

**Portsmouth School Board  
Portsmouth, New Hampshire**

**Minutes of the December 20, 2006 Special Meeting**

A meeting of the Portsmouth School Board was held on Tuesday, December 12, 2006 in Council Chambers at the Portsmouth Municipal Complex.

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***Attendance***

**PRESENT:** Mr. Kent F. LaPage (Chair), Mrs. Nancy Novelline Clayburgh (Vice-Chair), Ms. Sheri Ham Garrity, Mr. Clay Hayward, Dr. Mitchell Shuldman, Mr. Carson Smith, Mrs. Ann Walker

**ABSENT:** Mr. John Lyons, Jr., Mr. Brendan Ristaino

**PARTICIPATING:** Dr. Robert J. Lister (Superintendent of Schools), Mr. Steve Zadavec (Assistant Superintendent), Mr. Stephen T. Bartlett (Business Administrator), Mr. Robert Sullivan (City Attorney), Ms. Elisa Loeser (Student Representative)

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***Call to Order***

Chair LaPage called the special meeting to order at 5:50 p.m. He stated this special meeting has been called to address a request from the John Edwards' Campaign to rent space at Little Harbour School and the Board does not have a policy or procedures pertinent to these type of requests. The Chair stated there is likely to be more of these requests in the future. Mr. LaPage said the Rental Committee met with the City Attorney before this meeting to review this request and has a recommendation for the Board. He said the requested rental date is December 29<sup>th</sup>, which is before the Board's next scheduled meeting. He said because this request is of a political nature, he has been on the phone with the Superintendent, Assistant Superintendent, Business Administrator, and the City Attorney. The Chair said this is a First Amendment issue and, therefore, if the Board chooses to approve the request, it must do the same for other requests to use the building.

***Request to Use  
Space at Little  
Harbour  
Elementary School***

Chair LaPage said the Edwards' Campaign wants to hold a town hall type meeting on December 29, 2006 at Little Harbour School. He said the campaign would be required to pay the rental rates plus all other costs that would occur because of their use of the building (custodial, clean-up, and compensation for anything that might be damaged).

***Comments from  
City Attorney***

City Attorney Sullivan stated the School Board, under State law, has the authority to lease or rent any of its property that it does not need at any particular point of time for educational purposes. However, he cautioned they need to keep in mind that once they allow any areas to be used as a public forum for public expression, those areas have been designated as a public forum and the Board cannot deny anyone else the right to use the space based on the content of their speech. He used the example that should an extremist group request to use space that has previously been used for a public forum, the Board would be obligated to allow that to happen. (Ms. Loeser and Mr. Smith arrived at the meeting at this time – 5:55 p.m.)

Mr. Hayward said he does not personally have a problem with the request and said he is very proud that something like this could happen in Portsmouth, New Hampshire. He said the School Board should be able to supply standard items, but if there are certain equipment items necessary, the renters should supply those items. Mr. Hayward also said that he does not have a problem with the Board requiring the funds be paid upfront.

Mr. Sullivan asked if the Board wishes to designate the auditorium at Little Harbour School as a public forum for First Amendment business in the future.

Dr. Shuldman asked if there is any space in the District that has been used before. The Chair stated there was a rental during the 2000 Presidential campaign. Dr. Shuldman said there is no policy for the Board to follow and asked, should the Board approve this request, what influence would it have on future decisions. Attorney Sullivan said he had spent some time trying to find a good case to refer to, and his opinion is that as long as there is no one in the pipeline in front of them who will claim the Board changed its policy because it did not like their speech, he believes the Board may change its policy at any time.

Ms. Garrity said she would not make a decision tonight with only 15 minutes' worth of information.

***Motion to Allow Use  
of Space Per  
Paperwork  
Submitted  
December 19, 2006***

The Chair asked for a motion regarding the request of the Myers' Strategies Organization, representing John Edwards' campaign, to lease the cafeteria/gymnasium at Little Harbour School on December 29, 2006, per the paperwork submitted on December 19, 2006. Mrs. Walker moved, seconded by Mr. Hayward, the Board approve the rental request with the stipulations that the monies be paid upfront and that all materials be provided by the people who are renting the space. Mrs. Clayburgh said it is exciting to have a potential President

(Approved by the Portsmouth School Board on January 9, 2007.)

make his announcement at the school, but said the only way she would approve the motion is if it contained a statement that from now on all future requests are required to have 30 days' notice. She said this last-minute request is not fair to the Board and is truly inconvenient for the Board to meet on short notice the night of its holiday dinner. Mrs. Clayburgh also stated the Rental Committee will need to meet as soon as possible and make a recommendation to the Policy Committee. The Chair stated this requirement could be a separate motion.

Attorney Sullivan stated the rooms at City Hall are only available for City of Portsmouth government or activities through or sponsored by City government. He said the policy at the new Public Library is broad and would allow for this type of activity. Dr. Shuldman stated school buildings are more of a community organization, and is what education is all about.

***Motion Approved***

The Chair called for a vote on the motion. In a roll call vote, the motion passed (Mrs. Clayburgh, Mr. Hayward, Dr. Shuldman, Mrs. Walker and Mr. LaPage voted for the motion; Ms. Garrity and Mr. Smith abstained from voting).

***Motion Requiring  
30 Days' Notice for  
Future Requests of  
This Type***

Mrs. Clayburgh moved that before any discussion of this type happens again, the Board require a 30 days' notice. Mrs. Walker seconded the motion. The motion was unanimously approved.

***Adjournment***

Mr. Hayward moved the Board adjourn its special meeting; Dr. Shuldman seconded the motion. The motion was unanimously approved. The meeting was adjourned at 6:13 p.m.

Respectfully submitted,

Dr. Robert J. Lister  
Executive Secretary