



Harwood Unified Union School District

340 Mad River Park, Suite 7
Waitsfield, VT 05673
(802) 496-2272

Brigid Nease, Superintendent

Michelle Baker, Director of Finance/Operations

Sheila Soule, Director of Curriculum

Donarae Dawson, Director of Student Support Services

TO: The HUUSD Board of Directors
FROM: Brigid Nease, Superintendent
DATE: October 9, 2017
RE: Response to the Board Record: Letter from Trustee Gabe Gilman dated 9-26-17

On September 26, 2017 late evening, I received, along with the HUUSD Board of Directors, a four-page letter from board member Gabe Gilman. The HUUSD Board decided at their meeting the following evening, September 27th, to table discussion of the contents of the letter until Gabe could be in attendance, which is the October 11th regularly scheduled board meeting.

Gabe mentions my actions and leadership throughout his letter, and I disagree with several points of view that he shares. Therefore, I am submitting my written response and wish that along with Gabe's letter, it is attached as part of the public record to the meeting minutes.

On May 24, 2017, I requested an executive session of the HUUSD Board to discuss matters of personnel, specifically employment contracts under 1 VSA sec. 313 numbers 3 and 4, where the finding of premature knowledge and disadvantage prior to going into the session is not required. This section allows for the discussion in executive session information about employees and public officers regarding performance, personal matters, contracts (including resignation) and the like. Gabe appears to believe that this executive session was requested under 1VSA 313 (1) (A) focused literally on the negotiation of a contract yet settled or before the body.

By May 24, 2017, the HUUSD Board was still struggling mightily. Others and often members themselves referred regularly to the board dysfunction. Meetings were described by observers as uncomfortable at best and toxic at their worst. The administrative team grew in our concern. With the year almost ready to close, our team felt as though the situation was just getting worse instead of better.

After eight years of service with these highly competent administrators, I became seriously concerned with the thought that we would lose good administrators if something could not be done to turn this around. Several of our administrators were speaking to me individually about not signing a new contract or resigning from the one they had. A few were interviewing elsewhere. So, I asked for an executive session.

During that lengthy executive session, I shared individual details about our administrators, their job performance, and personal information, why they had such serious concerns, and who was contemplating leaving. I told the board that it felt as though this SU was imploding, and I later shared that publicly. ANY one of these administrators, including myself, could have been damaged by the disclosure of this personnel information prematurely.

Gabe depicts the situation I was describing as a problem with "morale" and about "unhappy" employees. The situation was and is much more serious than that. As you are all aware Amy Rex, a very competent and

successful, transformative leader, voted Co Principal of the Year and nominated by the HUHS school faculty, resigned at the 11th hour. Amy is a courageous leader who wrote very specifically as to her reasons – this situation. She went into considerable detail with her own Harwood Union Board, although unfortunately it was late June and the meeting wasn't recorded. HUUSD Board Chair Sullivan attended that meeting.

Gabe insists in his letter that, “the whole thing had not a whit to do with a contract”. I disagree. Amy's contract was up for renewal, as were others. We were well past prime hiring season for administrators and to just begin a hiring process in June was not going to be good for our schools and students. By this May 24th meeting, tensions were very high, and it appeared to me that we would be losing administrators.

Gabe states that the thinking here was that, “A school board can have a closed-door executive session any time, about anything, because District employees have contracts they might not renew if unhappy, and everything the Board does can make employees more or less happy”. Clearly, I failed in communicating to Gabe the seriousness of the situation we were in last May. I would not characterize the situation as one where we had simply unhappy employees.

It is very difficult in a situation such as this one to fully explain, if not defend, that executive session because I still maintain that the specific material discussed was and should remain confidential under the statute.

I respectfully ask you to consider the following:

All 13 board members present at that meeting voted to go into executive session. One member was absent. All 13 members remained in that executive session throughout until the very end. At any time, any member could have made a motion to vote and end the session. No one did. No member left the conversation.

It is true that board members' actions were discussed as it related to personal information about administrators, their performance, things they shared with me confidentially, and administrators' contracts. Reflections and interpretations of previous board meetings as it related directly to administrators' possible decisions were spoken about. In general, it included failure to follow policies, the appropriate chain of command, due process for public complaints, use of email and sharing them, and other actions that were directly related to the situation we found ourselves in with the administration. In my professional opinion, this is allowable executive session discussion. This session was awkward and uncomfortable for all.

The fact remains that 10 members and I believe, upon much reflection, that the executive session held now five months ago without a recording or meeting minutes was legal and not a violation of the open meeting law. Three board members do not agree, stating that they believe a violation occurred, and one of those members has resigned. Large boards do not always agree, they vote, sometimes the vote is split, and they move on.

No action was taken following this executive session. There is no remedy, nothing to change. Just because some board members disagree doesn't make it so. If the session was not an appropriate legal executive session then the board would be required to revisit the action in public session and further decide the matter. There is no action on which to debate in public or take further action.

In section III on page two, Gabe states, “it has become clear that the Board's attorney never was consulted in June as I believed. That explains a lot. The Board should demand direct access to him right away”. Here, I believe Gabe is calling me a liar. I do not lie. Jill and Heidi's letter was sent to the Board's attorney, Pietro Lynn, on June 22nd. He and I spoke on June 24th. I will not share the details of these conversations because they are protected under attorney client privilege. In summary, he advised that the board could choose to take up the memo in any way they saw fit. He spoke of large boards, voting, Robert's Rules of Order and moving forward with the majority vote. He did not indicate concern and suggested we move on. The board never directed me to

contact him. I did that on my own. They could have developed specific questions for him or asked him to attend a future meeting. They did not.

Gabe continues to insist on page 3 that the board has not responded to Heidi and Jill's memo. The board continues to insist that they have, but that they did not agree to the demands made in that memo.

Gabe cites risks on page 3 of a court finding upon a public body to have violated OML. 1 VSA Sec 314 under penalty and enforcement states that the violation is predicated on a person or persons knowingly and intentionally violating the provisions of this subchapter. There is a strong disagreement here. To believe in any way that any of this was intentional, deliberate, or an action taken knowing it was a violation on any person's part is just blatantly wrong.

1 VSA sec 314 (2) (B) stating that the public body has determined that no violation has occurred and that no cure is necessary is what the HUUSD Board has stated repeatedly. This position is equally allowed under the statute and seems to be in line with board motions, votes and resolutions from prior meetings.

On page 4 Gabe states that without any motion from the board that I sent the Board's attorney to Washington Superior court to argue that teacher negotiations must be held in open session. He further attempts to draw likeness to the executive meeting on May 24th. These are completely different situations and arguments, each directed to a different portion of the statute.

Furthermore, I reported to the Board in at least two prior meetings in open session about my new learning at a legal training, prior cases in Addison and Franklin courts, and the recommendation coming from our attorney as to how to proceed with teacher negotiations. Not a single board member disagreed. Not a single board member made a motion to do otherwise. The court documents and filings were sent to the entire board. The matter was revisited throughout the year in reports and updates especially regarding the timeline. There was never a board vote to proceed any differently.

I suggested early on that although I had conducted all of the Board's teacher and support staff negotiations over the last eight years that I step away because of legal complications this year. I suggested hiring an outside attorney. The Board disagreed and asked me to continue as always. We set up a board negotiating committee. I kept them updated all along the way, and we usually met twice a month. They were decision makers every step of the way. I did not unilaterally direct the Board's attorney in the matter of negotiations.

I remain concerned that lengthy letters full of substance such as Gabe's, including strong recommendations, suggested motions, analysis of board meetings and actions continue to be shared outside of the board room. Although improved, other board members respond, and new concerns about board conduct and the open meeting law arise.

In the last paragraph on page 4 of Gabe's letter, he states as a hard fact that a plain violation of the open meeting law has occurred. Just because Gabe says so doesn't make it fact. I respectfully disagree.

In closing, we are beginning a new year. Our start has been a good one following a very helpful and successful retreat. Last year was tough by all accounts. There is so much work to do. The budget season is upon us and already the news from Montpelier is bleak. I sincerely hope we can focus on collaborating and communicating well, while we let by-gones be by-gones, roll up our sleeves and get to work, and accept that we are all caring human beings who would change things we did or said last year if there were "do overs", but there isn't. We need to move on. How will doing anything else help our students and taxpayers?

Respectfully submitted,
Brigid