater Victoria)

MINUTES

Via Zoom

March 14, 2022, 7:30 p.m.

Trustees Present: Ryan Painter, Board Chair, Tom Ferris, Vice-Chair, Nicole Duncan, Angie Hentze, Elaine Leonard, Jordan Watters, Ann Whiteaker

Sanctioned/Suspended: Diane McNally, Rob Painter

Administration: Deb Whitten, Interim Superintendent of Schools, Kim Morris, Secretary-Treasurer, Colin Roberts, Interim Deputy Superintendent, Harold Caldwell, Associate Superintendent, Katrina Stride, Associate Secretary-Treasurer, Andy Canty, Director, Information Technology for Learning, Chuck Morris, Director, Facilities Services, Marni Vistisen-Harwood, Associate Director, Facilities Services, Lisa McPhail, Manager, Communications and Community Engagement, Vicki Hanley, Recorder

A. COMMENCEMENT OF MEETING

The meeting was called to order at 7:32 p.m.

A.1. Acknowledgement of Traditional Territories

Chair Painter recognized and acknowledged the Esquimalt and Songhees Nations, on whose traditional territories, we live, we learn, and we do our work.

A.2. Approval of the Agenda

Moved by Trustee Leonard
Seconded by Trustee Ferris

That the March 14, 2022 agenda be approved with the following additions:

B.6. Correspondence, March 7, 2022, CUPE 382 to SD61 Trustees, Daytime Custodial Positions
C.2.a. Trustee Reports – Trustee Whiteaker

Motion Carried Unanimously

A.3. Approval of the Minutes

- a. Approval of the February 22, 2022 Special Board Budget Minutes

Trustee Duncan requested the following amendment:

A.2. Approval of the Agenda – amend the wording to read: *“Add a motion to the agenda at C.1. New Business, Letter to Community regarding suspension of two Trustees”*

Trustee Whiteaker requested the following amendment:

A.2. Approval of the Agenda – amend to add the following: *“Trustee Whiteaker asked for clarification of the authority used by the Board to suspend Trustees McNally and Paynter, as announced in the media release of February 11, 2022.”*

Moved by Trustee Watters

Seconded by Trustee Leonard

That the February 22, 2022 Special Board Budget minutes be approved, as amended.

Motion Carried Unanimously

- b. Approval of the February 23, 2022 Special Board Minutes

Moved by Trustee Leonard

Seconded by Trustee Duncan

That the February 23, 2022 Special Board minutes be approved.

Motion Carried Unanimously

- c. Approval of the February 28, 2022 Regular Board Minutes

Chair Painter advised that due to the short turnaround time between Board meetings, Section F. Question Period is not complete and will be amended to include additional questions received after the meeting concluded, along with answers to questions. When updated, the amended minutes will be posted on the District website.

Trustee Duncan requested the following amendment:

C.2.a. Trustees’ Reports: amend the wording to read: *“Trustee Duncan provided a verbal report relative to the current Board culture, how to resolve conflicts and rebuild trust.”*

Trustee Whiteaker requested that the following amendment:

C.2.b. Trustees' Reports: amend the wording to read: "*Trustee Whiteaker asked questions in relation to the case cited in the Chair's letter dated February 24, 2022 and provided information on free parent resources at familysmart.ca.*"

Moved by Trustee Ferris
Seconded by Trustee Duncan

That the February 28, 2022 Regular Board minutes be approved, as amended.

Motion Carried Unanimously

A.4. Business Arising from the Minutes

None

A.5. Student Achievement

None

A.6. District Presentations

None

A.7. Community Presentations

- a. Ms. Timmons attended the Board meeting to speak to Trustees about the partial disposal of land at Lansdowne Middle School South Campus and urged Trustees to reconsider the sale.
- b. Mr. Haddon attended the Board meeting to speak to Trustees about the partial disposal of land at Lansdowne Middle School South Campus suggested a collaboration between community members and the District rather than the sell the land.
- c. Mr. Graeme attended the Board meeting to speak to Trustees about the partial disposal of land at Lansdowne Middle School South Campus and the sale and purchase agreement for the sale.
- d. Mr. Henrich attended the Board meeting to speak to Trustees about the budget process, values and guiding principles.
- e. Ms. Smith attended the Board meeting to speak to Trustees about equitable music education.
- f. Mr. Harder attended the Board meeting to speak to Trustees about the proposal for the new Victoria Hospice site at the Lansdowne Middle School South Campus.

B. CORRESPONDENCE

- B.1. February 17, 2022, BCSTA to Member of Legislative Assembly, Thank You
- B.2. February 17, 2022, BCSTA to Member of Legislative Assembly, Thank You
- B.3. February 18, 2022, BCSTA to Minister of Education and Minister of Public Safety, Funding for Education in Correctional Institutions
- B.4. February 23, 2022 – March 8, 2022, Public Correspondence re proposed land disposal at Lansdowne Middle School South Campus
- B.5. March 7, 2022, GVTA to Minister of Education, Provincial Budget
- B.6. March 7, 2022, CUPE Local 382 to SD61 Trustees, Daytime Custodial Positions

C. TRUSTEE REPORTS

C.1. Chair's Report

- a. Chair's Report

None

- b. BCSTA Climate Change Survey

Chair Painter directed Trustees to the survey in their agenda packages and suggested that the survey be referred to the Climate Action Ad Hoc Committee to be completed and submitted.

Moved by Trustee Leonard

Seconded by Trustee Watters

That the Board of Education of School District No. 61 (Greater Victoria) refer the BCSTA Climate Action Survey to the Climate Action Committee.

Motion Carried Unanimously

- c. Annual Workplan: March 2022

Chair Painter presented for information, the Board work plan for March 2022. Trustee Whiteaker asked a question of clarification with regards to the appointment of the auditors. Secretary-Treasurer Morris responded and stated that she would check policy and respond in due course.

C.2. Trustees' Reports

- a. Trustee Whiteaker reported that she had attended Rogers Elementary School for their Indigenous Community Education Series and expressed gratitude to the event facilitators.

D. BOARD COMMITTEE REPORTS

D.1. Combined Education Policy and Directions Committee and Operations Policy and Planning Committee Meeting

- a. The draft minutes from the combined meeting on March 7 2022 were presented for information.

E. DISTRICT LEADERSHIP TEAM REPORTS

E.1. Interim Superintendent's Report

- a. Interim Superintendent Whitten provided the report and highlighted with gratitude the return of musical theatre in secondary schools, volunteer coaches for school sports and the successful open house at Cedar Hill Middle School relative to community engagement for the seismic upgrade project.

Moved by Trustee Watters
Seconded by Trustee Leonard

That the Board of Education of School District No. 61 (Greater Victoria) receive the Interim Superintendent's report as presented.

Motion Carried Unanimously

- b. Trustee Questions

Trustee Whiteaker requested information with respect to the Bylaw for the partial disposal of land at Lansdowne Middle School South Campus relative to the size of the parcel that is being sold. Secretary-Treasurer Morris provided an explanation as per legal advice. Further, Trustee Whiteaker made reference to the Board being under judicial review relative to the two suspended Trustees.

E.2. Secretary-Treasurer's Report

- a. Secretary-Treasurer Morris provided the report highlighting Budget 2022-2023 and the work of the Budget Advisory Committee. Secretary-Treasurer Morris shared that the Committee reviewed the student ThoughtExchange Report and that it is posted on the District website for information.

Moved by Trustee Ferris
Seconded by Trustee Watters

That the Board of Education of School District No. 61 (Greater Victoria) receive the Secretary-Treasurer's reports as presented.

Motion Carried Unanimously

- b. Lansdowne Middle School, South Campus
 - i. Partial Disposal Bylaw, 2022: 3rd Reading

Secretary-Treasurer Morris provided an overview prior to the third and final reading of the partial disposal of land located at Lansdowne Middle School South Campus. Discussion ensued amongst the Trustees with questions of clarification being asked of Secretary-Treasurer Morris.

Moved by Trustee Ferris
Seconded by Trustee Leonard

Whereas a board of education may dispose of land or improvements owned or administered by the board under the authority of Section 96(3) of the School Act, subject to the Orders of the Minister of Education (the "Minister");

AND WHEREAS the Minister issued Order M193/08 effective September 3, 2008 (the "Order") requiring fee simple sales and leases of land or improvements for a term of ten years or more to be specifically approved by the Minister, unless the transferee is an independent school or another school board;

AND WHEREAS Section 65(5) of the School Act requires a board of education to exercise a power with respect to the acquisition or disposal of property only by bylaw;

AND WHEREAS:

- A. The Board of Education of School District No. 61 (Greater Victoria) (the "Board") owns lands and improvements at 2780 Richmond Road, Victoria, B.C. known as Lansdowne Middle School, South Campus (formerly Richmond Elementary School site (the "Property");
- B. The Facility Number of the Property is:105629.
- C. The legal description of the Property is:
 - Parcel Identifier: 005-170-222
 - Lot 3, Section 26, Victoria District, Plan 10792;
- D. The Board proposes to subdivide and sell to the Victoria Hospice Society (the "VHS") the portion of the Property lying to the west and south of Bowker Creek and measuring approximately 1.9 acres in area as shown on Schedule A attached hereto (the "Lands"), pursuant to the terms of a conditional agreement of

purchase and sale (the "Sale Agreement") for a price of \$2,500,000, adjusted as provided in the Sale Agreement (the "Price");

- E. The Board is satisfied that it would be in the best interests of the Board to enter into the Sale Agreement and pursuant to its obligations thereunder subdivide the Property and sell the Lands to the VHS for the Price (the "Subdivision and Sale");
- F. The Board is satisfied that the Subdivision and Sale will not interfere with the use by the Board of the remainder of the Property for educational purposes.

NOW THEREFORE be it enacted as a Bylaw of the Board that the Sale Agreement and the Subdivision and Sale be and are hereby authorized, ratified and approved, subject to the Minister of Education providing a written Certificate of Disposal approving the sale of the Lands.

BE IT FURTHER enacted that the Secretary-Treasurer be and is hereby authorized on behalf of the Board to execute and deliver the Sale Agreement and, subject to the Minister's Approval, all documents required to complete the Subdivision and Sale, and all related and ancillary documents, with all such amendments thereto as the Secretary-Treasurer may, in her discretion, consider advisable.

This Bylaw may be cited as "School District No. 61 (Greater Victoria) Lansdowne Middle School, South Campus (formerly Richmond Elementary School) Site Partial Disposal Bylaw 2022".

Read a first time this 24th day of January, 2022.

Read a second time this 24th day of January, 2022.

Trustees debated the 3rd reading of the Bylaw, with a suggestion being made to table the motion indefinitely.

Moved by Trustee Duncan

Seconded by Trustee Whiteaker

That the third reading of Partial Disposal Bylaw, 2022, for Lansdowne Middle School South Campus be tabled indefinitely.

Motion Defeated

For: Trustees Duncan, Hentze, Whiteaker

Against: Trustees Ferris, Leonard, Painter, Watters

Further discussion ensued amongst the Trustees and concluded with Chair Painter calling for the vote on the third reading of the Bylaw, as presented.

Whereas a board of education may dispose of land or improvements owned or administered by the board under the authority of Section 96(3) of the School Act, subject to the Orders of the Minister of Education (the “Minister”);

AND WHEREAS the Minister issued Order M193/08 effective September 3, 2008 (the “Order”) requiring fee simple sales and leases of land or improvements for a term of ten years or more to be specifically approved by the Minister, unless the transferee is an independent school or another school board;

AND WHEREAS Section 65(5) of the School Act requires a board of education to exercise a power with respect to the acquisition or disposal of property only by bylaw;

AND WHEREAS:

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- B. The Facility Number of the Property is:105629.
- C. The legal description of the Property is:
Parcel Identifier: 005-170-222
Lot 3, Section 26, Victoria District, Plan 10792;
- D. The Board proposes to subdivide and sell to the Victoria Hospice Society (the “VHS”) the portion of the Property lying to the west and south of Bowker Creek and measuring approximately 1.9 acres in area as shown on Schedule A attached hereto (the “Lands”), pursuant to the terms of a conditional agreement of purchase and sale (the “Sale Agreement”) for a price of \$2,500,000, adjusted as provided in the Sale Agreement (the “Price”);
- E. The Board is satisfied that it would be in the best interests of the Board to enter into the Sale Agreement and pursuant to its obligations thereunder subdivide the Property and sell the Lands to the VHS for the Price (the “Subdivision and Sale”);
- F. The Board is satisfied that the Subdivision and Sale will not interfere with the use by the Board of the remainder of the Property for educational purposes.

NOW THEREFORE be it enacted as a Bylaw of the Board that the Sale Agreement and the Subdivision and Sale be and are hereby authorized, ratified and approved, subject to the Minister of Education providing a written Certificate of Disposal approving the sale of the Lands.

BE IT FURTHER enacted that the Secretary-Treasurer be and is hereby authorized on behalf of the Board to execute and deliver the

Sale Agreement and, subject to the Minister's Approval, all documents required to complete the Subdivision and Sale, and all related and ancillary documents, with all such amendments thereto as the Secretary-Treasurer may, in her discretion, consider advisable.

This Bylaw may be cited as "School District No. 61 (Greater Victoria) Lansdowne Middle School, South Campus (formerly Richmond Elementary School) Site Partial Disposal Bylaw 2022".

Read a first time this 24th day of January, 2022.

Read a second time this 24th day of January, 2022.

Read a third time this 14th day of March, 2022., and finally passed and adopted this 14th day of March, 2022.

Motion Carried

For: Trustees Ferris, Leonard, Painter, Watters
Against: Trustees Duncan, Hentze, Whiteaker

F. QUESTION PERIOD

Q: In cases where the Board is no longer comprised of the required number of active Trustees set out in *Section 30* of the *School Act* and is therefore no longer able to act as a whole, where does the Board derive its authority? Can the Board Chair please explain why a Board's ability to act as whole does not depend on the ability of each of its trustees to exercise their core statutory duties as elected trustees (including but not limited to attendance and participation in public meetings of the board)? In this explanation, please provide the specific section(s) of legislation or Board policy that specify the circumstances in which a quorum of a board has an inherent or implied power to remove or suspend trustees by a majority vote.

A: The question of whether a Board of Education can suspend a trustee from their duties as a result of misconduct, or whether in the present case a suspension was excessive, is currently before the Supreme Court of British Columbia, so it would not be appropriate for an individual trustee to comment.

Q: How is it that you can vote on this bylaw tonight when we know that the Victoria Hospice Society proposal has changed from the original proposal on which this bylaw is based? The latest proposal encompasses only 1.3 acres and has changed significantly - in fact it has changed twice - since the original agreement signed on Sept. 27, 2021. This bylaw concerns an agreement on a plan that no longer exists. How can you legitimately vote on this? What parcel of land are you actually selling if you vote yes? 1.9 acres? 1.3 acres?

A: The purchase and sale agreement and bylaw are consistent with what is now proposed because they both describe the parcel to be created by subdivision and sold as the land "lying to the west and south of Bowker Creek", which was estimated in the agreement to be "approximately 1.9 acres". The parties have agreed that the lot boundary for the area to be

sold would be along the top of the southwest bank of Bowker Creek, which would result in a parcel 1.28 acres in area, without any change to the purchase price. The approximation of area in the agreement was inaccurate, apparently because it was based on a measurement from the midpoint of the creek, despite the wording in the agreement. The parties have also agreed to widen Bowker Creek and change its alignment slightly, but those minor changes to the Creek should not invalidate the description of the land to be sold that appears in the agreement and the bylaw.

G. PUBLIC DISCLOSURE OF IN-CAMERA ITEMS

G.1. Record of Special In-Camera Board of Education Meeting – February 22, 2022

G.2. Record In-Camera Board of Education Meeting – February 28, 2022

G.3. Record of Special In-Camera Board of Education Meeting – March 1, 2022

H. NEW BUSINESS/NOTICE OF MOTIONS

H.1. New Business

None

H.2. Notice of Motions

None

I. ADJOURNMENT

The meeting adjourned at 9:41 p.m.

Moved by Trustee Ferris

Seconded by Trustee Duncan

That the meeting be adjourned.

Motion Carried Unanimously

Chair

Secretary-Treasurer