



SPECIAL BOARD PUBLIC MINUTES

Monday, November 16, 2020

8:30 pm

Zoom Meeting

Trustees Present: Lynn Scott, Keith Penny, Donna Blackburn, Christine Boothby, Rob Campbell, Chris Ellis, Justine Bell, Lyra Evans, Mark Fisher, Wendy Hough, Jennifer Jennekens, Charles Chen (Student Trustee), Joy Liu (Student Trustee)

Staff Present: Camille Williams-Taylor (Director of Education), Michele Giroux (Executive Officer, Corporate Services), Carolyn Tanner (Human Rights and Equity Advisor), Dorothy Baker (Superintendent of Instruction), Mary Jane Farrish (Superintendent of Instruction), Richard Sinclair (Manager of Legal Services and Labour Relations), Sandy Owens (Manager, Business & Learning Technologies), Diane Pernari-Hergert (Manager of Communications & Information Services), Nicole Guthrie (Manager of Board Services), Michael Guilbault (Audio Visual Technician), Rebecca Grandis (Senior Board Coordinator), Leigh Fenton (Board/Committee Coordinator)

Guests Present: Andrew Tremayne (Investigator), Lynn Harnden (Legal Counsel)

1. Call to Order -- Chair of the Board

Chair Scott called the public meeting to order at 8:31 p.m. She acknowledged that the meeting is taking place on unceded Algonquin Territory and thanked the Algonquin Nations for hosting the meeting on their land.

Chair Scott reminded the Trustees the final report of the investigators shall outline the finding of facts, but not contain a recommendation or opinion as to whether the Code of Conduct has been breached as per the Code of Conduct policy P.073.GOV.

2. Approval of the Agenda

Moved by Trustee Fisher, seconded by Trustee Campbell,

THAT the agenda be approved.

Carried

In response to a query by Trustee Ellis, Executive Officer Giroux advised that decisions made under the Code of Conduct Policy require a vote of at least 2/3 of the Trustees of the Board elected or appointed.

As a point of order, Trustee Ellis inquired whether the motion is subject to debate if there is no support to move the motion onto the floor. Chair Scott clarified that if trustees do not come forward to signal their intent to move a motion, it will not be debated.

3. Matters for Action

3.1 Report 20-099, Code of Conduct Breach Determination - Lyra Evans

The Board had before it Report 20-099, Code of Conduct Breach Determination - Lyra Evans, considering a contravention of the Code; and if necessary, determine what action, if any, the Board might take.

Executive Officer Giroux reported that in August 2020, a complaint was filed, alleging Trustee Lyra Evans had failed to uphold sections 3.18, 3.28 and 3.29 of the Board Member Code of Conduct P.073. GOV. Chair Scott and Vice-Chair Penny reviewed the complaint against the policy and determined that a formal review would begin, using a third party investigator, Mr. Andrew Tremayne. Under the policy, the investigator must submit a report of the finding of facts which does not include a determination of whether the Code has been breached nor does it provide any recommendations. The Board must review the finding of facts and determine whether the Code has been breached. Should the Board determine that there has been a breach of the code of conduct, the Board shall then consider what sanctions, if any, shall be applied.

Trustee Campbell expressed the view that there was an issue around communication in this instance involving Trustee Lyra Evans and he was confident that from this case all trustees may learn a lesson about social media transmissions.

Moved by Trustee Campbell, seconded by Trustee Blackburn,

Upon review of the facts as documented in the investigator's final report dated 2 November 2020 regarding a Code of Conduct complaint filed by Trustee Blackburn in relation to Trustee Lyra Evans, the Board finds:

THAT Trustee Lyra Evans has breached Sections, 3.28 and 3.29 of Policy P.073, Board Member Code of Conduct, in relation to a post made to social media on Thursday, August 27, 2020.

In introducing the motion, Trustee Blackburn made the following statements:

- The debate around whether or not a breach has occurred will set the parameters of acceptable public comments in relation to the decisions trustees have made;
- The factual implications of the tweet were incorrect. Trustee Lyra Evans wrote that the Board "voted 8-3 in favour of putting extra police" in Ridgemont High School and Gloucester High School. Trustee Blackburn affirmed that for many years there was just one dedicated School Resource Officer (SRO) at each school and they are also responsible for the feeder schools;
- The tweet from Trustee Evans suggests that her colleagues upheld systematic racism with the vote against removing funds from the School Programs and Support budget, which paid for two dedicated SROs at Gloucester High School and Ridgemont High School;
- The District is in the process of reviewing police involvement in schools through consultations with the school community and stakeholders. People need to feel safe to express themselves and their views without the fear of being accused of supporting oppression;
- She thanked Trustee Ellis for posting the videos of the meeting held with the Ridgemont and Gloucester High School school communities where participants expressed concern that a decision had been made without consulting with the school communities first; and
- On 31 August 2020, the board trustees were sent a letter from the Chair and the Vice Chair of the Ridgemont High School school council indicating that the language used by Trustee Lyra Evans and Trustee Bell to describe the school, with the words, "marginalized, racialized and low-income" were not only harmful to the school community but were also incorrect.

Trustee Ellis noted his intent to seek clarification on the investigator's report. Chair Scott responded that the investigator's report is appended to Report 20-099 and any questions about that report may be raised during the debate of the tabled motion. Trustee Ellis registered a concern that the investigation report was not independently discussed.

Trustee Bell recused herself.

Trustee Ellis noted that this was the first instance where the Board deliberated upon allegations of a dual breach of Code of Conduct. He stated that a flaw lies in the P. 073.GOV, where, under the current policy, the majority of trustees could be investigated for a possible breach of conduct and therefore would recuse themselves, leaving a minority of trustees to form a decision. Mr. Harden advised that should more trustees recuse themselves due to any possible recent involvement, there would

not be a requisite number of trustees remaining to decide on a motion. This becomes problematic, as there would not be a supportive finding of a violation.

Student Trustee Lui expressed the view that Trustee Lyra Evans used her social media account to criticize a professional decision rather than accuse her fellow trustees of racism. Sanctioning a trustee for voicing their beliefs may lead to a future climate of trustees being apprehensive to share their thoughts with their constituents.

Trustee Penny assumed the Chair.

Trustee Scott contributed that though there is a limited amount of words that can be written in a single tweet, the tweet was misrepresentative. The communication could have been phrased more accurately to reflect the decision of the Board.

An amendment moved by Trustee Scott, seconded by Trustee Boothby, THAT the number "3.18" be removed.

Carried

Trustee Scott resumed the Chair.

Trustee Campbell concluded that fundamentally this incident was a communications issue centering on the interpretation of statements occurring outside of the boardroom context. He noted that this case does not rise to the level of a formal breach consideration process.

Moved by Trustee Campbell

Seconded by Trustee Boothby

Upon review of the facts as documented in the investigator's final report dated 2 November 2020 regarding a Code of Conduct complaint filed by Trustee Blackburn in relation to Trustee Lyra Evans, the Board finds:

THAT Trustee Lyra Evans HAS NOT has breached Sections 3.28 and 3.29 of Policy P.073, Board Member Code of Conduct, in relation to a post made to social media on Thursday, August 27, 2020.

Defeated

A recorded vote was held and the motion failed on the following division:

FOR: Blackburn (1)

AGAINST: Boothby, Hough, Campbell, Ellis, Jennekens, Fisher, (6)

ABSTENTION: Scott, Penny (2)

3.2 Report 20-101, Code of Conduct - Possible Application of Sanctions (if required)

As a result of the decision made in section 3.1 no discussion on possible sanctions was required.

3.3 Report 20-100, Code of Conduct Breach Determination - Justine Bell

The Board had before it Report 20-100, Code of Conduct Breach Determination - Justine Bell, considering a contravention of the Code; and if necessary, to determine what action, if any, the Board might take.

Trustee Lyra Evans recused herself.

Moved by Trustee Campbell, seconded by Trustee Boothby ,

Upon review of the facts as documented in the investigator's final report dated 2 November 2020 regarding a Code of Conduct complaint filed by Trustee Blackburn in relation to Trustee Justine Bell, the Board finds:

THAT Trustee Bell has breached Sections 3.18, 3.28 and 3.29 of Policy P.073, Board Member Code of Conduct, in relation to a post made to social media on Thursday, August 27, 2020.

In introducing the motion Trustee Campbell noted Trustee Bell's conduct was less problematic than the allegations against Trustee Lyra Evans because Trustee Bell developed an awareness that her perspective could be misinterpreted and sought to follow up with her tweet to better explain the decision of the Board.

Trustee Blackburn addressed Trustee Bell's assertion that the complaint was filed in a vexatious manner. In Investigator Tremayne's report, Trustee Blackburn maintained that the present allegations were not relevant to any claims that Trustee Bell had made against her in the past.

Trustee Ellis inquired whether Investigator Tremayne had examined if there had been a history of vexatious conduct between the trustees. Investigator Tremayne advised in the initial screening phase, when a complaint is raised, the Chair and Vice Chair determine if the allegations are worthy of a formal review or if it is trivial, frivolous or vexatious. Taking into account that a formal investigation was launched, the opinion was in favour of further action by the Board.

Trustee Ellis urged the Board to reconsider the means in which code of conduct breaches are investigated and the funds allocated to these exercises. He suggested that not many findings of facts were uncovered.

Moved by Trustee Campbell

Seconded by Trustee Boothby

Upon review of the facts as documented in the investigator's final report dated 2 November 2020 regarding a Code of Conduct complaint filed by Trustee Blackburn in relation to Trustee Bell the Board finds:

THAT Trustee Bell HAS NOT has breached Sections 3.18, 3.28 and 3.29 of Policy P.073, Board Member Code of Conduct, in relation to a post made to social media on Thursday, August 27, 2020.

Defeated

A recorded vote was held and the motion failed on the following division:

FOR: Blackburn (1)

AGAINST: Boothby, Hough, Campbell, Jennekens, Fisher, Ellis, Scott , Penny (8)

ABSTENTION: (0)

3.4 Report 20-102, Code of Conduct - Possible Application of Sanctions (if required)

As a result of the decision made in section 3.3 no discussion on possible sanctions was required.

4. Adjournment

The meeting adjourned at 9:17 p.m.

Lynn Scott, Chair of the Board