

**MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE
BATTLE RIVER REGIONAL DIVISION #31, HELD ON MARCH 22, 2001,
COMMENCING AT 9:38 A.M.**

PRESENT

LORNE ENRIGHT
MICHELE MULDER
GERRY OBERG
GWENDA POYSER
BILL SEARS
WAYNE THRONDSO (joined the meeting at 10:40 a.m.)
ROXANE WOLOSHYN

ABSENT

JACQUIE SCHAFFTER

ALSO PRESENT

WARREN PHILLIPS, Chief Deputy Superintendent of Schools
WILLIAM SCHULTE, Secretary-Treasurer
SYLVIA LAUBER, Recording Secretary

M. MULDER IN THE CHAIR

ADDITIONS TO THE AGENDA

#44/01 R. WOLOSHYN – That the additions noted on the distributed copies of the add-on sheet and the following be added to the agenda:

In-Camera Session

2. Financial Statement

New Business

- 26. Study Related to Program Offerings in Small High Schools
- 27. Cornerstone Christian Academy
- 28. Hay Lakes School Council
- 29. Subdivision Report

CARRIED

IN-CAMERA SESSION (9:44 a.m.)

#45/01 G. POYSER – That the regular meeting recess to allow the Trustees to meet in-camera, and that all persons except Trustees, Chief Deputy Superintendent Phillips, Secretary-Treasurer Schulte, and Recording Secretary Lauber be excluded.

CARRIED

The in-camera session recessed at 10:57 a.m. and the regular meeting reconvened at 10:57 a.m.

MEETING RECESS

The regular meeting recessed at 10:57 a.m. and reconvened at 11:05 a.m.

Brenda Johnson, Director of Transportation, joined the meeting at 11:06 a.m. for the discussion of the next two agenda items.

BAWLF ECS SOCIETY REQUEST

Chief Deputy Superintendent Phillips read a letter from the co-coordinator of the Bawlf kindergarten, Lynn Keith that was sent after their presentation at the March 8, 2001 meeting of the Board. The letter noted that there are five children registered for kindergarten at Bawlf with the possibility of another 6 – 8 students who qualify to register for their kindergarten program.

#46/01 R. WOLOSHYN – That the Board offer an ECS program for the students of the Bawlf School attendance area, with the location and transportation arrangements of the program to be at the discretion of the Board, and further that this be reviewed annually.

CARRIED

AGENDA FOR THE PUBLIC MEETING IN THE CITY OF CAMROSE, APRIL 9, 2001

Trustees reviewed the proposed agenda for the meeting with the City of Camrose parents and community members scheduled for April 9, 2001.

MEETING RECESS

The regular meeting recessed at 12:10 p.m. and reconvened at 1:08 p.m.

INVITATION – ROUND HILL SCHOOL COUNCIL

Chairman Mulder noted that the Round Hill School Council invited the Trustees to attend their music program this evening at 7:00 p.m.

DELEGATION – TERESA HAYKOWSKY AND KAREN MUNRO, ASBA

Chairman Mulder welcomed Teresa Haykowsky and Karen Munro from Alberta School Boards Association (ASBA) Legal Services, and Catherine Jensen, Business Manager, to the Board meeting. Mrs. Mulder invited Ms. Haykowsky and Ms. Munro to present information with respect to student activity waivers. Mrs. Mulder noted that some parents in Battle River Regional Division #31 have expressed concern with respect to our waivers.

Ms. Haykowsky defined a waiver as setting aside any rights someone may have and will not take a particular course of action. If a parent signs a waiver on behalf of the child, the parent is setting aside any rights the parent may have, and will not pursue legal action, if the child becomes injured in a school-sponsored or school-related activity. Ms. Haykowsky pointed out that the person signing the waiver must know what is being set aside, otherwise the waiver is unenforceable.

An indemnity is a mechanism by virtue of which the parent pays back to Battle River Regional Division #31 any settlement a child is awarded in the event that the child becomes injured and the child successfully carries out a legal action against the school division.

A consent is a signing by the parent wherein the parent consents for the child to participate in a particular activity. ASBA legal counselors recommend the use of consent forms, noting that it is very key that the activity is properly described on the consent form so the parent signing is fully aware of the activity in which the child will be participating.

Are waivers valid? It was noted that in one Supreme Court case, the Court looked at the question of setting aside negligence. This was a case where the person signed a waiver and knew what he was signing, therefore the waiver was deemed valid. If a person does not understand what he/she signed and if the language is not clear, then the waiver would not be enforceable. This can be a problem if parents don't understand what they are signing, particularly in the case of some who may not fully understand the English language, e.g. newcomers to Canada. The onus is on the school division to make the language in the waiver as clear as possible. The language should be clean and easy to read, however if the school personnel are aware that there is a family new to Canada and may not understand what they are signing, the waiver should be verbally communicated to them before they sign.

The counselors present noted that the risk management officer at Jubilee Insurance verbally indicated that waivers are not required, however he/she is recommending the use of carefully worded waivers. If the Division has a waiver, the court might find it enforceable, if there is no waiver, there is no protection.

The legal counselors noted that in a waiver the Division can contract out negligence, however gross negligence cannot be contracted out.

It was further noted that third-party operators, e.g. climbing wall, scuba diving, etc. insist on the use of a waiver for all participants, and if the Division does not have a waiver, the parent could take legal action against the Division if their child was injured if the Courts were to find the operator's waiver valid.

Research shows that the Courts are upholding waivers in the following circumstances:

- The activity is high risk and the participants are aware of that risk;
- When the waiver was presented in language that is clear (howsoever caused);
- Directed to the actual risk participated in and to the potential for injury in that activity; and
- Negligence has been waived.

The general rule is if someone signs something and hasn't read it, then that is that person's problem, however if the person can't understand the language or there is some misunderstanding about what risk is involved in the activity, the Courts likely will not uphold the waiver. Also, if the person seeking to enforce the waiver knew there was some mistake on the part of the person signing the waiver (perhaps illiterate), and did not do anything to correct that mistake, this may preclude relying on the waiver. An additional risk is present if the person enforcing the waiver knew that a parent does not understand what is being signed, as in the case of an immigrant to Canada who does not fully understand the language. However, it is noted that many legal suits are coming forward from parents who do understand the waiver.

Can parents sign on behalf of children? A waiver is essentially a contract and anyone under the age of eighteen cannot enter into a contract. There is a significant body of case law that shows that parents who are in dispute over child custody cannot sign on behalf of their children.

The rationale for the use of an indemnity clause is to shore up the waivers. There are two types of indemnity clauses – that for personal injury to the student and that for damages done to property. If the child successfully sues the Division for an injury, the Division can then seek reimbursement from the parents for that settlement, or if the child does damage to property, then the Division can seek reimbursement for the cost of the damages from the parents.

If a waiver is not used, the personal injury indemnity clause is not needed. However, if the Division wishes to collect costs for willful damage done by a child, then an indemnity clause should be used.

The legal counselors advised that if the Division chooses not to use a waiver, then there is a need to determine risk assessment of every activity done by schools. The assessment would deal with what are each and all risks associated with an activity, e.g. transportation to the activity, supervision, hotel stay, etc. Then a plan needs to be formulated to deal with each risk identified – to decrease that risk and to deal with the risk should it happen. This is to be done for each and every trip/activity. An

analysis can't be done for one trip and apply that to the next group that participates in a similar activity.

The bottom line for the school division is – did the teacher/supervisor act as a reasonable parent? If the Division chooses to proceed this way it is imperative that all teachers and administrators are doing the same assessment and that they are able to reasonably foresee the risks in a planned activity.

Ms. Haykowsky and Ms. Munro noted that Battle River Regional Division #31 is one school division that is very concerned about what is reasonable and appropriate.

If the Division chooses to take the route of doing risk assessments, it is necessary to be sure that the risk assessment is done and that there is no negligence in doing so. It would be better to have a waiver that may stand up in court than to have no waiver and not do an adequate risk assessment.

The risk assessment may reveal that the activity is too high risk in a balance with the curriculum, in which case the activity is not to be done.

Risk management also means that the personnel supervising the trip should be assigned specific tasks to supervise, which also reduces the risk.

Good planning is the first level of proof that risk was decreased.

Trustees were informed that the Calgary Board of Education does not use waivers, however there is a department in their office that does a risk assessment for every activity that is requested. Approval for the requested activity is based on the result of the risk assessment.

Ms. Haykowsky and Ms. Munro recommended that, even if a waiver is used, a risk assessment of every activity requested should be done.

Ms. Haykowsky, Ms. Munro and Mrs. Jensen left the meeting at 2:24 p.m.

MEETING RECESS

The meeting recessed at 2:36 p.m. and reconvened at 2:43 p.m.

PROFESSIONAL LEAVE REQUEST

#47/01

G. OBERG – That the Board approve the professional development leave for Case #4541-01 for the 2001-02 school year on the condition that a university level course is taken during the leave.

CARRIED

REQUEST FROM ELIZABETH MARTIN

#48/01 W. THRONDSOON – That the Board not provide funds for Elizabeth Martin, student at Central High-Sedgewick Public School, for funding to attend the Canadian Badlands Performing Arts Summer School, sponsored by the Rosebud School for the Arts.

CARRIED

SCHOOL COUNCILS / BOARD OF TRUSTEES LIAISON MEETING

Trustees scheduled April 21, 2001 as the next meeting date for the School Councils / Board of Trustees Liaison meeting. The meeting will convene at 9:30 a.m. and adjourn at 4:00 p.m. and will be held at the Daysland School. Invitations to attend the discussion on the future direction in the Division will be extended to School Council chairpersons (and four other persons from each school council), school administrators, and municipal (village, town, city and county) administrators. The Board will pay the expenses of the School Council members attending. Lunch and refreshments will be provided.

STUDY RELATED TO PROGRAM OFFERINGS IN SMALL HIGH SCHOOLS

Dr. Phillips suggested that the Board direct a comprehensive study be conducted on alternative delivery methods in small high schools. Trustees Poyser and Sears agreed to serve on the steering committee along with a number of yet-to-be-determined school council chairpersons.

The working committee may be comprised of all senior education officers in the Division, an administrator from each of Hay Lakes, Bashaw, Forestburg, Rosalind, Round Hill, Loughheed, Strome and Heisler Schools.

CORNERSTONE CHRISTIAN ACADEMY

Chairman Mulder informed Trustees that Mr. Doug Horte from the Cornerstone Christian Academy has invited Trustees from Battle River Regional Division #31 to meet with their Board. Trustees Throndsoun and Woloshyn agreed to attend this meeting on behalf of Battle River Regional Division #31.

HAY LAKES SCHOOL COUNCIL

Trustee Woloshyn noted that the Vice-Chairman of the Hay Lakes School Council has requested that a Board representative walk through the Hay Lakes School with the School Council to review the utilization rate of the Hay Lakes School. Trustee Enright and Secretary-Treasurer Schulte will do this.

SUBDIVISION REPORT

Business Manager, Catherine Jensen, joined the meeting for discussion on the subdivision report.

Secretary-Treasurer Schulte reviewed the subdivision reports submitted to Battle River Regional Division #31 this year.

COMMITTEE REPORTS

Student Affairs Committee

The Student Affairs Committee met on March 1, 2001 to hear a recommendation for expulsion for a student, with the result that the student was expelled from attending any school in Battle River Regional Division #31, with the exception of home schooling, for the remainder of this school year.

Capital Plan Committee

Trustee Enright, Chairman of the Capital Plan Committee, reported on the attendance of the members of this Committee at the Council of Education Facilities Planners International conference at Jasper Park Lodge from March 19-21, 2001.

Trustee Enright also reported that he, Trustee Poyser and Secretary-Treasurer Schulte, along with members from the Playground Committee at the Allan Johnstone School, looked at the vacant lot next to the School.

ASBA Zone 4

Trustee Oberg noted that the next ASBA Zone 4 meeting is scheduled for March 26, 2001.

Chairman Mulder will be attending the ASBA Review Committee on Outcomes on April 9, 2001.

Alberta School Employees Benefit Plan (ASEBP)

Secretary-Treasurer Schulte noted that the new rates are out for the ASEBP benefit plans.

ATA Liaison Committee

The next meeting of the ATA Liaison Committee is scheduled for May 1, 2001.

Administrators' Meeting

Trustee Sears reported on his attendance at the Administrators' Meeting held on March 13, 2001.

SUPPORT FOR UPGRADING TEACHING COMPETENCIES

#49/01 G. OBERG – That the Board approve the proposal 'Support for Upgrading Teaching Competencies' as presented by the Chief Deputy Superintendent of Schools.

CARRIED

INFORMATION

Chairman Mulder noted that a letter was received from the Elk Island Catholic School Division with respect to the proposed Catholic high school in Camrose. Mrs. Mulder will respond to the letter.

GET WELL WISHES

Trustees expressed their best wishes to Mr. Paul Dolynny, Superintendent of Schools, for a speedy recovery.

ADJOURNMENT

All items of business being complete, and there being no dissent, Chairman Mulder adjourned the meeting at 5:08 p.m.

MICHELE MULDER, CHAIRMAN

WILLIAM SCHULTE, SECRETARY-TREASURER

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