

Subject: Re: BOE access to verbatim recordings / MC
From: Kelli MacMillan <macmillank@mokena159.org>
Date: 3/13/2024, 11:08 AM
To: Eric Bush <bushe@mokena159.org>

Good morning Eric,

At our open meeting on 2/20/24, after 45 minutes of deliberation, the board decided that Anna Briscoe and Dr. Cohen would be the two people in the room when I am provided access to the verbatim recordings. The discussion itself was something you formulated to achieve a resolution to a district matter in public view. The purpose of the discussion item was to achieve resolution to my proposal of listening to recordings with Julie. The purpose of the discussion was to resolve the issue in public view because other board members did not agree with that procedure as I'd offered.

In my email on 3/8/24, I provided details of how the Wed 3/6/24 listening session got off track when Mark left the room at the request of Anna. I laid out two options I'd identified on how the board could correct the course so as to be responsive to Anna saying she was uncomfortable with Mark in the room the entire time. Both options I offered would be in public view pursuant to OMA.

On 3/11/24 you directed the board to "determine how to proceed" (via email) based only on your own recommendation. Your recommendation was for the board to modify our decision to add the condition "In the event the recordings discuss his performance review, he can leave the room". Your recommendation was that the board take this action via email and outside of an open meeting.

Last night, you sent an email that 4 members of the board are "ok" with "Dr. Cohen leaving the room when the closed session recordings deal with his performance appraisal". I interpret this as board members taking action to change the decision made on 2/20/24 outside of an open meeting and in violation of OMA. The simple fact that board members are now deciding that Dr. Cohen will not be in the room at all times when I am accessing the recordings is a resolution to a district matter outside of an open meeting.

Mark, Anna and I planned to meet today at 12pm to continue our listening sessions and I will follow the schedule we agreed to. I do not agree with Dr. Cohen leaving the room today or at any point until we resolve the district matter again, in an open meeting. I am concerned that if I do not attend today you and the board will use it against me in retaliation and then vote next week to destroy the verbatim recordings I've asked to hear before I am able to do so. I feel as if I am back at square one with my request and now the board is working to pigeon hole me into becoming part of the problem. I am not in alignment with this board action and I will, at a minimum, disclose this to the public at our meeting next week in the interest of transparency as follow up. The public has a vested interest in what we do and the decisions we make, so it is necessary we update them on something we discussed in great detail less than a month ago.

When I spoke with Anna about this a couple times she'd conveyed concern about going back to the issue in an open meeting. She seemed reluctant on how the public would perceive that and clearly it was not what she wanted to do. I suspect other members of the board also want to avoid going in front of the public to change our minds and backtrack on things they said in our deliberations on

2/20/24. Board members said Dr. Cohen needed to be there when I suggested he did not. Board members said the decision needed to happen at an open meeting. Board members said we had the ability to develop our own process and to make that decision outside of a formal action item. While I can empathize with folks that are reluctant to go back now and admit they didn't recognize a situation properly - that is not the right thing to do. I caution my fellow board members to stay true to why we are here and true to our mission in service to our public. Sometimes you may not like how it makes you look but that doesn't give anyone the right to avoid public disclosure. There is no good reason we need to proceed today without it becoming an action we take in front of the public first.

I hope you reconsider.

Kelli

On Tue, Mar 12, 2024 at 10:02 PM Eric Bush <bushe@mokena159.org> wrote:

Board - Here are the results that I have received in response to my question above. Lisa, Sam, Anna and Jim are ok with Dr. Cohen leaving the room when the closed session recordings deal with his performance appraisal. Julie doesn't think it is appropriate to poll the Board outside of a Board meeting. I am in favor of having Dr. Cohen leave the room if the recordings deal with his performance appraisal as the Board's conversations were meant to be private. My question to the Board was not a change in the process or a change to who will be present during the recordings as agreed at the February Board meeting. The question was to address Kelli's concern that Anna was acting unilaterally without the Board's will. I hope this clarifies any concerns, and I hope the listening of the recordings will continue tomorrow as previously scheduled with Kelli, Anna and Dr. Cohen.

Regards,

Eric

On Mon, Mar 11, 2024 at 10:05 PM Eric Bush <bushe@mokena159.org> wrote:

Board - Please see the email from Kelli. She has raised a question about the process of her listening to the closed session recordings. At the February meeting, the Board noted Kelli, Anna and Dr. Cohen would listen to the recordings together. I understand why Anna would ask Dr. Cohen to leave while the Board discussed his performance as those conversations were held with the understanding that Dr. Cohen would not be present. With that said, we need to determine how to proceed. I recommend the listening of the recordings be moved away from Dr. Cohen's office. In the event the recordings discuss his performance review, he can leave the room. Anna can let him know when the recordings switch away from his performance review and he will re-enter the room. I need to poll the Board to determine the Board's will as the next appointment to review the recordings is on Wednesday. Please let me know ASAP your thoughts on my recommendation.

Regards,

Eric

----- Forwarded message -----

From: **Kelli MacMillan** <macmillank@mokena159.org>

Date: Fri, Mar 8, 2024 at 3:47 PM

Subject: BOE access to verbatim recordings / MC

To: Eric Bush <bushe@mokena159.org>

Eric,

At our last Board of Education meeting on 2/20/24 the Board deliberated and decided how to deliver my access to verbatim recordings following the initial denial of my request on 2/15/24. The Board of Education decided Anna Briscoe and Mark Cohen would accompany me in all listening sessions and that we would coordinate our schedules.

Anna, Mark and I began on Mon. 3/4/24. We listened to the 4/2022 closed session and a portion from 5/2022. At one point, I wasn't able to hear clearly and asked Mark to rewind 3 minutes. He did not rewind the tape. He told me that he had discussed this scenario with John Fester and they concluded Mark would not rewind so as to prevent me from taking "verbatim notes". Please note: this is not a part of OMA and I have been provided no support for Mark refusing my simple request. I questioned the need to schedule a second session to access the May meeting again from the start just to hear the 3 minutes I missed, which is not practical and will be an inconvenience. Furthermore, it is inappropriate for our Superintendent to restrict a board member's access and dictate what Board members can and cannot do; that is not up to him or the board attorney serving at our pleasure. I can ask the Attorney General's office about it when I speak with them next week in my claim follow up.

Note: I encourage the board to respond to Mark regarding this incident in which he colluded with the board attorney, on our dime, without discussion or communication with the Board of Education as a whole to blindside 2 board members by making up his own rules on how board members access verbatim recordings .

We returned to Mark's office on Wed 3/6/24 to continue listening to May 2022. Almost immediately upon my arrival, Mark left the room. He declared to me (and Anna): it didn't make sense for him to be there because he was not in the room when some of the recorded conversations took place originally. He then left his office and had the recordings on a laptop for myself and Anna.

Note 1: On Monday 3/4/24 Mark was in the room when we had listened to portions of closed meetings he was not present (it was clearly announced). Not once did he object, say it was inappropriate or volunteer to leave the room. He remained in the room the entire time on Monday, which included listening to extensive portions of meetings he was not a participant in.

Note 2: On 2/13/24 when Mark cornered me at the PTA meeting trying to influence me to change my mind he warned me of the situation of him being in the room listening to conversations he was not privy to. It is clear to me now that Mark failed to warn my fellow board members of this inappropriate situation he helped create. He allowed the BOE to publically deliberate his

presence without disclosing to everyone how it created a situation that he is hearing talks he was deliberately excluded from. Furthermore, he volunteered his presence knowing that it was a conflict and knowing the extent to which he had been excluded from these meetings originally. I question if he was trying to listen to these meetings he hadn't heard.

Note 3: upon him leaving the room, I controlled the laptop and was able to freely pause, rewind or fast forward. My ability to rewind no longer seemed a concern of Mark's, which leads me to question if there was any real justification for him to refuse to rewind 3 minutes when I asked.

Note 4: Since joining the BOE, I've requested Mark leave the room during our closed sessions multiple times to which the response was as if it was a foreign idea that hadn't been done before. Never did I understand or have any impression of the extent to which this occurred normally in the past. Only Mark and the veteran board members knew that.

Note 5: during our BOE deliberation on 2/20 I suggested Mark not be in attendance when recordings are accessed. Multiple board members rejected that suggestion and said he needed to be there. I expect those board members will not be OK to learn Mark was not in the room at all on Wednesday after that was decided.

After listening for about 2 minutes, I paused the tapes and told Anna that we could not and should not proceed. I told Anna that I was not OK continuing with just her and I in the room because that is not what the BOE decided in our public meeting. I questioned Anna as to who made the decision to veer away from the procedure the board decided publically on 2/20/24. Anna told me that she asked Mark to leave the room because she was uncomfortable with what he heard during our session on Monday 3/4. While I can sympathize with Anna, I told her that despite how she felt, it was not OK that she unilaterally amends a decision the board made in an open meeting - none of us can do that.

Note: Mark obliged Anna's request to leave the room before I arrived. Mark defied the Board of Education decision, at the direction of 1 board member.

Anna and I continued to have a really productive talk and didn't listen to much of the recordings. I hope to coordinate a time that works for you and I to speak so as to update you on that discussion, I think we were both pleased.

However, this serves to document and demonstrate the continued double standard that exists from amongst board members and our Superintendent. I will not accept it, participate in it, and none of us should. **I will not have our Superintendent feel emboldened to refuse a simple request from 1 board member and then willingly defy the Board of Education in order to comply with a request from another board member. This is further demonstrated by Mark presumably consulting with our attorney regarding a potential request I make but making no such effort when Anna asked him to leave the room - in direct conflict with what the board decided. I also think the BOE needs to discuss how Mark misled my fellow board members in thinking it was appropriate for him to attend these sessions knowing it was not and failing to disclose that in our public meeting discussion.**

I hope we can figure out a way to work better together, but this is unacceptable.

If Anna would like the Board to reconsider the decision we made by having Mark in the room when I listen to closed session meetings I think the board should discuss. The proper protocol is

to add it to the agenda for our next meeting. At this time, I am not willing to listen without Mark in the room because the Board decided on 2/20/24 that he would be in the room. We are scheduled to meet again next Wed 3/13.

At this point, I see a couple options for us:

1. We have a special board meeting to re-evaluate the decision we made to have Mark and Anna in the room when I listen to recordings.
2. We postpone future listening sessions until after our next board meeting so that we can revisit the decision at the BOE meeting on 3/20/24.

Please pass this on to the board members and poll which of the two options are better for them and advise us all of the results of your poll. We are scheduled for Wednesday 3/13, so sooner the better for the sake of our schedules.

On an added note: I want the board to know I find **high value** in what I've listened to so far. It is very relevant and useful deliberations for me to hear on some really important topics, so that's been great. I encourage Sam and Julie to capitalize on hearing these sessions and gaining the same background knowledge that I am getting before they are potentially destroyed.

Eric, I trust you will forward this on to my fellow board members and include all in your response.

I did not include Mark in this email because I was hoping board members have a moment to consider the situation first. Having said that, I have no problem in keeping this thread for your response to include Mark so that he has visibility in what I've laid out above. Also, I have spoken to Anna about all of this before documenting it.

Thanks and have a good weekend,
Kelli