

**THESE MINUTES ARE PENDING BOARD APPROVAL.**

**Board of Education  
Newtown, Connecticut**

Minutes of the Board of Education meeting on Tuesday, July 26, 2011 at 7:30 p.m. in the board room at 3 Primrose Street.

W. Hart, Chair	J. Robinson
D. Leidlein, Vice Chair (absent)	L. Gejda
A. Buzzi, Secretary	R. Bienkowski
D. Nanavaty	50 Public
L. Bittman	2 Press
R. Gaines	
K. Alexander	

Item 1 – Call to Order

Mr. Hart called the meeting to order at 7:35 p.m.

Item 2 – Public Participation

Karen Viska, 30 Mile Hill Road South, was in favor of the owner/operators.

Beth Koschel, 20 Evergreen Road, owner of bus 16, spoke in favor of the owner/operator system.

Amy Twitchel, 4 Rooster Ridge Road, spoke in favor of the owner/operator system.

Vincent Saviano, Yearling Lane, is a former board member who spoke in favor of the owner/operator system.

Dan Amaral, 41 Elm Drive, spoke in favor of owner/operator system.

Charles Hepp, 4 Winter Ridge Road, spoke about what we lost due to cuts. He is all for money into the classroom. Bus drivers must be competitive. His choice is money going into the classroom.

Daniel Morehouse, 21 Bonnie Brae Drive, said in some cases spending more gets you more value.

Dan Shea, 44 Queen Street, said we should not put a dollar sign on safety and piece of mind.

Carl Rachauer, Silver City Road, spoke about the caring driver his children had. We won't have that if we go to a company. Don't just look at dollars.

Item 3 – Discussion and Review Results from the Transportation Committee

Mr. Bienkowski introduced Bert Hughes from Education Connection in Litchfield. He's been in the transportation business for over 20 years working for Ryder, First Student and the last seven years for Education Connection. MTM withdrew their proposal. The report presented was revised to reflect the four viable companies. We are under pressure to make cuts from the Town boards. The results of this bid provide an opportunity to cut taxes and potentially improve services.

Mr. Hart asked about the liability insurance.

Mr. Bienkowski said that during the interview process the owner/operators said they would reimburse the Board for the cost of the insurance we provide them.

Mr. Bienkowski spoke about the DMV data which is updated annually. To get the owner/operator DMV statistics information needs to be put in manually. The Hartford Courant had some data. He spoke about the letter from the insurance company regarding having less risk if we kept the current system. We have no sovereign immunity in transporting

children. It is better to have a company assume the risk. The Town buys the insurance so any claims would impact the Town rates. By transferring the risk to a bus company they would be at risk up to \$10M. That would increase the protection for the Town.

Mr. Gaines confirmed that the first \$10M would be covered by the bus company and we would be liable over that amount.

Mr. Bienkowski said the bus company insurance would be required to cover legal expenses of the Board of Education through the hold harmless provision. It reduces the risk the Town has.

Mr. Gaines asked about housing the buses in Newtown and how many were presently kept at the Kendro and Amaral property.

Mr. Bienkowski didn't have that information. The bid required that it was desirable to locate in Newtown but they may not be there the first year. We wouldn't pay mileage from neighboring commercial property. He believes there is enough commercial property in Newtown. There would be additional tax revenue from that and the additional new buses. It would be good to find space in Fairfield Hills.

Mr. Hart spoke about a projected enrollment decline of 16% over the next five years. Under the bid, the Board of Education has the right to increase or decrease the number of vehicles to be used. The contract would be very specific to give us that right. The owner/operator contract requires a buy out to reduce a bus.

Mr. Hughes said if a route is reduced the company just loses that route.

Mr. Hart asked if a bus company could add buses.

Mr. Bienkowski said that would have to be stipulated in the contract.

#### Item 4 – Attorney Floyd Dugas Report on State Labor Relations Hearing

Attorney Dugas said that the current owner/operator agreement stated they are independent contractors and they signed an agreement that they are not employees of the Board of Education. They pay their own taxes. They filed a municipal prohibitive practice complaint which stated they are employees which is counter to the agreement. Their complaint also stated that the committee of the owner/operators who have met over the years is a labor union and that it is an unfair labor practice to not bargain with them about going out to bid. The first step was a fact finding conference with a representative of the labor board. If the labor board agent feels there is not an unfair practice it can still go to a hearing. The hearing would probably not take place until September. Should the owner/operators prevail and they are employees, we have a document that was signed stating they are independent contractors. Their agreements would be null and void. Allowing them access to health insurance creates problems. The person from the state had never seen a situation like this before.

Mrs. Bittman was concerned because the Board is in a bidding situation now.

Attorney Dugas felt it wouldn't affect the bids. Price fixing is the concern if they are independent contractors. The state labor board is involved in organized labor unions.

Mr. Buzzi asked if the owner/operators were representing themselves as the same status as our unions. They are saying we can't give this work to anyone else.

Attorney Dugas said they claim that was correct. For all intents and purposes they have been a union. They have to file a petition and have an election to become a union. The complaint is assuming if they are employees then they are a union.

Mr. Buzzi asked if the state says we have to bargain with them what happens with the bidding process. If they prevail, we would bargain with them.

Attorney Dugas said that the contracts would be null and void and there would be negotiations with the group as employees.

Mrs. Bittman asked if we had to buy the buses.

Attorney Dugas stated there was no obligation there.

Mr. Buzzi said they would be employees repudiating their contract.

Mr. Alexander said if we ended up with our own employee drivers, the bus companies would provide buses. We would provide the buses and the owner/operators would be drivers for the bus company.

Mr. Nanavaty asked who filed this bid on behalf of the owner/operators.

Mr. Bienkowski said the bid document listed a committee of owner/operators that worked together and was signed by Carey Shierloh as independent contractors. The committee was listed, not all of the owner/operators.

Mr. Nanavaty asked if there was anything in the document that indicates this committee has authority to file.

Mr. Bienkowski said it was not stated.

#### Item 5 – Process for Board Review of Transportation Bidders

Mr. Hart stated we have to publicly interview the finalists. Vendors will be invited to attend ahead of time for the public to meet them.

Mr. Buzzi would encourage them to bring a bus with drivers and management to answer questions.

Mr. Hart would have the meeting taped. He asked for questions from the Board to be sent to Kathy no later than Friday to provide to bidders in advance. He would ask them for a written response to the questions.

MOTION: Mr. Buzzi moved to adjourn. Mr. Gaines seconded.

#### Item 6 – Adjournment

The meeting adjourned at 9:35 p.m.

Respectfully submitted:

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Andrew Buzzi, Jr.  
Secretary