

BOARD STUDY SESSION MEETING MINUTES

October 18, 2022

Call to Order

President Rivera called the Study Session of the Shoreline Board of Directors to order via Zoom at 4:00 p.m. on October 18, 2022.

Roll Call

Present: Rebeca Rivera, President; Sara Betnel, Director; Meghan Jernigan, Director; and Sarah Cohen, Director.

Not present: Emily Williams, Vice President; Luke Smith, Shorecrest Student Representative; and Helen Murphy, Shorewood Student Representative.

The following topic was discussed:

School District Resolutions and Proclamations Overview

Presenters:

Lee Marchisio and Jim McNeill, Attorneys from Foster Garvey PC

The current Board has not discussed a process for the Board or its members to support issues such as ballot measures or social movements. This presentation was geared to walk the Board through different aspects of resolutions and proclamations, and discuss how the Board process would be like moving forward in regard to the Board supporting different political and social issues over time.

President Rivera introduced presenters Lee Marchisio and Jim McNeill from Foster and Garvey and thanked them for their attendance.

Mr. Marchisio thanked the Board and Superintendent for the invitation to present and encouraged the group to ask questions if they arise during the presentation.

The PowerPoint presentation began with an explanation of a resolution, e.g. the contrast between ordinances and proclamations, and the role of school districts vs. other governmental entities such as cities and counties. School districts do not exercise general regulatory authority over others. As a general rule, boards may conduct most business by motions and votes recorded in minutes.

Mr. Marchisio referred to the appendix in this presentation which notes the differences between school district proclamation by resolution and state/gubernatorial proclamations that carry force of law.

Mr. McNeill explained that most of the business the Board encounters would be by motion and a vote that is recorded in the meeting minutes, i.e.: approving a consent agenda. The courts have said there really is no difference between a motion and a resolution. State law does require a formal resolution in a variety of ways and in the appendix there was a good sample of instances where a formal resolution would be appropriate.

In general, it is suggested that a school district use a resolution to memorialize significant district business for the following reasons:

- Establishes written legislative record
- Evidences foundation for action
- Supports institutional knowledge
- Facilitates open government

Typically, resolutions use a similar process and form of resolution so it is clear what is being submitted, i.e., bond or levy. Mr. McNeill explained the anatomy of a resolution, the importance of all items and how they should tie in together through the resolution for clarity and consistency throughout the text.

In closing, Mr. Marchisio explained who at a district can write a resolution and gave examples of when drafting resolutions may take place. There is no regulation or anything legally prohibiting a Board from developing its own form of resolution or having a resolution be discussed to refine and improve it other than the Open Public Meetings Act. These discussions can take place in a study session such as this, or in a regular board meeting. Others should draft resolutions on behalf of the Board when general counsel is needed for sensitive, complex or significant actions. This would also be the case for financial and/or levy certification resolutions.

President Rivera thanked the presenters and opened the floor to the group for questions, with the reminder to keep in mind questions that would help in thinking through the process as a Board in support of something, i.e., ballot measure or political movement.

President Rivera commented that the difference between a resolution and a proclamation is confusing. If we're saying a resolution is for core board business, something like supporting a ballot measure doesn't seem to fit into the core board business. Why would we select a resolution as opposed to a proclamation?

Mr. Marchisio agreed, it does not technically have to be a resolution. The statute says to express collective decision, or to actually vote upon a motion proposal resolution, order, or to support or oppose a proposition. The court is typically not going to look at form over function. If you term it a motion, a proclamation or a resolution, it is fine as long as those statutory elements are passed or accomplished. For a school district you might have a narrower focus. If it's a measure or ballot measure that is directly going to impact students, there is a clear intersection where you might want to consider that type of action. The Board may consider if it's about a measure on which the Board wants to make a statement.

Mr. McNeill noted the primary rationale for doing this is to allow the board members to speak on behalf of the other board members saying, yes, we support this particular measure. He gave the example of a board taking formal action on supporting a bond issue that is being submitted to voters. This is a fairly common practice and he had seen it with levies and collaboration with cities when measures are beneficial to students.

President Rivera asked about the Board's individual support of our work to help pass a bond measure and does that free us up to say as a board member I support this?

Mr. Marchisio clarified that the resolution makes the statement of collective support and also it allows each member to speak on behalf of the Board. However, all other restrictions still apply, meaning you can't use any district resources or district time, or any district staff who are on district time to support or post the measure.

President Rivera said when we pass a resolution, we ask for a motion to pass which is confusing. What is the difference between a resolution and a motion?

Mr. Marchisio agreed it can be redundant, but the purpose of both a motion and a resolution is to evidence through a vote, a board action. It is just more of a parliamentary way of getting to a vote on the resolution itself.

Director Jernigan thanked the presenters and asked for examples of creating equal time for all points of view. For example, if the Board were to have a proclamation about climate change, what would that look like in terms of holding that space legally and in line with what you have described?

Mr. Marchisio mentioned the public meeting requirement to have an opportunity for public comment and the context of the support resolution for a ballot measure. Mr. McNeill was not aware of another context that there is the same requirement to allow for equal opportunity to share an opposing view. There is no reason that the Board couldn't provide individuals an opportunity to express an opposing view during your public comments.

Director Cohen asked for clarification on if the public comment requirement is only for a resolution in support of a bond measure? Or would it also apply if it was a proclamation?

Mr. Marchisio clarified that it is if you are going to take final action at the meeting on any item you need an opportunity for the public to comment. The approximately equal time for comment applies to any action supporting or opposing a ballot measure.

Director Cohen inquired if for that approximately equal opportunity, would that mean holding time in the agenda, or would it mean inviting a counter presentation with someone speaking in opposition?

Mr. Marchisio replied that it is an afforded approximately equal opportunity. You don't have to manufacture the space. If people in the community have 45 minutes to sing praises, then the opposing side needs to be given the same 45-minute opportunity. There is no case law on these provisions. The Board will want to be thoughtful about the spirit of this requirement in providing approximately equal opportunity.

Mr. McNeill mentioned the challenges of affording people a chance to communicate and participate and not having extremely long meetings.

President Rivera asked if the Board supported a city ballot measure and our own ballot measure, would the approximately equal opportunity view need to be allowed for public comment for only the District's ballot measure or both city and district ballot measures? The response was both.

President Rivera commented that when a presentation of the budget comes to the Board and public comment is allowed directly on the budget prior to the Board vote. Does that allow for the approximately equal opportunity for public comment? Mr. Marchisio reminded the group that 'approximately equal opportunity' is a specific phrase that applies just to ballot measures.

It was clarified that in regards to the budget, any person may appear at the meeting and be heard for or against any part of the budget plan. That is a different standard than an approximately equal amount of time to come and talk.

Director Betnel asked what precedent do we set in starting to develop resolutions for ballot measures and making a statement on anything that relates to our community in that way. Mr. Marchisio responded that there is no legal rule on that topic. He recommended deferring to local elected boards for your understanding on the interactions with other governmental entities and the relationships between them, and how your actions might affect them.

Mr. McNeill added it can be very sticky politically, because you're balancing a variety of factors, that has to be measured. If it is a safety and security measure, it is easy to see everyone getting behind and supporting. But there are a host of others you may not want to get involved with to a certain extent.

Mr. Marchisio mentioned as far as board resources go, you all have limits. You are volunteers, and have limited time. You have your mission statements for the role as board directors, and the projects you take on. It is good to consider those time impacts.

President Rivera posed two questions.

1. When, if at all, should the Board move to pass a resolution or proclamation on ballot measures or other social, political movements or other legislation at the State or Federal level?
2. If we want to do those things or pursue that, what should or could that process look like?

She asked the group if this is something we'd like to pursue as a Board potentially?

Director Betnel inquired about using resolutions as a way to move the District forward? She shared the example of Seattle School District using a resolution to establish a commitment to transitioning to 100% clean, renewable energy. How do we work with this mechanism as a Board?

President Rivera would like to hold on that because Shoreline has passed the ethnic studies resolution and has a climate, justice and sustainability resolution on the way. As President of the Board, questions have come to her about whether or not the Board would like to issue statements in support of specific things. Does the Board have interest in moving in that direction, and if yes, how would we go about doing so? With OPMA (Open Public Meetings Act) it gets hard, not wanting to dive in too much before knowing the role of the Board.

Director Jernigan wondered how these resolutions may be a support for developing a strategic plan, or are they getting in the way of a strategic plan? Before answering that question, the right systems need to be in place to organize input and the right people need to be involved. These pieces are integral to deciding if we want to go down that road.

President Rivera agreed about organizing input and that is a process question. With 25 minutes left in the meeting, she announced that it wasn't long enough to get to an understanding on what Directors Betnel and Jernigan suggested talking about through the resolution process. She felt this was really important, so further conversations would take place on that topic. Regarding organizing input from others, she wondered "if we were to pass a proclamation on climate change, would we want to organize input on that? Or would that just be a statement the Board makes outside of that process? I do see those as separate and I think both are really important for us to do."

Her take away from this meeting would be whether or not the board president should pursue actively working to see if the Board wants to pass a resolution or proclamation in support of a

ballot measure or some other kind of issue that comes up. If the answer is no, then when asked we can say, as a rule, we don't do that. That is where she was hoping to get to during this meeting.

Mr. McNeill mentioned, in looking through the Board policies, some of them are old and need to be updated. WSSDA (Washington State School Directors' Association) has current policies that may have addressed some of these issues. It may be worthwhile to communicate with WSSDA to see what they have, then to be sure the District's policies are consistent with where the District is going. President Rivera said that is something that is already on the to-do list.

Director Jernigan said there was a MOU with WSSDA, but due to fiscal constraints it was on hold. Perhaps there are things we can do internally to prioritize which policy pieces are needing more immediate attention.

Superintendent Reyes shared that WSSDA will charge around \$9,000 for policy reviews. We are on a list, and when they have capacity, they'll reach out to the District and see if we are wanting to move forward.

President Riviera asked the group where each of them falls on the decision about whether or not this board should or could move to work on resolutions or proclamations in support of larger community initiatives, movements or legislation outside of this district in particular.

Director Betnel reiterated the importance of having a conversation about what is our process of developing a resolution and being very clear and intentional. She outlined there are:

1. Resolutions we are legally obligated to do
2. Resolutions we can choose to do about our own District business, e.g. support own levy measures
3. Resolutions around social issues or other ballot measures
4. Resolutions around potentially moving strategic goals or specific direction forward in the district (the group has a shared desire to have a conversation about how to do this as a collective entity)

Talking about social issues and ballot measures, this is about the opportunity to use this mechanism as a way to voice support around something directly impacting students. For example, if a statewide measure came to the ballot about certain curriculum or certain protections for children, Director Betnel stated that she "would want the Board to have an open, public dialogue, hear from our community, and if in agreement, be able to develop a resolution around that conversation. School boards having the ability to pass these resolutions on ballot measures or particular movements offers us the opportunity to join in that collective voice, and it is for those reasons that I would like us to pursue this."

Director Jernigan wondered about the possibility of this process only taking place through open public meetings, through an available mechanism or format to provide an inclusive process. She said she could commit to saying yes to this as long as we have an inclusive Board-wide process of developing this type of work.

President Rivera agreed with Director Betnel about the opportunity to voice something that clearly benefits students. That is good criteria to use.

Director Betnel commented if the Board was to take a position on something, we want to align action, budget, etc. around that. What are the distinctions in the positions we choose and what feels right and necessary as we think about how we are serving Shoreline students?

Director Cohen noted the limited amount of time and attention the Board has to spend on things needs to be taken seriously when thinking about what this would look like. There is concern about statements that would be performative. Where is our voice most effective helping students with our time and attention? The business before the District is our main focus. What is going on in our own school system deserves the majority of our meeting time. It is important to think about if the District's endorsement of a measure that will make a difference in a tangible way. "My opinion is it's not particularly efficacious for us one way or the other. This could change, but wondering about having a blanket policy when political dynamics are specific at the moment."

President Rivera appreciated and was moved by comments around being sure we are not being performative, making sure our time is invested and tangibly supporting our students and positive relationships with our local governments. There needs to be more discussion about resolutions in general and hopes to have those conversations.

Director Jernigan commented, in terms of criteria, with the sea of information out there to voters, it may be confusing as to what is a school district levy and bond vs. something presented by a city municipality. There could be additional educational opportunities that might arise that could be burdensome.

President Rivera thanked the presenters and the Board for their thoughts clarifying how to move forward.

Superintendent Reyes thanked the presenters and appreciated the rich discussion.

Adjournment: 5:13 p.m.

Rebeca Rivera, School Board President

Attest: December 6, 2022

Dr. Susana Reyes, Secretary
Shoreline Board of Directors

All documents referenced in the minutes may be viewed in the Superintendent's Office during normal business hours.