

**IN THE MATTER OF AN INVESTIGATION PURSUANT TO SCHOOL DISTRICT #39
(VANCOUVER) HARASSMENT IN THE WORKPLACE POLICY**

CONFIDENTIAL REPORT OF EXTERNAL INVESTIGATOR

SUBMITTED TO: JOHN LEWIS, ACTING SUPERINTENDENT

**BY: ROSLYN GOLDNER
 GOLDNER LAW CORPORATION**

FEBRUARY 17, 2017

A. INTRODUCTION

I have been retained to conduct an investigation pursuant to School District #39 (Vancouver) Harassment in the Workplace Policy ("Policy") and to provide a confidential report to the Acting Superintendent setting out findings of fact related to allegations of a toxic work environment within School District #39 ("VSB" or the "District").

The allegations were brought to the attention of the District through a letter ("Elwood Letter") to Mr. David Byng, the Deputy Minister of Education from Ms. Sherry Elwood, in her capacity as President of the British Columbia School Superintendents Association ("BCSSA"). A copy of the Elwood Letter is attached as Appendix 1 to this report.

Ms. Elwood expressed concern that members of the BCSSA, who serve in senior leadership positions within the District as Superintendent, Assistant Superintendents and Directors of Instruction, have been "faced with a work environment which is unstable and unpredictable for many months now." Ms. Elwood wrote that the work environment has created a "toxicity which fosters fear and a lack of sense of safety for these individuals and noted that the expectations "expected of them are unmanageable". The letter attributed the creation of this work environment to the actions of individual trustees ("Trustees") and the Board of Trustees ("Board").

Ms. Elwood advised that these individuals were concerned that their positions may be in jeopardy and that the ongoing disruption in the District will be attributed to their work which would harm their personal credibility and future employment opportunities. She noted that the affected members were concerned that if the present working conditions continued they would not be able to perform their duties to the best of their ability which would compromise the work of the District.

The Elwood letter was made public and the matter was referred by the Minister to WorkSafeBC for investigation pursuant to its Workplace Bullying and Harassment policy. A WorkSafe investigation commenced under that policy.

B. THE DISTRICT INVESTIGATION

The District determined that as an employer in the province it had an independent obligation under WorkSafe legislation to investigate these allegations. The District investigation is a separate process from the WorkSafe investigation under WorkSafe policy. The District investigation proceeded in the absence of a formal complaint from a District employee and on the basis that the allegations came from a credible source making further inquiry appropriate. I note that the terms of engagement of the District investigator

referred to allegations of “bullying and harassment” although those terms were not used in the Elwood Letter. A copy of the engagement letter is Appendix 2 to this report.

At the time the Elwood Letter was made public it was also public knowledge that several members of the District’s senior management team including the Secretary Treasurer and the Superintendent (“Senior Management Team”) had taken leaves of absence. At this time the Trustees continued to hold office and had engaged two individuals to assume these positions in an acting capacity. I was retained by the newly appointed Acting Superintendent.

On October 17, 2016, the Provincial Government dismissed the Trustees, with the exception of the student Trustee, and appointed Ms. Dianne Turner as sole Trustee of the Board. The Acting Secretary Treasurer and Acting Superintendent were also replaced. For purposes of arranging meetings and providing status reports on the progress of the investigation I have communicated with sole Trustee Ms. Turner and Acting Superintendent John Lewis as appropriate. My report will be tendered to Mr. Lewis.

I began the investigation by asking District employees, including members of the Senior Management Team who were on leave of absence, whether they had information related to the allegations in the Elwood Letter and whether they would be prepared to participate as witnesses in the investigation. The goal of the investigation was to determine whether the District work environment was toxic as alleged in the Elwood Letter.

Many District employees, including members of the Senior Management Team, agreed to participate in the investigation. Several representatives from various stakeholder groups who had personal experience working with the Board, with Trustees and with District employees also asked to be interviewed in the course of the investigation.

Following my initial interviews with District employees I identified the Board and certain named individual Trustees as Respondents in the investigation. Shortly after the investigation commenced the Provincial government fired the Board on the basis that the Board had failed to meet its statutory obligation to pass a balanced budget for the District. The ex-Trustees agreed to participate in the investigation.

I am confident that through my initial interviews I was able to gather information that sufficiently particularized the allegations such that the Trustees (ex-Trustees at the time of the interviews) would have a fair opportunity to respond to the allegations related to the conduct of the Board and certain Trustees. Four ex-Trustees were represented by counsel who attended their individual interviews. These ex-Trustees requested and were provided a summary of the particularized allegations in advance of their interviews. The summary was included in a letter to counsel. A copy of that letter is at Appendix 3 to this report.

This group of ex-Trustees included individual Trustees against whom allegations of bullying and harassment were made in the course of the investigation.

I note that although witnesses stated they wished to share information related to the work environment at the District offices many were anxious about their participation and expressed concern regarding reprisals if the information provided were attributed to individuals. The evidence gathered was consistent and over the course of the investigation a cohesive narrative developed describing the work environment generally and the events of the last several months in particular. That narrative is set out in this report without attribution to individuals except in situations where identification of witnesses is relevant to the information provided.

I have taken the same approach to setting out the responsive narrative that developed through interviews with the ex-Trustees. I note that the responsive narrative is not cohesive amongst the ex-Trustees and where appropriate certain ex-Trustees are identified as providers of information or rebuttal to the claims.

C. BACKGROUND TO THE CLAIMS

Certain events within the past year within the District provide context for consideration of the allegations that there is a toxic work environment at VSB. In addition to the annual budget cycle the District had been addressing several major initiatives that called upon the resources of the staff and the Trustees including the development of a Strategic Plan; the creation of the Long-Range Facilities Plan; the implementation of People Soft; and the school closure consultation process.

(i) Chronology of Events

In 2016 the District's Senior Management Team devoted significant time and resources to the creation of a balanced budget for 2016/2017 as required under the *School Act* ("Act"). Since 1995 no school board in this province has failed to pass a balanced budget. There is no provision in the *Act* for a school board to continue to operate in circumstances in which the board fails to pass a budget.

The requirement to produce a balanced budget was particularly challenging in 2016. The District had been in financial difficulty and had significant debt. The situation in 2016 was critical. It was understood by District staff and the Board that significant cuts would be required during the budget process and that this would likely include school closures.

In spring 2016 the Senior Management Team created a proposal for a balanced budget that included extensive expense reductions.

On June 29, 2016, the Board rejected the proposed balanced budget and no new budget was established for the upcoming school year. This situation created a great deal of confusion regarding who held authority and accountability for the budget and the financial

management of the District. In order to conduct the business of the District, including making hiring decisions for the upcoming year, the Superintendent and the Senior Management Team decided to take steps to implement the rejected budget. Members of the Senior Management Team reported that it was stressful to meet their obligations to oversee the operations of the District under these circumstances.

On July 18, 2016, the Minister of Education requested a forensic audit and review of the VSB ("Audit"). In addition to an audit of the Board's expenditures the terms of reference of the Audit included, a review of the Board's operations and governance, including assessment of the extent to which the Board has considered the information presented by management in decision making. The Audit was conducted by Mr. Peter Milburn assisted by Ernst & Young. Mr. Milburn and his staff required a great deal of information from the Senior Management Team relevant to the matters under review. This process increased the workload on the Senior Management Team at a time when other District initiatives were competing for staff resources. The process placed increased demands on the Superintendent and the Secretary Treasurer who each reported directly to the Board and to the Minister.

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During the review Mr. Milburn made several requests of the Superintendent and the Secretary Treasurer for production of documents including a request for all Trustee emails. The staff understood they had a legal obligation to disclose the requested materials. They did so without notification to the Trustees. This decision was challenged by certain Trustees and caused considerable tension and stress for senior staff. This will be discussed later in this report.

In addition to the budget and the Audit, the District was experiencing problems related to a new payroll computer program called People Soft. This was a shared services program with the Department of Health and Public Service that was shepherded by TELUS. The project was complex and according to some senior staff was implemented too soon resulting in confusion, overpayments and near pay fails.

In September, the Board received the Strategic Report: Potential School Closures ("Closure Report") from VSB staff and proceeded to implement the process set out in the School Closure Policy for public consultation including a September 26, 2016 Board meeting at which the Board voted on which of the schools recommended for closure, if any, would proceed to the consultation phase.

At the Board meeting eleven of the schools recommended for closure were approved by the Board to move to the public consultation phase which would involve consideration of issues related to implementation of the closure decision. At that meeting Trustee Bacchus proposed two motions for consideration by the Board related to the Closure Report.

Prior to the September 26th meeting the Secretary-Treasurer
Following the September 26th meeting the Superintendent

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Board appointed an Acting Secretary Treasurer and an Acting Superintendent. Within several days the remaining Associate Superintendents were on leave.

On October 11, 2016, the Board announced its decision to suspend the school closure process. The Minister of Education granted an extension to the Audit to allow the author to consider the impact of the decision made by the Board to suspend the school closure consultation process.

On October 17, 2016, the Minister fired the Board and appointed a sole Trustee. The Official Trustee replaced the Acting Superintendent and Acting Secretary-Treasurer.

(ii) Systemic Context

In addition to the events described above there are other systemic factors that provide context for the consideration of the allegations that there is a toxic work environment at the VSB. These include:

- The partisan composition of the Board;
- The governance model adopted by the District;
- The lack of consistent role definition amongst Trustees

These systemic factors have been subject to review in previous reviews of VSB governance including the Audit. The conclusions reached in these previous reviews echo comments made by witnesses in this investigation. While it is outside the scope of this investigation to make findings with respect to these systemic factors both the public record on these matters and the witness comments during this investigation indicate that these systemic factors have contributed to the development of a negative work environment in the District.

School Board trustees are elected within the system of municipal politics. The system that exists in Vancouver municipal politics creates strong alignment within parties. However, while election campaigns may be marked by partisan politics once trustees are elected they form a single board charged with responsibility for making decisions in the best interests of students and the district.

Being elected on a party platform need not lead to disruption in board function. Also, in circumstances in which the majority of board trustees represent a single party the disruption has been minimal. However, this was not the case with the election of the most recent nine-member board. Four trustees were elected on a Vision Vancouver platform; four trustees were elected on a Non-Partisan Association platform and one trustee represented the Green Party. According to witnesses this board composition resulted in an environment in which the work of the Board, and consequently of the District was dominated by partisan politics and the advancement of a political rather than district agenda.

In general, decisions made by Boards of Education in BC Boards take into account, *inter alia*, input from their local communities and recommendations and reports from staff. Although trustees are elected individually they are required to work together as a board to carry out their responsibilities. An effective board is one in which individual trustees put aside partisan ties and biases in favour of engagement in thoughtful review and debate about the issues. An effective board strives to reach consensus on issues affecting the community and to make decisions in the best interests of the community.

Debate in this decision-making process may be influenced by party politics and on some issues, may be robust and at times even heated. However well-functioning boards must rise above personal and political issues to ensure the work of the board is carried out in a manner that encourages a free exchange of ideas and fosters collaboration that will enable the district to reach its goals and fulfill its legislated mandate. The Audit noted that, “the Board is ultimately responsible for developing a supportive environment where members can work on issues in a collaborative and respectful environment”.

The board is also responsible for working collaboratively with district employees and in particular must develop close and productive working relationships with the senior management team. The senior management team are the content experts and their task is to assist the board in its decision-making process by providing information, analysis of issues, and recommendations. The board’s obligation to develop a collaborative and respectful environment extends to the work environment for district staff. District staff can best carry out their responsibilities when they enjoy the support of the board.

Although the board and senior management must work together each has its own obligations and sphere of responsibility within which each must carry out those obligations and responsibilities. The board is responsible for strategic planning, setting policy and oversight of the district plans and objectives. The Superintendent is the senior policy and program advisor to the board and is central to all planning and the effective implementation of the board plans. The Superintendent is responsible for the operation of the organization and, assisted by the senior management team, is responsible for the achievement of performance objectives and implementation of board decisions. The Superintendent reports to the board but is also required to report as requested to the Minister of Education.

Members of school boards in BC have both a fiduciary obligation to the district and a duty of care in fulfilling the mandate of the board. The BC School Trustees Association (“BCSTA”) has made the following statement in that regard:

In British Columbia, boards of education are responsible for public schools (K-12), early learning, and adult literacy. They share these responsibilities as co-governors with the provincial Ministry of Education. Broadly speaking, boards provide district-level policy leadership that enhances student achievement, hire and manage the

senior district staff, and ensure the prudent use and control of the district's resources.

The board guides the work of the district and the management team carries out the work of the district. The division of responsibilities means that trustees determine, through policies and setting of standards, what the district should accomplish while the management team determines how to accomplish the broad goals established by the Board.

The BCSTA has stated that a well-functioning board understands the different roles and limits its involvement in the operational aspects of the organization. A failure to respect the roles of the board and staff can result in a failure to fulfill the mandate of the board or meet the operational requirements of the district. It has been noted in various reviews of the governance of the VSB that the governance model adopted by the District fails to clearly delineate the roles of board and management. The Audit noted that this governance issue coupled with a lack of cohesion amongst trustees with respect to their understanding of the appropriate role of trustees lies at the root of some of the problems experienced in the District.

This view was echoed by many witnesses, including some ex-Trustees, interviewed during this investigation. It is clear that the VSB Trustees hold differing views as to their role. Trustees have espoused either an advocacy model in which they define the role as representing the views of their constituents in the District, or a stewardship model which more closely aligns with the view of the BCSTA. The Auditor described some Trustees as exhibiting an "apparent lack of understanding of their fiduciary and stewardship responsibilities".

Many witnesses complained that party alignments interfered with genuine debate and careful consideration of the issues before the Board. Staff prepared reports for the Board in which multiple options were explored. Witnesses reported that when Trustees did not like the results of the staff reports trustees would "re-work" the parameters of the inquiry and require another report rather than engage in genuine debate and inquiry. Staff reported that these tactics were used repeatedly by Trustees to manipulate the outcome of debate and to further a political agenda rather than to promote the interests of the District.

The concerns consistently expressed by witnesses related to the effect of party alignments and politicization of the decision-making process were supported in the Audit which noted that party members voted together 95% of time. It is also significant that the case studies conducted by Ernst & Young included in the Audit demonstrated that information provided by management was not appropriately considered in the decision-making process.

In addition to the different approaches to the role of the trustee witnesses identified a difference in approach in individual Trustee's interactions with management. Witnesses reported that some Trustees have consistently engaged in a more "hands-on" approach to

operational decision-making while others have relied on the expertise of the Senior Management Team to manage operational issues and to report back to the Board as necessary. This difference is manifest in the individual Trustee's questioning of information provided by staff and in repeated demands for information related to issues related to operational matters or to matters under consideration by the Board.

One aspect of VSB governance that has attracted attention from external investigators and was the subject of many comments from witnesses in this investigation is the committee system. The Board has established 5 standing committees that meet regularly. These meetings are chaired by a Trustee and are attended by members of the Senior Management Team and various stakeholder representatives. This committee structure was adopted to facilitate the delivery of stakeholder input on operational issues directly to the Board. The criticism is that this model impinges on the jurisdiction of the Senior Management Team and its mandate to carry out the day to day operations of the District.

Many witnesses who participated in this investigation have worked in other districts in the province and have experience working with other boards. The VSB is consistently described as "different from other districts" in fundamental ways, including governance, that are described as having compromised the District's ability to effectively operate. Witnesses noted that through the committee system there is unprecedented engagement of Trustees in operational matters. These meetings are public meetings in the VSB while in other districts the sub committees meet *in camera* and report back to the Board. Witnesses also noted that the VSB practice of gathering stakeholder input through Committees differs from the practice in other districts where the gathering of stakeholder input is a management function and the information is reported to the board.

In addition to the governance issues related to the committee system in place at the District witnesses commented on the increased demand on staff time imposed by this system. The Audit noted that VSB managers spent up to 180 hours of evening time in meetings with the Trustees between February 1 and June 30, 2016. The Auditor commented that, "Excessive involvement creates burdens on staff, blurs the accountability and detracts from fulfilling appropriate roles and meeting expectations".

D. THE WORK ENVIRONMENT

It is important to correctly identify the alleged toxic work environment. The allegation refers to the environment where the Board and District employees, particularly the Senior Management Team interface. Witnesses report that the relationships amongst VSB employees, particularly those working in the Superintendents offices and including the Superintendent, Secretary Treasurer, Associate Superintendents and Directors are collegial, collaborative, respectful and supportive even under trying circumstances and in the face of significant time pressures and other stressors. Witnesses also report good

working relationships between employees at the District offices and administrators in the field. According to the witnesses the toxic work environment is at the Board level.

Witnesses differentiated between a challenging work environment marked by long hours, workload, deadlines, and a requirement for high performance and the toxic environment that exists at the VSB. The VSB has a reputation as being a tough or difficult work environment in part due to the systemic issues discussed above. Many witnesses commented that while a job at the VSB should be a coveted position, attracting the best and brightest administrators, the negative effect of the political dynamics on the work environment has resulted in a high turnover in staff, particularly at the senior level, and has marked the VSB as a less sought after place of employment. Witnesses reported that this is a widely-held view in the education community in British Columbia.

Witnesses also reported that although the work environment has been negative for many years there has been a qualitative change since the election of the most recent Board and that matters have come to a crisis point since the 2016 budget and school closure processes. Many witnesses report that while the negative work environment was not ideal staff were supportive of one another and they developed “work arounds” to deal with the problems related to the systemic governance and partisanship issues. Witnesses reported that while the staff working relationship with the Board was challenging and stressful staff had not previously felt that they did not enjoy the support or the confidence of the Board. They did not feel the Board challenged or questioned their personal integrity nor did they feel vulnerable with respect to either their employment or their reputations. This changed with the events of 2016

While witnesses described the events of 2016 as creating “a perfect storm” which led to the unprecedented situation in which all members of the Senior Management team left the workplace on leave, the majority of the witnesses described a history of Board dysfunction and bullying and harassment in the workplace. The consistent view expressed by witnesses, a view supported by the Audit, was that the systemic issues within the District created an environment in which Board dysfunction was the norm and was tolerated, condoned and even rewarded.

Many witnesses identified dysfunction amongst members of the current Board. There were reports of Trustees engaging in “bad behaviour” toward one another marked by rude and uncivil conduct. Some Trustees engaged in yelling, name calling and table pounding while others responded to their colleagues with eye-rolling and audible sighs. Some Trustees routinely “tweeted” throughout meetings, conduct that was described by many witnesses as disruptive and disrespectful. While witnesses agreed that not all Trustees behaved badly the Board did nothing to intervene or to indicate that this conduct was inappropriate and unacceptable. This behaviour manifest at committee meetings and in private and public Board meetings. It has been observed and commented on by staff and third-parties who attended these meetings. Witnesses consistently reported that meetings were marked by bickering and in-fighting amongst trustees and disrespectful conduct that interfered with

productive discussion. Witnesses described the focus of the meetings as the advancement of a political agenda rather than the advancement of the District's objectives and goals.

Several Trustees agreed with the characterization of the Board's conduct as dysfunctional and disrespectful. Several acknowledged the uncivil behaviour had a negative impact on the work environment and noted this took a toll on trustees and on staff. Several Trustees expressed regret that they did not intervene to halt the disrespectful conduct and to demand more civility and greater productivity in Board meetings. Several trustees s.22 acknowledged that their conduct was at times disrespectful and rude. However, Trustees whom I interviewed did not accept this description of Board meetings or this characterization of the conduct of Board members generally. They did agree that the conduct of trustees was rude and disrespectful. They described themselves as engaging in civil and respectful discussion and at times robust debate.

Many staff members and representatives from stakeholder groups attend Board meetings and witnesses reported that it was unpleasant and uncomfortable to watch the Board members in unacceptable and inappropriate behaviour that would not be tolerated in the classroom.

Witnesses expressed the view that the conduct of the Board was antithetical to the creation of a positive and productive work environment. Witnesses reported that the Trustees' conduct lead to meetings that were too long, non-productive and frustrating. The meetings added to an already heavy workload and witnesses stated that the political posturing, scripted debate and grandstanding resulted in a lack of meaningful discussion of issues. This was wasteful of District resources and stressful for staff who were required to attend.

The Board meetings were described as extremely unpleasant ; s.22

Witnesses described the dysfunction displayed at Board meetings as affecting the conduct of the committee meetings. Many witnesses stated that the disrespectful conduct of the Board emboldened some stakeholder participants, particularly those representing the various trade unions, to be disrespectful and verbally abusive toward staff in committee meetings. Many witnesses described a "culture of fear" in which staff felt vulnerable and at risk of personal attack and ridicule. The meetings were often contentious and when faced with rude and disrespectful attacks by stakeholders many witnesses reported that they expected the chair would intervene to restore order and remind participants that discussion must be respectful and civil. However, witnesses reported that their experience was that the chair could not always be counted on to manage the emotional climate in the

meeting especially if the discussion furthered or supported the agenda of individual Trustees in attendance.

There was a consensus reflected in the witnesses' evidence that committee meetings rarely effectively addressed the operational needs of the District. Rather, they were described as highly politicized opportunities for stakeholders and trustees to publicize and promote political agendas. Witnesses reported that although management presented information at these meeting, the focus was on the stakeholder input, including input from various union representatives. A consistent observation from witnesses interviewed who had participated in these meetings is that the participants in these committee meetings were not broadly representative of the community and that the stakeholder input was repetitive and scripted. Witnesses stated that the meetings did not represent true public engagement and were dominated by Trustees' efforts to advocate for their political agendas.

Many witnesses described these meetings as contributing to a negative and stressful work environment. Witnesses reported that they dreaded those times when they, or their supervisors, were required to attend meetings especially if contentious matters were on the agenda.

In addition to the disrespectful conduct amongst Trustees many witnesses described conduct toward certain senior staff members that they characterized as disrespectful and bullying. This conduct constituted obvious attempts to manipulate outcomes and manifest as persistent questioning; dismissive comments and repeated requests for information. Witnesses reported that they were pessimistic about the reception their work would receive particularly if their findings or recommendations did not support a Trustee's partisan view or did not produce the outcomes sought by the Trustee. Staff reported being directed to re-do work that did not align with the Trustee's expectations.

Staff reported that they did not feel that their work was given proper consideration by the Board. Their role as content experts was diminished and the persistent accusatory questioning was disrespectful and dismissive of their professionalism and experience. This was demoralizing for staff both because the process was so negative and because they felt that the work of the District was adversely affected. However, staff reported that the process at VSB was markedly different from their experience in other districts.

This was in part a result of the systemic governance and partisan issues and in part due to the conduct of those trustees who believed their role was to advocate and to produce outcomes expected by their constituents rather than outcomes in the best interest of the district.

Witnesses noted that in most school districts staff devote approximately 80% of their time engaged in the work of the school district and 20% of their time servicing the Board. This ratio is reversed in the VSB. Staff described themselves as pawns in the Board's political manoeuvring.

Staff acknowledged that they understood that it was their role to provide information to the Board and to answer questions that Trustees may have about that information. However staff described being subjected to questioning that was s.22 accusatory and repetitive. They reported being asked repeatedly to re-do work to reach an outcome that aligned with the Trustee's expectation. Staff reported they felt bullied persistent questioning through which "always trying to catch us out, embarrass us and take us by surprise".

Many witnesses described as "demanding and aggressive". Several staff reported that when they first came to VSB they were advised

Witnesses reported that this tactic of persistent questioning and requests for additional information of questionable value were most problematic in discussions related to the Band and Strings program, the adult education programs, the implementation of People Soft, the development of the budget and the school closure process. Witnesses noted that each of these initiatives was highly politicized and that individual trustees intermeddled in the flow of information, discouraged meaningful discussion by being dismissive and disrespectful of alternative views and actively advocated for positions and outcomes contrary to those publically supported by the Board.

As previously noted witnesses reported that tensions elevated in June 2016 when the Board did not pass a balanced budget. This created a great deal of stress on the Senior Management Team as there was no clear process for managing the business of the District in the absence of a budget that complied with the legislation. Many witnesses, including Trustees expected that the Board would be fired by the Minister. When this did not happen the resulting situation increased the uncertainty and pressure for the Senior Management team who were required to implement the budget that had been rejected by the Board.

Witnesses reported a shift in the Board after the failure to pass the budget. Several s.22 witnesses described and that they increased their challenges to the government and were more blatant in their opposition to measures adopted by the Board related to school closures. Witnesses claimed that the engaged in obstructionist actions to derail the school closure process. As a result of this shift in dynamic witnesses stated that the staff became ; resiled from the Board's stated position regarding school closures. reported that the conduct of some of the Trustees

(i) SCHOOL CLOSURE PROCESS

For approximately one year Associate Superintendent Nelson led other senior staff members in the development of the Long-Range Facilities Plan ("LRFP"). The LRFP was developed to guide District decisions over a 15-year prospective period and to consider what changes were required to meet the needs of the District both in terms of providing services to the students and in terms of its fiscal responsibilities. One of the conclusions of the LRFP was that the District needed to look at school closures.

The Board approved the LRFP. the Trustees had significant input into the process and the report, particularly into the development of the Level One factors that would be taken into account in determining which schools would be considered for closure. The Level One factors were discussed at length with the Trustees and included: S.22

- Catchment students currently attending a school considered for closure can be accommodated in local catchment schools;
- Out of catchment students currently attending a school considered for closures can be accommodated at their home school and/or in local catchment schools;
- Projected future student enrollment of the adjusted catchment areas(s), as the result of a closure can be accommodated.

With respect to the second bullet the criterion expressly used "and/or" to provide flexibility to the district over a 15-year period. denied the claim subsequently made by ex-trustee Bacchus that the Board only approved a plan that would be based on accommodating out of catchment students at their own schools. They noted that the criteria clearly contemplated accommodating these students in local catchment schools.

The LRFP also identified a number of Level Two Factors. An MOU between the Board and the Ministry related to seismic upgrading and prospective funding from the Ministry. The MOU reflected the government's 95% utilization target and was a key driver of the LRFP. Staff conceded that any changes to the Ministry's utilization target could have had an impact on the LRFP because the Ministry did not intend to fund schools that did not increase utilization. However staff also noted that the District would still be required to make an internal decision as to what would constitute a viable VSB target. This would be influenced by the fact that the District had some schools at a 30% utilization and others at a utilization rate greater than 100%. The target would be developed to reflect budget, fairness and equity throughout the District.

At the direction of the Board Associate Superintendent Nelson and his team worked for six months to develop the Closure Report. The primary motivation for school closures was budgetary. Closures were a key component in the Board's mandate to reduce the ongoing structural deficit in the District budget and to create a balanced budget. The recommendations in the Closure Report were based on factors unanimously adopted by

the Board as the key considerations in determining whether a school would be recommended for closure. The process was undertaken in accordance with the Board policy governing school closures.

September 8, 2016 Workshop

On September 8, 2016, Associate Superintendent Nelson presented a workshop for the trustees to review the Closure Report and the analysis underpinning the recommendations. Staff reported that the workshop discussions were very positive and that trustees seemed to understand the bases for the report and recommendations. The Associate Superintendent noted that even though he was aware that the trustees had political positions he found they were generally appreciative of the work that had been done by the staff and were reconciled to the fact that the closure process was necessary if the District was to meet its financial obligations.

Witnesses report that although [redacted] did not raise any concerns about the management of out of catchment students described in the Closure Report. [redacted] did not claim that staff had deviated from the Board direction and [redacted] did not question the data upon which the recommendations had been made.

Witnesses state that [redacted]

s.22

[redacted] The Associate Superintendent explained that the level two factors related to vulnerability had been applied and that this was a challenging process. Other factors such as the policy governing enrolment and the need for stability and continuity for families had to be considered.

Meetings with Consultants

The District closure policy requires an extensive consultation process before a final decision can be made with respect to those schools recommended for closure. The Board engaged a team of consultants to advise them on an appropriate and effective consultation process. One issue discussed with the consultants was the forum for public consultation. Several [redacted] trustees advocated for the use of town hall meetings to facilitate public input. Several witnesses reported that the consultants strongly recommended against this approach as not being an effective way to engage the public or to gather reliable and representative input. The consultants noted that this forum largely attracts a partisan and politicized audience that is already decided and not representative of a cross section of the affected population. They suggested other options that in their view would be more effective.

Several witnesses reported that staff were not in favour of town hall meetings. They anticipated that these meetings would be contentious and would attract an audience interested in getting exposure for their opposition to the closure process. Several [redacted]

witnesses, staff and trustees, reported they were disappointed that the Board did not accept the advice of the consultants and expressed the view that the town hall format was chosen because it would provide a forum for a highly politicized demonstration against the provincial government and against the Board's commitment to consider school closures. Also, some staff expressed concern about security at these meetings but this was dismissed by the Board.

September 15, 2016 Committee Meeting

Prior to the scheduled committee meeting at which the Closure Report would be presented, Associate Superintendent Nelson received a call from a Vancouver Sun reporter advising that she had been advised that in reaching its recommendations staff had deviated from the Board's mandate and had changed course from that which had been approved in the LRFP. She claimed that staff had abandoned the Board-sanctioned plan to move cross boundary students back into their catchment areas. The concern was that east side schools would be more affected if their catchment students were not returned to their schools.

Associate Superintendent Nelson sent an email to the Trustees advising of the call. He clarified the process used and advised that his response to the reporter would explain that the basis of the report was consistent with the factors in the LRFP and consistent with Board policy. Associate Superintendent Nelson advised that

did not express a view that Board direction had not been followed and did not take issue with the Associate Superintendent's proposed response to the reporter's query as set out in the email. A copy of that email is attached. s. 22

The committee meeting was held in a school gym rather than at the VSB offices where committee meetings are usually held. A large group of partisan supporters was expected to attend. Prior to the meeting the Superintendent spoke with the Chair, Trustee Wong, to advise him that staff were concerned that the meeting would be contentious and to ask him to ensure that as chair he maintained a safe and respectful environment for what was expected to be a heated discussion.

Trustee Wong reviewed the list school by school and fielded questions from the committee. Trustee Bacchus attended this meeting. She asked why staff did not follow the process directed by the Board in identifying schools. She noted that by not addressing cross-boundary students staff had adversely affected east side schools. Associate Superintendent Nelson explained the process to the committee.

Trustee Bacchus also questioned the decision related to the Britannia learning program and asked staff, "how could they move a special program to the west side?". Witnesses noted that although staff responded that the District had to better distribute programs Trustee Bacchus continued to express her view that the decision was wrong. Witnesses

Witnesses reported that the meeting was contentious as anticipated and that several stakeholders were disruptive and disrespectful towards staff who attended the meeting. The witnesses agreed that Trustee Wong was a fair and effective chair at that meeting, frequently reminding those who were out of line of their obligation to participate in the discussions in a respectful manner. He reminded the audience that the meeting needed to be a safe place for staff and trustees. s.22

One Trustee noted that on two occasions the chair addressed his remarks about maintaining respectful conduct to Trustee Bacchus.

September 26, 2016 Board Meetings

Two Board meetings were scheduled on September 26th – an *in camera* meeting and a public meeting. These meetings were held in the auditorium of Tupper High School. The Board was to vote on the list of schools recommended for closure by the staff. Prior to the meeting trustee Bacchus used social media to advise that she would be proposing tv motions at the meeting relating to the Closure Report and the school closure proces s.22

staff were once again in a situation where they would be walking into a public meeting to deliver unpopular news to a heated and partisan crowd. They were concerned that

The issues in the motion had been discussed many times and according to staff there was no foundation for allegations that process had not been followed or that the data was incomplete. The motions proposed by Trustee Bacchus indicated staff would not have the support of the Board when the staff recommendations for closure would be tabled at the meeting notwithstanding that the staff recommendations were based on criteria approved by the Board and that the Board had agreed that school closures had to happen if the district were to be financially viable. s.22

Once again the Superintendent approached the meeting Chair, Trustee Lombardi, to advise him of staff concerns and to ask that he maintain control in the meeting to ensure there was a respectful and psychologically safe environment for discussion of the recommendations and Board decisions.

In Camera Meeting

At a previous *in camera* meeting on September 6th the Superintendent had reported to the Board with respect to the Auditor's request for meeting minutes going back over two years. At that meeting Trustee expressed concern with the disclosure of documents as believed this raised third-party confidentiality issues.

s.22

The Superintendent planned to make another report to the Board at the September 26th meeting regarding the Auditor's request for disclosure of Trustees' email. The Superintendent understood he was obliged to disclose the emails and did so without providing notice to the Trustees. The Superintendent anticipated there would be questions from the Trustees.

s.14

Witnesses reported that

(belief that these emails should have been redacted to protect third party confidential information. They report that questioning of the Superintendent on this matter Witnesses agreed that

The Superintendent attempted to respond to concerns and explained that he was under an obligation to provide the material requested by the government appointed auditor. Witnesses reported that

During the *in camera* meeting the Board also considered the list of schools recommended for closure. Twelve schools meeting the closure criteria were identified.

s.12(3)(b)

s. 12(3)(b)

The Board voted on each school individually. They voted to move 11 of the 12 schools forward for consultation. Britannia was removed from the list.

Public Meeting

Witnesses attending the public meeting reported that even before the meetings began there was a “circus-like” atmosphere in the auditorium. Partisan supporters were out in force and rallying against the government and the school closures. The crowd was described as “pumped up” and antagonistic toward staff even before the meeting began. Witnesses reported that several members of the public approached the table at which staff were seated and made angry and rude comments to them. During the meeting one male member of the public stood in the centre of the room and glared at the staff. s.22

The Secretary Treasurer was on leave and did not attend the meeting. The Superintendent spoke to the school closure issue. There was public jeering and disruptive comments as he spoke. There was no intervention by the Chair to control the outbursts from the crowd. Witnesses reported that not only did the Chair fail to reign in members of

the public who were out of line but he engaged in “table thumping” and raised his voice as he publically declared his opposition to the closure of Britannia school (the school that had been removed from the list). Witnesses described this conduct as “stirring up the crowd” and contributing to the “gong-show”.

Trustee Bacchus’ motions were tabled at the public meeting. A copy of the motions is attached. Discussion of the first motion calling for the preparation of a revised set of proposals utilizing Board adopted criteria prompted questions related to the VSB’s ability to undertake a new review. When Trustee Bacchus asked staff whether they had resources to undertake a further review members of the public jeered and called out comments such as “what are you asking them for” and “it’s their job” and “they’re staff; that’s what they’re paid for”.

Witnesses noted that financial questions would normally be fielded by the Secretary Treasurer and described the questions posed to the Superintendent by trustee Bacchus as pointed and unfair. Witnesses were clear that their criticisms were not based on the fact that Trustee Bacchus asked questions but rather were based on the manner they were asked and the purpose of the questioning. Witnesses stated that the questions were not posed to elicit or clarify information but were challenging, humiliating and embarrassing for the Superintendent and subjected the staff to ridicule from the public.

The Superintendent advised that the work would have to be outsourced. Witnesses reported that this answer provoked jeering and laughter from the crowd and that the chair failed to intervene. Witnesses also reported that there was a “nasty” series of questions posed by Trustee Bacchus in response to the Superintendent. She asked whether there was a budget for closure and how the closure process would be funded. Witnesses reported that the Board members were aware of the costs involved in the closure process, that there was no budget and that the expectation was that some of these costs would be recovered through savings from the closures.

According to witnesses Trustee Bacchus then asked a series of questions related to other budget expenditures pointing out that many processes were undertaken without a dedicated budget and if this were the case then why could this not be done for the additional consultation. Witnesses reported that Trustee Bacchus paused after her questions as the audience laughed at the discomfort of the Superintendent. There was no intervention from any trustees and no attempt to restore order by trustee Lombardi in his capacity as chair. Staff observing this exchange

s.22

Witnesses expressed their view that ex-trustee

Although witnesses expressed concern regarding what they considered to be political manipulation of the process they did not describe this as bullying or harassing. The concern expressed by staff was that the motions called into question their integrity and professionalism (due to their alleged failure to follow Board policy) and their competence (due to their flawed analysis of data related to projected enrolment). Staff reported that when Trustee Bacchus raised these questions in this hostile public forum

s.22

Her persistent questioning of the Closure Report suggested that the Senior Management Team had not done its job. The message was that the Board had directed staff to undertake a process and that they had failed to follow the Board's direction. They were being told to go back and re-do work that had taken months and that had involved extensive public consultation and discussion with the Board because they had "failed to do their homework" and had produced a sub-standard product. Staff also expressed their concern that they could not now move forward with any meaningful consultation process after the Board had publically undermined their application of the closure factors and their analysis of the enrollment data.

Witnesses claimed that the conduct of trustees at the September 26th meeting sent a clear message that the process had become a political show and that ultimately these Trustees would not support the school closures.

The attack on the Closure Report challenged the professional integrity of the staff targeted and "thrown under the bus".

s.22

Witnesses stated that the questions asked by Trustee Bacchus

Witnesses reported that there was laughter from the crowd and at one point she acknowledged that she "shouldn't have said that".

there was an inconsistency in proceeding with a consultation process that had been challenged by Trustee Bacchus as based on inadequate and flawed data and contrary to approach mandated by the Board. Staff were being asked to continue to meet with the public for consultation. They reported that their position in these consultations would be significantly undermined by the Board's decision to re-visit the basis of the closure report and to gather additional data. The witnesses also reported that the Board would be well aware that the request for further analysis could not be undertaken by the staff without additional resources. The Board was also aware that those resources were not available.

s.22

Conduct of Trustee **after Superintendent Commenced Leave**

The Superintendent went on leave the day after the meeting. The remaining Associate Superintendents met the following morning to de-brief and plan. s.22

 . More consultations were planned through to . During that November and . During that meeting trustee approached a demanding a meeting with the Associate Superintendents. reported later that when told they were busy rudely and angrily asked, "Do you know who I am?" demanded Associate Superintendent cell phone number.

The group met with trustees and Fraser later that morning. They asked whether one of them would agree to act as Secretary-Treasurer and Superintendent. Staff agreed to get the Board through the next meeting by having someone act as Secretary Treasurer. Trustee asked the group if they could recommend any acting Superintendents in the field who might be recruited for the District. advised the Board was going to find someone to take over the roles of the senior staff on leave and that the Board wanted to have a meeting that night. Staff advised that they were not available to meet that evening due to other commitments.

s.22

 reported that later that day trustee came to office and advised that had recruited former superintendent Steve Cardwell to assume the role of Acting Superintendent. noted they wanted to have a vote of the Board that night and the senior team needed to be present.

Although none of the members of the senior team was available to attend the meeting the Board insisted on proceeding and trustee "roamed the hallways" looking for someone to go to the meeting to act as Secretary Treasurer. A reported that she was approached by trustee She reported that was rude to her when she said she did not want to attend : said, "Don't make me have to direct you". She reported that but no NPA members were in attendance.

E. RESPONSE TO CLAIMS

s.22

Each of the nine Trustees agreed to be interviewed. The interviews were conducted after the Board was fired by the government. The four Vision Trustees were interviewed on the same day after all other trustees had been interviewed.

The Trustees were advised that the complaints related to the work environment fell into two categories. First, there were complaints about the general dysfunction of the Board. These complaints focussed on the conduct of the Trustees as a group and their interactions with one another. Trustees were advised that staff reported that rude and disrespectful behaviour amongst Trustees created a negative environment that adversely impacted staff even though the conduct were not directed toward staff. The behaviours reported by witnesses and set out above in this report were described for the Trustees and they were asked to comment.

In addition to the complaints of general dysfunction I described the concerns staff and others related to events in 2016 including the budget cycle and the school closures. I described the allegations that the school closure process had become highly politicized and that staff felt the work they had done to meet the stated objectives of the Board was unfairly criticized and challenged in furtherance of a political agenda. I reported staff concerns that this was done in a public manner that was embarrassing and humiliating for senior staff and that created a climate of uncertainty and fear amongst other staff.

I asked each Trustee witness to comment on the work environment, to respond to the allegations that the Board was dysfunctional and had created a toxic work environment. I also reviewed with the Trustees the events of the September 8th workshop, the September 15th committee meeting and the two Board meetings held on September 26th as described by witnesses.

In addition to an oral synopsis of the allegations the Vision Trustees were provided with a written account of the particulars of the allegations (Appendix 3). This was provided in advance of the interviews and in response requesting information regarding the investigation process and requesting particulars of the complaint. The following is an excerpt from my response

s.22

This inquiry is not responsive to a particularized complaint. The initial challenge was to obtain information from those in the workplace to determine whether there had been concerns raised about the work environment. It is important to note that the toxic environment relates to the environment at the board level and not at the first line level. The VSB office is described as a very good place to work and relationships amongst staff are described as collegial, respectful and supportive.

I now have information that confirms that some individuals in this work environment have concerns about the conditions under which senior staff have been working for approximately the last 18 months. My initial inquiries have confirmed that the concerns expressed in Ms. Elwood's letter reflected the experiences of some senior staff. The "tipping point" was the September 26, 2016 private and public meetings held at Sir Charles Tupper Secondary School. The toxic environment is attributed to board dysfunction and the conduct of specific ex-trustees.

Some of the information provided by witnesses described a longer standing situation of board dysfunction in the Vancouver School District that pre-dates the events of this year. Individuals described high turnover, governance issues, ambiguity with respect to roles and obligations under the School Act and a number of other issues that lead people to describe the VSB as a "difficult place to work". These systemic issues were described to me to provide context.

The recent concerns are based on an escalation of demands on senior staff, an increasingly dysfunctional group of ex-trustees and private and public interactions between ex trustees and senior staff that have questioned the integrity of the senior staff and have undermined the senior management team and have created a culture of fear, leaving senior staff vulnerable

s.22

Those staff and others whom I have interviewed have described the following situations and behaviour that have given rise to these concerns:

- The ex-trustees are described as a dysfunctional group with their interactions amongst one another variously described as "bickering", "nasty", "rude and disrespectful" marked by such behaviour as eye-rolling and loud sighing while others are speaking and texting amongst members of the group. The discussions at in camera and public meetings are described as highly politicized marked by grand-standing with individuals adopting fixed partisan positions that disrupt productive deliberation of issues. These meetings are experienced by the staff as uncomfortable and emotionally draining. Witnessing this behaviour also makes staff feel vulnerable and this creates a stressful and toxic environment.
- Workload and meeting attendance requirements over the past 18 months have been extraordinary and are imposed without due care and attention to the increased pressure placed on staff. A heavy workload is acknowledged as "part of the job", particularly when the

board has been facing a budget shortfall and potential school closures. However, the general dysfunction and partisan positioning amongst ex trustees, and the tendency to micromanage have increased the demands on senior staff to the point where staff health and job satisfaction are adversely affected.

- Interactions between senior staff and the ex-trustees with respect to four major initiatives over the past 18 months demonstrated to the management team that they did not enjoy the support and confidence of the ex-trustees. Issues related to these initiatives were not addressed in a respectful or collegial manner and staff were embarrassed, humiliated and exposed to unreasonable criticism and demands in private and public meetings.

This conduct is described as disrespectful and is perceived by many as undermining staff and challenging their competence and professionalism.

s.22

-

Witnesses say that on several occasions in meetings related to the long-range planning initiative and the potential school closures she has publically opposed positions previously adopted unanimously by the board.

- Individuals report that even though issues were discussed and questions answered by senior staff either at committee meetings, workshops or in private conversations, ex-trustee Bacchus raised those questions in public meetings and in one meeting on September 26th proposed motions that undermined the work of the senior management team and subjected them to ridicule and jeering. These actions left senior managers feeling vulnerable and disheartened.

- Ex-trustee Lombardi has been criticized in his role as Chair of the Board for his failure to maintain order in meetings and a failure to promote respectful exchanges of ideas and information.
- In the days following the departure of the Superintendent on [redacted] described as acting aggressively toward staff demanding their attendance at an unscheduled evening meeting.

s.22

In addition to the information provided by the Vision Trustees in their individual interviews

The evidence from the Trustees was divided. Some Trustees supporting the narrative that developed through interviews with [redacted] staff and others. The Vision Trustees provided an alternative narrative with respect to the complaints about the work environment and the conduct of the Board.

Several Trustees expressed concern about the workload and stress levels in the workplace particularly during 2016. Several reported that the LRFP deadlines imposed by the province and the demands imposed on staff reflected unreasonable expectations. There was a lack of awareness of the increased workload this imposed on staff. Some Trustees acknowledged that though they recognized that this was an “intolerable” workload they were unable to “push back” to government. Other Trustees expressed regret that they did not do more to intervene and to support staff.

Several Trustees accepted the characterization of the Board as “dysfunctional” citing differences in interpretation of the role of trustee as a major factor. Some Trustees noted that the pressure to vote along party lines also interfered with the Board’s ability to function. Several Trustees agreed that Board meetings were often non-productive due to political grandstanding and the promotion of partisan agendas rather than dealing with the Board’s mandate. Many Trustees agreed that the meetings were often nasty in tone and commentary. They described the meetings as uncomfortable and expressed the view that it must have been difficult for staff to attend such meetings.

Several Trustees acknowledged that the conduct of Trustees, both NPA and Vision Vancouver trustees, in private board meetings was disrespectful and rude. Several Trustees noted that the stakeholder representatives who attended committee and Board meetings were also highly partisan and used these meetings to promote their agenda to “get rid of the Liberal government”. It was noted that there was a “lack of objective, independent people at meetings”.

Several Trustees commented that too often members of the Board challenged and questioned the judgment of staff. They noted that some Trustees micro-managed the operational work of the staff. Several Trustees agreed with the comments made by staff that they were often asked to re-do work or to adopt a slightly different approach or position when the information presented did not align with what was wanted. Trustees agreed that there was often a lack of respect for the work done by the staff and that staff have adapted “by being careful in the way they brought their work forward”.

The NPA Trustees expressed concern with the manner in which the motions related to the school closures was handled by the Vision Vancouver trustees. Several Trustees expressed the view that the “staff were thrown under the bus” to further a political agenda. These Trustees noted that the issues raised in the September 26th meeting had been thoroughly canvassed amongst the Board. They commented that Trustee Bacchus’ questioning of the data and the analysis in the Closure Report at that late date was unreasonable

s.22

One Trustee commented that it was “astounding” that trustee Bacchus would propose a motion that essentially asked the City to re-check the senior staff analysis regarding enrollment projections. There was no evidence that the information from the City would be better than the information they had. The City has no experience with enrolment projections and the evidence was that the Baragar data upon which staff had based their projections was reliable and accurate.

While the Trustees agreed that it was their duty to question staff they noted that the questions raised at this point had been asked and answered in prior discussions and that the answers were a matter of record. Also, several Trustees commented that it was appropriate to ask these questions in private rather than in the public meeting. These Trustees agreed that after the humiliating and embarrassing exchange at the public meeting it would be reasonable for staff to feel both a lack of support from the Board and to feel that they no longer enjoyed the confidence of the Board. One Trustee commented that “this circus was making them increasingly insecure about their jobs”.

The NPA Trustees expressed the view that there was no reasonable foundation for the motions tabled by Trustee Bacchus on September 26th. They objected to her statement that policy had not been followed and expressed the view that the requirements set by the Board had been met and exceeded. The NPA Trustees had agreed that they would support the recommendations of staff

s.22

One Trustee noted that as the Board moved closer to the vote to proceed with the consultation process everything “jacked-up” and meetings changed in tenor. It was clear that staff felt targeted and they could see the Vision Trustees breaking ranks with what the Board had decided. The consultation process was being “hijacked” and the change of

position lead to confusion amongst staff who saw their hard work “slipping away”

s.22

Several Trustees noted that the motions gave the impression that senior staff had “brought forward a bad report” and that “they had done so without Trustee approval”. These Trustees rejected this characterization stating that it was simply not accurate. Several Trustees expressed the view that

s.22

All Trustees except the Vision Trustees acknowledged that the change to the Ministry’s position regarding the 95% utilization rate did not have any impact on the analysis underlying the staff recommendations as to which schools should be considered for closure.

The Vision Trustees defended the actions of the Board particularly with respect to the events related to the Closure Report.

claimed that at the September 8th workshop “noticed they had altered the criteria” regarding out of catchment students. believed this was why east Vancouver schools were “hit hard” and were over-represented on the list for recommended closure. West side schools had more out-of-catchment students. believed this created an unfairness and expected that there would be a “public outcry”. stated that if schools were assessed based only on in-catchment students there would not be a “disproportionate impact” on east side schools.

s.22

claimed that the report the Board received was “not the report we asked for” because staff did not adhere to the established criteria. This had an impact on outcome.

claimed it was not appropriate for staff to re-interpret and deviate from the direction given by the Board. suspected that “there was pressure from government on staff to change the LRFP criteria”. reported that asked several times why staff adjusted the criteria set out in the Board approved report in a manner that affected the outcome in a highly politicized environment.

the Vision Trustees noted that their obligations as elected trustees required them to exercise due diligence in ensuring they relied on “up to date data and information that aligned with the city of Vancouver’s community and development plans”. They noted they had an obligation to respond to growing public concern about the data and whether it was current and comprehensive.

During interview stated that had “lots of questions” about the data. wondered whether staff had included development plans and questioned how

they could go ahead with a proposal when they had not considered these issues. Trustee [redacted] claimed that the Mayor suggested a consultation with the City on the basis that the staff proposal "was contrary to what the City was trying to do".

Trustee [redacted] claimed that the first opportunity to ask questions about these matters was at the September 15th committee meeting. [redacted] claimed the public had raised a lot of issues and questions. [redacted] acknowledged that it was "repetitive and annoying to staff" but [redacted] needed to ask questions to "get clarification of a complicated plan" [redacted] noted that as the staff had been immersed in these issues they were likely "getting weary".

s.22

At the committee meeting she raised the issue regarding the application of the criteria. She had many questions regarding the decisions made by staff to accommodate students in the manner described in the Closure Report.

[redacted] She queried whether the data was up to date.

The Vision Trustees also cited the Minister's decision to rescind the 95% utilization requirement as a factor to be considered in their decision making regarding school closures.

[redacted] the Vision Trustees stated that they expected the staff to recommend changes to the closure proposal before the September 26th Board meeting s.22 When they did not do so the Trustees needed to respond to "rising public expectations that the closure would be halted or dramatically altered" as a result of the Minister's announcement.

The Vision Trustees noted that there were also public concerns voiced about why "the recommendations factored in out-of-catchment (cross-boundary) students differently than had been set out in the Board approved LRFP". The Trustees stated that they also expected that staff would factor in the "education and social impacts of school closure on students and families, particularly in communities with high concentrations of vulnerable students and families". They believed this had not been done.

The Vision Trustees noted that the motions raised at the September 26th meeting were responsive to concerns expressed by the public and shared by the Trustees. They claimed that the motions were a reasonable compromise that found a balance between proceeding with the closure process and ensuring they did their "due diligence to ensure we had a plan that adhered to the Board-approved criteria and factored in the minister's retraction of the 95 percent requirement".

With respect to the questions posed to the Superintendent in the September 26th meeting the Vision Trustees stated that the questions were designed to demonstrate that it was not necessary for the Board to have a specific budget to prepare a revised report. The expectation was that the Superintendent would provide that response but that after a silence he unexpectedly replied “no” to the question whether there was a budget. The Trustees noted that “several people in the crowd responded with laughter”. They acknowledged this moment may have been difficult for the Superintendent but that was not their intention. Their goal was to get the motion passed.

The Vision Trustees also expressed their view that the role of trustee required asking ^{s.22} many questions to ensure clarity on issues and that they fully understood the answers provided by staff. The Trustees noted they had been concerned with :

it was their duty to ask difficult questions. The Trustees stated that they believed they performed their duties “appropriately and respectfully”.

The Trustees acknowledged that staff were overworked and under stress. However, this was attributed to factors other than the conduct of the Board or of individual Trustees. They cited the budget and the deep cuts that were required due to the financial crisis in the District; government changes in direction and parameters; the need for public consultation regarding the strategic plan; the problems with People Soft; the special advisor and audit process and the school closure process.

s.22

the Vision trustees criticised the Minister’s handling of the Elwood letter and stated their belief that this investigation has political overtones that will put a chill on the actions of elected officials exercising their obligations to question staff recommendations.

F. REPLY TO RESPONSE FROM VISION TRUSTEES

The Vision Trustees’ response to the allegations was presented to several witnesses for comment. In these interviews I was provided additional information and documentary evidence related to the stated justification for the Vision Trustees’ decision to table the two motions at the September 26th Board meeting.

(i) Request for a revised set of proposals

Witnesses noted that the background to the motion and the language used in the motion is significant. Trustee Bacchus had claimed that the staff had failed to follow the Board direction with respect to how the Level One criteria were to be applied. The motion directed that the revised set of proposals utilize the “board-approved level-one criteria, specifically based on in-catchment only enrolment and projections”. The motion also referred to level two factors particularly with respect to schools with vulnerable students and families to ensure they are not “disproportionately targeted for closure as they are in the September 2016 report”. Finally, the motion required staff to consider the impact of the Minister’s announcement regarding the 95% utilization target.

Witnesses described the language of the motion and Trustee Bacchus’ public comments s.22 criticising the staff for an alleged failure to follow the direction of the Board as inflammatory, unfair and designed to impugn the work product and reputation of the VSB staff

Witnesses stated that the political maneuverings of trustees *per se* are not the basis for the claims of bullying, harassment and the creation of a poisoned work environment. The fact of the maneuvering is less significant than the manner in which Trustees spoke to staff undermined their work and were willing to “use staff as political fodder”. The actions of the Trustees exposed staff to humiliation and ridicule and created a toxic work environment in which staff felt they could not rely on the Board to support or protect them when they were fulfilling their employment obligations.

Witnesses stated that the allegation that the senior staff did not follow Board direction with respect to the application of the criteria is false and is refuted by the evidence and the documents.

Witnesses claimed that the Closure Report was based on the LRFP factors. The report noted that although the LRFP allowed for the possibility of returning out of catchment students to their own schools, the analysis was based on out of catchment students being accommodated within local catchment schools. Senior staff stated that not only was this approach permitted and within the discretion of staff as set out in the level one factors in the LRFP, it was consistent with past practice and with existing Board policy regarding enrollment and closures.

Witnesses reported that this approach was discussed with Board members on many occasions before the Closure Report was finalized. Witnesses claimed that if they had opted for an approach that focussed on returning out of catchment students to their home schools they would have engaged in further discussions with the Board as this approach would have required an amendment to existing policy.

The Enrolment Policy which was revised in October 2014, provides that once admitted to a school an out of catchment student has a continuing status and is treated like a catchment student. Also, witnesses reported that Board practice was not to send students back to their home schools. Witnesses referred to an issue with Dickens Elementary School. Circumstances arose at Dickens in which the main school would not be able to accommodate the annex out of catchment students. The policy provided that cross boundary enrollment was site specific: i.e., a student did not have continuing status to move from an annex to a main school. In accordance with the policy parents were advised that their out of catchment students would be required to attend their home schools. Parents protested and the Board intervened to allow the annex students to have continuing status rather than be required to return to their home schools as required under the policy.

The Board Closure Policy also provides that before any school is recommended for closure consideration should be given to whether students including out of catchment students could reasonably be accommodated in the local catchment schools – i.e., the new catchments created by the closures. Witnesses recounted that during the 2010 school closure plan both catchment and out of catchment students were accommodated at local schools. There was no plan to return out of catchment students to their home schools. All students were accommodated.

The evidence of the staff was that the level one factors in the LRFP provided staff with the discretion to exercise either option – accommodation by returning to home school or accommodation within local catchment schools. In preparing the 2016 closure report they exercised their discretion consistent with past practice and Board policy to accommodate out of catchment students at local catchment schools. Their evidence is that this approach was discussed with the Board. Furthermore, their evidence was that to take the approach suggested by Trustee Bacchus would have “blown up” the past practice by sending every student back to their home schools. This was not the direction given to staff by the Board and the evidence of staff was that they would not have taken this approach without express discussion with the Board.

The evidence of the senior staff was that during the six months in which the Closure Report was being prepared they were never told by the Board that the assessment was to be based on pulling cross boundary students from their schools. The witnesses claim that the motion proposed at the September 26th is another example of Trustees changing parameters and direction when the analysis and recommendations of staff do not support the political agenda. The evidence was that the basis of staff concern was the fact

s.22

Witnesses claim that the way in which the LRFP factors were applied was known to the Board from the outset and was reinforced at various points during the process. The evidence of the staff is that it is not possible that the Board or individual trustees could not

have been aware that the staff was not basing its analysis on “in-catchment only enrollment and projections”. If a failure to proceed on this basis constituted a departure from the direction of the Board, there was ample opportunity to correct the error prior to the completion of the report and certainly prior to the September 26th meeting.

Staff provided a copy of a June 20, 2016 memorandum from the Superintendent to the Board in which he advised the Trustees of the preliminary list of possible schools for consideration of closure. The memorandum clearly sets out the manner in which the factors were applied and expressly noted that “in relation to the preliminary list of schools below, all students, including out of catchment students currently attending a school considered for closure will be able to be accommodated in local catchment schools”. The memorandum also identifies the School Act and policy considerations taken into account in the process.

The memo noted that the preliminary list is provided to give affected school communities notice of potential public consultation which would proceed under the policy if the Board decided in September 2016 to consider one of more schools on the list for closure. Britannia Secondary was included in the list for consideration for closure.

The preliminary list was also posted on the VSB website. The plans for the accommodation of affected students were disclosed. The plans clearly indicated the intention to accommodate all students in local catchment schools. There was no indication that the plans contemplated a return of all students to their home catchment.

The evidence of staff is that the Ministry’s announcement of a change to the 95% utilization target had no impact on the school closure process. Enrolment projections were a critical component of the school closure decision making process. Staff advised that S.22 contrary to the claims of Trustee Bacchus and others the 95% utilization rate, while critical to the LRFP, was not a consideration in the school closure plan. Therefore, any change in the Ministry’s utilization target would have no impact on the assessment related to school closures. The decision to close schools was driven by budget and the need to reduce the deficit. The choice of schools recommended for closure was driven by the Level One and Level Two factors described in the LRFP.

Staff deny the claim by ex-trustee Bacchus that the Superintendent described the Ministry’s subsequent change to the utilization target as a “game changer” with respect to the school closure process. Witnesses pointed out that this was the expression used by Acting Superintendent Cardwell in his report to the Board but it did not reflect either the Superintendent’s or staffs’ view of the issue. Staff re-iterated that the utilization target was not an issue in the school closure process.

Witnesses claimed that a set of proposals based on in-catchment only enrollment and projections as requested by Trustee Bacchus was not directed by the Board and was inconsistent with policy. Furthermore, the statement that a revised set of proposals ought

not “disproportionately target” vulnerable schools implied that staff had deliberately manipulated the data and criteria to obtain a particular outcome. This statement impugned the integrity and professionalism of the staff involved in the preparation of the report. The witnesses reject Trustee Bacchus’ claim that staff had not taken into account the vulnerability of certain schools. This issue had been discussed at length and staff had already reassured Trustee Bacchus that although this level two factor had been considered other factors dictated that Britannia be recommended for closure.

Finally, witnesses stated that the inclusion of the 95% capacity utilization target in the motion^{s.22} given that the Ministry target, though significant in the LRFP, had never been a factor in the school closure recommendations. There was no basis for considering this factor in the development of a new set of proposals. Reference to this factor in the motion reflected Trustee Bacchus’ criticism of staff for their failure to re-visit the closure recommendations in response to the Minister’s announcement. According to staff any such action on their part would have been inappropriate and without justification.

(ii) Request to City staff to do an analysis of the enrolment projections and closure proposals contained in the 2016 Closure Report

Witnesses stated that this motion was not a *bona fide* request for more current and comprehensive data. The motion as stated constituted an unsubstantiated attack on the work of the staff and communicated an unfounded lack of confidence in the competence and professionalism of the staff. The motion as stated essentially asked the City to review the staff work notwithstanding that the information provided to the Board had consistently been that the data relied on by the City was not the appropriate data for consideration with respect to enrollment projections or the question of school closures.

Witnesses claimed that even with the proposed amendment to the motion, “to ask city staff to do an analysis of the neighbourhood plans and population projection in regard to the VBE Administrative Report – Schools considered for Potential Closure, September 2016” the motion was redundant, unnecessary and a complete repudiation of the work done by staff. In the absence of any evidentiary foundation the motion disregarded all of the information provided by staff to the Board comparing Baragar data and city development and census data in terms of accuracy and reliability.

The witnesses claimed that the question of what constituted the most appropriate and accurate data had been discussed at length with the Trustees. Staff had explained to the Board that projected population growth does not necessarily relate to significant increases in the population of school aged children. They presented the Board with evidence that data on enrollment history established that while the population of Vancouver had been increasing the enrolment in the District had decreased.

According to the witnesses the justification for reliance on the Baragar system was explained in detail to the Board. Unlike the City data or other census data, the Baragar system was developed by a BC firm specializing in enrolment projections for BC schools. The Baragar system uses multiple data sources to develop population estimates and enrolment projections. The Board was advised that Baragar projections for the VSB over the past four years had been accurate within approximately 100 students compared with BC Stats which used Canada census data to project enrollment. The BC Stats estimate exceeded actual enrollment in the District by 1,600 to 4,000 students. Staff stressed that Baragar system had proven to be accurate and reliable over time and was the appropriate data for enrolment projections. The Baragar system was considered more sensitive and responsive than census or development data and had been used in the District with marked success.

Witnesses noted that the comprehensiveness and accuracy of the Baragar data had been a topic of discussion with the Board not only during this closure process but over the past four years. In 2015 staff circulated a comparative analysis of the accuracy of Baragar data and BC Stats data. A copy of that analysis is attached.

Staff evidence was that although they relied on the Baragar data other data sources were also reviewed and considered. This included census data and data produced by developers. Staff engaged in discussions with city and provincial representatives to review population projections and offered to meet with developers and other stakeholders who expressed concerns about the District's reliance on the Baragar data.

The LRFP contained an explanation of the data used by senior management to make enrollment projections. The LRFP outlined how staff would work with the City to obtain development data. Throughout the preparation of the LRFP the Board and the Senior Management Team engaged in protracted discussions of the data that would be used to project enrolment.

The Senior Management Team and staff who worked on the preparation of the school closure report were unanimous in their confidence in the Baragar data and its effectiveness as a tool for enrollment prediction. They also were unanimous in their evidence that questions related to the data and analysis were thoroughly reviewed and discussed with the Trustees and with the public. These witnesses stated that there could be no doubt that the analysis set out in the closure report was current, thorough and accurate. Witnesses stated that there was no new information brought forward by either the public, developers or the City that credibly called into question the foundation for the enrolment predictions utilized by the staff and upon which the recommendations for enrolment were based.

Witnesses stated that the claims made by the Vision trustees that there was a legitimate concern about the data that needed to be addressed to ensure those trustees could meet their obligations are not reasonable and in fact given the degree of consultation and discussion regarding this issue are not sustainable.

G. ANALYSIS OF THE EVIDENCE

(i) Onus of proof

The allegation that the work environment at VSB was toxic must be established on a balance of probabilities. This standard requires that one version of events is accepted as more likely than not to be the accurate representation of what has taken place. The evidence must first establish that the impugned conduct occurred. The second step in the analysis is to determine whether the impugned conduct constitutes bullying, harassment or the creation of a toxic work environment in breach of legislation and policy.

(ii) Assessment of Credibility

A determination of the claims in this investigation involves an assessment of credibility since there are competing accounts of the conduct upon which the allegation that a toxic work environment exists. Credibility is assessed on a number of factors including consistency in the evidence. I have relied on the test for credibility established by the BC Court of Appeal in *Farnya v. Chorny* [1952] 2 DLR 354 to assess the evidence:

The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

(iii) Bullying, Harassment and Toxic Work Environment

The Policy applies to all employees of the Vancouver Board of Education and is applicable to all interpersonal and electronic comments, actions and behaviour.

The Policy adopts the WorkSafe definition of bullying and harassment which includes any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

Bullying is generally a pattern of behaviour. The conduct is unwelcome and negative. It is persistent personal abuse which humiliates and demeans. In most cases bullying involves a target and an imbalance of power. Bullying is repeated and regular and is an escalating process in which the target ends up in an inferior position and subject to negative

consequences. Individuals may be bullied when tasks imposed on them by their supervisors or employer are not related to meeting legitimate employment objectives.

There is a risk of labelling all negative social behaviour in the workplace as bullying. It is important to differentiate bullying from conflict. The latter is a struggle in which there are incompatible goals or desires. This can arise when the same situation gives rise to different points of view or when individuals cannot reach agreement. However, individuals engaged in conflict must always act with integrity and respect toward those with whom they disagree. Personal attacks, ridicule and humiliation are not acceptable or appropriate even in situations of conflict.

Respect is a requirement of a healthy productive work environment. Lack of respect in the workplace can create a toxic work environment and can take a toll on employee health, productivity and job satisfaction.

Toxic workplaces negatively affect individuals and work productivity. Toxic workplaces are often associated with conduct that constitutes discrimination, harassment and bullying. However, a workplace can also be considered toxic if it is ineffective and adversely affects employees' sense of worth. A workplace in which employee contribution is not valued or where employee input is undermined or dismissed is destructive and constitutes a toxic work environment. Workers in a toxic workplace may experience anxiety and other psychological harms that affect their well-being and their ability to effectively meet their employment obligations.

Not every work-related stressor creates a toxic work environment. The pressure of workloads and deadlines are inevitable realities in many workplaces. However, excessive workload, lack of support and the imposition of unreasonable expectations and deadlines exceed acceptable work-related stressors and can create a toxic work environment that can have a deleterious effect on the health and productivity of employees.

Employees may experience negative effects of bullying and harassment in a workplace even if they are not directly the target of such conduct. An environment where bullying and harassment is tolerated affects all employees required to work in that environment. This has been described in the literature as "ambient bullying" and can be as significant a catalyst in diminished productivity and high turnover in workplaces as direct bullying and harassment.

H. FINDINGS

Witnesses who participated in this investigation provided a great deal of evidence related to what I have described as systemic factors that are alleged to have had a negative impact on the functionality of the Board and create a negative work environment for Trustees and District staff. While it is outside the scope of this investigation to make findings with

respect to questions raised regarding appropriate Board governance, the role of trustees, or the desirability of politicization of the Board, I do find based on the evidence of the witnesses that the current status with respect to these issues has contributed to dysfunction at the Board level and is a factor in creating a toxic work environment. This conclusion is also reflected in the findings and recommendations in the Audit.

While systemic factors play a role in creating a negative work environment, the evidence clearly established that other conduct in the workplace has contributed to the creation of a work environment described by witnesses as toxic and untenable. Many of the witnesses distinguished between those systemic factors that make the district a tough or challenging work environment from the bullying and harassment they experienced that created a culture of fear in which employees dreaded their contact with the Board and with certain of the Trustees of the current board.

Long hours, stress, unreasonable demands and heavy workload had long been accepted as “part of the job”. Witnesses consistently stated that while they found the partisan politics, grandstanding and promotion of a political agenda detrimental to achieving the operational objectives of the district this too was accepted as “part of the job”. Staff worked in support of one another to find ways to carry out the work of the district despite the highly politicized Board dynamics and the deficiencies of the governance model in place at the VSB. The fact that staff acquiesced to these demands does not make them acceptable and the evidence establishes not only that they were excessive but that they were often imposed in furtherance of goals or agendas that were not directly related to staff employment obligations. In my view these demands were often inappropriate and frustrating for staff and contributed to the creation of a toxic workplace.

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The evidence does not support the view expressed by the Vision Trustees that the stress in the workplace was not attributable to the conduct of the Board

The evidence gathered throughout this investigation supports the claims that members of this Board routinely engaged in conduct toward one another that was uncivil, disrespectful and rude. I find this was a persistent pattern of conduct and in the circumstances constituted bullying. Such conduct not only affected the ability of the Board to function but also affected staff members who although not directly the target of the conduct experienced the stress of a work environment marked by ambient bullying.

The fact that the Board is a political arena does not justify displays of disrespectful conduct. Even in the context of a partisan Board healthy disagreement and robust debate need not be accompanied by rude, dismissive or belittling behaviour. The VSB Trustee Code of Ethics expressly states that trustees will:

- work with colleague Board members in a spirit of harmony and co-operation, despite any differences among us;
- work with all Board members to observe proper decorum and behaviour, to treat colleague Board members with respect and consideration, and to encourage full and open discussions in all matters with my colleagues and not withhold or conceal from them any information needed to make responsible decisions

There is compelling evidence that the Board failed to meet its obligations set out in the Code of Ethics and failed in its obligation under the legislation to create a respectful work environment for its members and for the District staff.

Although not all Trustees engaged in disrespectful conduct toward their colleagues the evidence identified _____ as individuals whose s.22 conduct routinely fell below the standard outlined in the Code of Ethics. There was also evidence that _____ on occasion engaged in conduct that failed to meet the standard. The evidence established that the “disrespectful and nasty” conduct of these individuals towards each other created an uncomfortable and stressful environment that had a negative impact on other Trustees and on staff. This was a pattern of conduct that was so persistent and pervasive that it can fairly be described as bullying. Such conduct was the antithesis of what is required to foster a respectful and productive environment and it contributed to the creation of a toxic work environment.

All Trustees bear responsibility for the environment in which the work of the Board is carried out and for the work environment in which District employees must work. Even those Trustees who did not engage in disrespectful or rude behaviour contributed to the creation of a negative environment because they tolerated this behaviour and they allowed the conduct of a few to create a culture in which there is no expectation they will work in harmony and cooperation and there are no consequences for a failure to act with respect and civility. They allowed ambient bullying to negatively affect the workplace.

In addition to the ambient bullying to which employees were subject there was credible evidence that members of the Senior Management Team staff were treated in ways in private and public meetings that can be fairly characterized as constituting bullying and personal harassment.

Witnesses consistently described a persistent pattern of negative conduct in circumstances in which I find there is no evidence of collusion or manipulation of the evidence by the witnesses. I note that almost all witnesses interviewed including ex- Trustees reported that they feared reprisals from certain Trustees because of their participation in this process.

I accept the evidence of witnesses that staff were subject to repeated unreasonable s.22 demands for information and to relentless and aggressive questioning when the information provided did not align with a Trustee _____ view on an issue or support political agenda. I am satisfied that _____ questioning of staff went beyond a reasonable

request for information to satisfy the due diligence requirements of office. I accept the witness reports that the practice of repetitive asking of questions that had already been adequately answered represented an effort to manipulate the outcome of the decision-making process and constituted badgering of staff. I accept that this intimidated and embarrassed staff and created a culture of fear in which staff dreaded their attendance at meetings where they would be expected to report to the Board particularly if they knew that their recommendations would not be well received

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The evidence established this treatment challenged staff competence and professional skills and undermined staff credibility. This had an adverse impact on staff's ability to effectively work with the Board and with stakeholders. In addition this created unreasonable demands on their time and increased workload and imposed unreasonably long hours on staff. This conduct created a toxic work environment in which staff felt vulnerable and concerned regarding their job security.

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I also accept the evidence of witnesses that this conduct escalated during 2016 as staff got caught in the middle of the highly politicized budget and school closure processes. Throughout the investigation, the school closure process and Vision Trustees' response to the Closure Report culminating in the two motions tabled by Trustee Bacchus as the September 26th Board meeting constituted a "tipping point". The evidence was that these events represented a qualitative change in the relationship between staff and the Board. At this point continued participation in a negative and toxic work environment became unsustainable for the Senior Management Team.

As previously noted witnesses claimed that the motions called into question their integrity and professionalism (due to their alleged failure to follow Board policy) and their competence (due to their flawed analysis of data related to projected enrolment). Staff felt attacked, humiliated and de-valued. They claimed that the persistent questioning of the Closure Report undermined the staff recommendations regarding school closures making it difficult for them to move forward with any meaningful consultation process.

The staff also reported that the attack on the Closure Report challenged the professional integrity of the staff and caused staff to feel that their professional reputations and their positions were placed at risk. Staff described feeling targeted and "thrown under the bus".

Witnesses claim that the interest of was to pursue a political agenda rather than to support the recommendations of staff and the Board decision regarding closures. A determination as to whether the Trustees properly exercised their roles as Trustees in pursuing a political agenda is outside the scope of this investigation. However, the claim relevant to this investigation is that in advancing that political agenda the Trustees undermined the senior staff and exposed them to humiliation and ridicule.

The Vision Trustees have denied that their actions were anything more than the appropriate exercise of the due diligence required of them to fulfill their roles as Trustees. This alternative explanation for the conduct that is alleged to have created a toxic work environment must be tested against the entirety of the evidence to determine its credibility.

Witnesses claim that the justification provided by the . Trustees for the motions proposed at the September 26th meeting is not credible.

After careful consideration of all the evidence I do not find the explanations provided by the Vision Trustees related to the motions proposed at the September 26th meeting credible. I do not accept that they were merely exercising due diligence in the performance of their obligations. I find on the evidence that there was no reasonable basis for the allegations related to the motivations of the staff in the manner in which they applied the level one factors in reaching their recommendations regarding school closures. I find on the evidence that there was no reasonable basis for concern regarding the data or the analysis s.22 of the data relied on by the staff to predict enrolment.

I accept the evidence of staff related to the use of the Level One factors. The evidence supports staff's position that the approach adopted was consistent with the direction of the Board and the wording in the LRFP approved by the Board. In addition I accept the evidence of the staff that at no time did the Board direct staff to consider only in-catchment students in the analysis. I accept that such a direction would have been contrary to Board policy on enrolment and school closures. The evidence supported that the staff did not deviate from the process mandated by the Board and there was no reasonable basis for Trustee Bacchus to claim that this had happened particularly in light of information provided by Associate Superintendent Nelson at the September 8th workshop and the explanation he provided before the September 15th committee meeting in response to the concerns raised by the reporter Ms. Sherlock.

I do not accept as credible the evidence of the Vision Trustees that they were unaware that the staff had deviated from the Board's direction until September. This was not the first time the Board had been apprised of the contents of the Closure Report. Superintendent Robinson had outlined the approach taken in the June 20th memo to the Board. This provided ample notice to the Board that the analysis was not proceeding on the basis of in catchment only students.

I do not accept that

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pressures of time prevented the Vision Trustees from addressing these issues by any means other than to propose the motions to the Board. s.22

The narrative that ex-trustee Bacchus and the Board were surprised at the “last minute” by the manner in which the staff applied the level one criteria to identify schools on the potential closure list is not supported by the public documents produced by the Board. There is simply no evidence that the staff disregarded the Board’s directive. In fact the evidence is to a contrary effect.

I accept the evidence of the staff that the Board supported the use of the Baragar system and that it would be unreasonable for the Trustees to question the validity of that data at the meeting on September 26th. I accept the evidence of the staff that they had already considered information provided by the City and local developer Andrew Yan who had relied on data produced by BC stats.

I accept the evidence of staff that the claim that the BC Stats/Census Data was relevant and required further consideration by the Board is without foundation. The value of Baragar projections and the limitations of BC Stats/Census Data had been described and documented on multiple occasions during the last 4 years to the board.

I find that suggesting that the work of the staff should be reviewed by the City would be interpreted as questioning the reliability and quality of the work done by VSB staff.

I do not accept the Vision Trustees’ evidence that the 95% capacity utilization rate influenced the District’s choice of schools for consideration for closure and therefore the removal of this condition necessitated a review or further analysis of the Closure Report. I accept the evidence of staff who attended the meetings at which the list of schools for consideration for closure was developed that the 95% capacity utilization was not a factor in developing the list.

The justification provided by the Vision Trustees for their actions on September 26th does not withstand scrutiny. It is not credible that they were merely meeting their obligations as Trustees and exercising due diligence. The evidence supports the claims that their interest was in pursuing a political agenda rather than supporting the prior decision of the Board and the recommendations of the senior staff.

As previously noted while it may be acceptable for Trustees to work toward advancing a political agenda in fulfillment of their obligations to their constituents as asserted by those Trustees adopting an advocacy model, this cannot be done in a manner that undermines staff and creates vulnerability and anxiety with respect to their reputations and even their employment. The evidence demonstrated that the Trustees did not exercise due care and attention with regard to how their actions would affect staff. The Trustees publically accused

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them of deviating from the established process and criticized without credible foundation the basis for the recommendations in the Closure Report. so in the absence of any credible evidence and without regard for the evidence to a contrary effect. conduct toward staff was unfair and disrespectful and constituted bullying and personal harassment of staff.

Employees of the VSB are entitled to the support and respect of the Board when they are engaged in the bona fide performance of their duties. I find the allegations that the Vision Trustees “threw the staff under the bus” an apt descriptor of the Trustees’ conduct. I accept the evidence that the Trustees’ public attack of the work of the senior staff undermined the staff and publically embarrassed and humiliated

I find that the concerns regarding a toxic work environment set out in the Elwood Letter are valid. I find that the conduct of the Board breached the requirement to provide employees with an emotionally safe and respectful work environment. I find individual Trustees acted contrary to the VSB Code of Ethics and engaged in conduct that constituted bullying and harassment.

I find that the actions of the Vision Trustees with respect to the Closure Report created a toxic work environment in which it was no longer tenable for members of the Senior Management Team to continue to try to meet their employment obligations.

I. GENERAL COMMENTS

I was not requested to make any recommendations in this report. However, it is anticipated that the employer will implement changes in the workplace to address the problems and issues highlighted in this report and in the recent Audit. Some observations from this investigation might assist the District as it considers how it should respond to the issues that have created a toxic work environment at the VSB.

I note that in every investigation there are concerns raised by witnesses regarding their participation in the process. Concerns regarding confidentiality and attribution are common as are concerns regarding potential reprisals. Throughout this investigation I was struck by the scope and intensity of the fear of reprisal expressed by so many of the participants. This fear is heightened by the prospect of ex-Trustees returning as members of the Board.

Witnesses reported that ex trustees continue to attend district functions and have an inappropriate level of engagement in the district. Several that since their return to work they feel their situation has worsened in part because it was now public. Also, even though the ex-trustees have been fired and have no role in the district some continue to attend Board meetings and District events. Staff believe that some ex-

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trustees continue to intermeddle in district affairs. Several expressed the view that it is uncomfortable to attend meetings or events when they know ex-trustees will be present.

Witnesses described situations in which [redacted] has attended committee and Board meetings and has taken still and video pictures of staff members as they speak to matters in these meetings. Witnesses describe the conduct as a deliberate and intrusive and find it intimidating. They appreciate that [redacted] has a right to attend meetings and may even have a right to take pictures and videos at these meetings. The concern expressed by witnesses is the manner in which this is done. Witnesses question why [redacted] would act in a manner that would be seen by any reasonable person aware of the history and circumstances as inappropriate and intimidating.

The concerns expressed by witnesses are underpinned and exacerbated by their understanding that the District is limited in its ability to control or manage the conduct of ex-trustees. The District is similarly limited with respect to the conduct of Trustees.

Witnesses expressed concern that this process cannot address the issues that have plagued the District and are pessimistic regarding the prospect of change if the systemic issues contributing to the creation of a toxic work environment are not addressed. While some witnesses described the events of June to September 2016 as creating a "perfect storm" and not likely to be repeated fears persist that the present structure coupled with the potential return of a similarly constituted Board will mean that dysfunction will continue to be a hallmark of the workplace in the District.



Roslyn Goldner

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September 28, 2016

Mr. Dave Byng
Deputy Minister
Ministry of Education
PO Box 9179 Stn Prov Govt
Victoria, BC V8W 9H8

Sent by email

Dear Dave,

Re: Escalating Behaviour of Elected Officials towards the Management Team of the Vancouver School Board

Thank you for taking the time to hear the concerns of the British Columbia Superintendent Association in regard to the welfare of our members who serve in senior leadership positions within the Vancouver School District, specifically these are the members who serve the Board of Education in senior positions of leadership as Superintendent, Assistant Superintendents and Directors of Instruction.

Our members have been faced with a work environment which is unstable and unpredictable for many months now. This working environment continually and cumulatively creates a toxicity which fosters fear and lack of sense of safety for these lead educators as the expectations requested of them are unmanageable.

In recent weeks, as you are aware, the work climate has intensified in such a manner that some of our members have become physically ill and have had to take sick leave to ensure their health is not further compromised. Most are reporting a heightened concern that their positions with the district may be in jeopardy. There is a pervasive concern that the ongoing disruption, criticism and in some cases hour by hour direction of their work, if not done exactly as requested by individual trustees or the Board, may result in reprisals. This has created a work place environment which has them concerned for the security of their positions. They are also concerned that the ongoing disruption that is occurring will be attributed to their personal work, harming their professional credibility and future employment opportunities. Most importantly, there is a significant level of concern that these conditions will continue into the future. Our members are worried they will not be able to perform their work to the best of

their ability and as a result, the quality of student care and family support which they believe is needed to enhance student success will be compromised.

As an organization, BCSSA will continue to support our members in any way that we can, however I must signal to you that we are extremely concerned that the situation is already untenable and that we are advising our members that they must place their physical and emotional well-being at the forefront of the crisis that they are managing. As would be expected, these senior leaders regard their service to their district as paramount, and rarely place themselves first.....we are encouraging them to do whatever is necessary to keep themselves feeling safe and healthy.

We are asking for immediate and direct intervention from the Ministry on behalf of our members who are caught in the cross fire of the political dynamics of the Vancouver School Board. We believe Ministry support is essential to the ability of BCSSA members to remain focused on the needs of the school district and the students they serve.

As always, BCSSA is grateful for your leadership.

Respectfully,

A handwritten signature in cursive script, appearing to read "Sherry Elwood".

Sherry Elwood



VANCOUVER BOARD OF EDUCATION

School District No. 39

OFFICE OF THE SUPERINTENDENT

1580 West Broadway

Vancouver, B.C. V6J 5K8

Telephone: 604-713-5000

October 7, 2016

Delivered by Email: roslyn@goldnerlaw.ca

Goldner Law Corporation
320 - 525 Wheelhouse Square
Vancouver, BC V5Z 4L8

Attention: Roslyn Goldner, Barrister and Solicitor

Re: Investigation into Allegations of Bullying and Harassment

I am writing further to our recent telephone conversation in which you agreed to act as an external investigator to conduct an investigation into allegations of bullying and harassment on behalf of School District #39 (Vancouver) (the "District").

As discussed, the District has not received a formal complaint of bullying and harassment from any identified complainant(s). The District has, however, received a copy of a letter from Sherry Elwood of the British Columbia School Superintendents Association to Mr. Dave Byng, Deputy Minister, Ministry of Education, which contains allegations of bullying and harassment by the District's Board of Trustees and/or unnamed individual trustees against members of the District's senior management team. I have enclosed a copy of Ms. Elwood's letter to the Deputy Minister for background purposes.

The District would like to retain you to conduct an investigation into the allegations of bullying and harassment in accordance with the District's Harassment in the Workplace Policy and Reporting and Investigation Procedures for Incidents of WorkSafeBC Bullying and Harassment.

Once you have concluded your investigation, I ask that you provide a written report to the District addressed to my attention, containing the following:

1. A summary description of the allegations that have been made against the Board of Trustees and or individual trustees;
2. A summary of the evidence provided by witnesses and the Respondent(s);

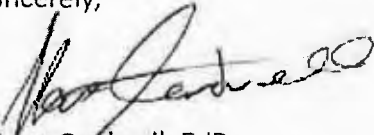
3. A determination as to whether the allegations have been proven/substantiated on the balance of probabilities and your reasons and/or the evidentiary basis for your conclusions in this regard; and
4. If any of the allegations are substantiated, whether any of the alleged conduct constitutes a breach of the District's Harassment in the Workplace Policy.

Please note that I am not asking you to make any recommendations based upon your findings.

Please also include in your report a description of any factual assumptions, if any, on which your findings are based, a list of any external sources of information or material that you have relied on, and a list of the documents that you relied on in making your findings.

Should you require additional information, documentation or other support for your investigation, please advise me and I will endeavour to provide it. If you require anything further at this time, or if you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Cardwell', is written over a faint, illegible printed name.

Steve Cardwell, EdD
Superintendent of Schools/CEO (Acting)

Direct Line: (604) 219-5302
Email: roslyn@goldnerlaw.ca

FILE COPY

RE: VSB Investigation

Thank you for your letter of November 2, 2016 regarding _____ the confidential investigation I am conducting on behalf of the VSB. You have asked for clarification with respect to a number of process issues related to the investigation and I am happy to provide the following response corresponding to the numbered paragraphs in your letter.

1. I have been retained to conduct a fact finding in accordance with the District's Harassment in the Workplace Policy and Reporting and Investigation Procedures for Incidents of WorkSafeBC Bullying and Harassment. I will provide a written report to the Acting Superintendent setting out my conclusions as to whether the allegations related to the work environment at VSB have been substantiated and if so whether the conduct described constitutes a breach of the Policy. I will not circulate a draft report for comment or corrections. I will have no role in determining what steps will be taken based on the findings in my report.

There are no specific timelines set out in my retainer. The intention was that I would try to conclude the investigation within 30 days of my engagement which was early October. At this point that does not seem likely although I am hopeful I can complete the interviews and submit a report before the end of this month.

2. WorkSafe is conducting a separate investigation. As noted above my investigation is being conducted to fulfill the Employer's WorkSafe obligations and pursuant to the Employer's policy. I will rely on definitions of bullying, harassment and toxic workplace set out in the legislation and the policy.
3. The report will be confidential and a copy will be provided to the Acting Superintendent. My communications with Ms. Turner have been limited to providing status updates with respect to witness scheduling. I have not been asked to provide

the report to her or to the Minister. I would not have authority to provide my report to anyone other than the Acting Superintendent as I was retained by the District employer.

I anticipate the Employer will seek its own counsel and privacy advice with respect to any further disclosure. I will not discuss my interactions with any participants with anyone including the employer except to the extent that information from those interactions are included in the report. To the extent that the information gathered from your clients can be summarized without attribution I will do so. Some responses to conduct described in specific incidents may require identification or may be identifiable because of the circumstances.

As you know there is no identified complainant in this matter. The concerns regarding the workplace environment were made in a letter from Ms. Sherry Elwood of the B.C. School Superintendents Association to the Minister. Ms. Elwood identified an 'unstable and unpredictable environment' that was creating a "toxicity which fosters fear". She expressed concern that the environment was causing health issues and was damaging to the professional credibility of senior staff.

The VSB is investigating these concerns by seeking information from individuals who have had direct experience in the workplace and who can provide evidence as to whether work environment was toxic as alleged in that letter. No VSB employee has filed a complaint in this matter. Generally, identities of witnesses are not disclosed and whenever possible their information is provided in aggregate synopsis format.

4. This inquiry is not responsive to a particularized complaint. The initial challenge was to obtain information from those in the workplace to determine whether there had been concerns raised about the work environment. It is important to note that the toxic environment relates to the environment at the board level and not at the first line level. The VSB office is described as a very good place to work and relationships amongst staff are described as collegial, respectful and supportive.

I now have information that confirms that some individuals in this work environment have concerns about the conditions under which senior staff have been working for approximately the last 18 months. My initial inquiries have confirmed that the concerns expressed in Ms. Elwood's letter reflected the experiences of some senior staff. The "tipping point" was the September 26, 2016 private and public meetings held at Sir Charles Tupper Secondary School. The toxic environment is attributed to board dysfunction and the conduct of specific ex-trustees.

Some of the information provided by witnesses described a longer standing situation of board dysfunction in the Vancouver School District that pre-dates the events of this year. Individuals described high turnover, governance issues, ambiguity with respect to roles and obligations under the School Act and a number of other issues that lead

people to describe the VSB as a "difficult place to work". These systemic issues were described to me to provide context.

The recent concerns are based on an escalation of demands on senior staff, an increasingly dysfunctional group of ex-trustees and private and public interactions between ex trustees and senior staff that have questioned the integrity of the senior staff and have undermined the senior management team and have created a culture of fear, leaving senior staff vulnerable and worried about their positions and their reputations.

Those senior staff and others whom I have interviewed have described the following situations and behaviour that have given rise to these concerns:

- The ex-trustees are described as a dysfunctional group with their interactions amongst one another variously described as "bickering", "nasty", "rude and disrespectful" marked by such behaviour as eye-rolling and loud sighing while others are speaking and texting amongst members of the group. The discussions at in camera and public meetings are described as highly politicized marked by grand-standing with individuals adopting fixed partisan positions that disrupt productive deliberation of issues. These meetings are experienced by the senior staff as uncomfortable and emotionally draining. Witnessing this behaviour also makes staff feel vulnerable and this creates a stressful and toxic environment.
- Workload and meeting attendance requirements over the past 18 months have been extraordinary and are imposed without due care and attention to the increased pressure placed on staff. A heavy workload is acknowledged as "part of the job", particularly when the board has been facing a budget shortfall and potential school closures. However, the general dysfunction and partisan positioning amongst ex trustees, and the tendency to micromanage have increased the demands on senior staff to the point where staff health and job satisfaction are adversely affected.
- Interactions between senior staff and the ex-trustees with respect to four major initiatives over the past 18 months demonstrated to the management team that they did not enjoy the support and confidence of the ex-trustees. Issues related to these initiatives were not addressed in a respectful or collegial manner and senior staff were exposed to unreasonable criticism and demands in private and public meetings. Ex trustee is described as someone who engaged in aggressive persistent questioning of staff. is described as pushing until ' gets an answer wants", one that conforms to position on the issue. This conduct is described as disrespectful and is perceived by many as undermining staff and challenging their competence and professionalism.

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- Individuals report that even though issues were discussed and questions answered by senior staff either at committee meetings, workshops or in private conversations, ex-trustee Bacchus raised those questions in public meetings and in one meeting on September 26th proposed motions that undermined the work of the senior management team and subjected them to ridicule and jeering. These actions left senior managers feeling vulnerable and disheartened.
- Ex-trustee Lombardi has been criticized in his role as Chair of the Board for his failure to maintain order in meetings and a failure to promote respectful exchanges of ideas and information.
- In the days following the departure of the Superintendent, ex-trustee [redacted] is described as acting aggressively toward staff demanding their attendance at an unscheduled evening meeting.

The deterioration in the work environment worsened over the last 8 to 12 months and was related to four major initiatives undertaken by the Board: 2016 budget process, long range facilities planning, proposed school closure consultation process and the implementation of PeopleSoft. Individuals interviewed raised specific concerns about ex-trustees' behaviour toward staff at the September 6, 2016 in camera meeting, the September 15, 2016 committee meeting held at Tupper School and the private and public meetings held at Tupper on September 26, 2016. These meetings addressed the long-range facilities plan, proposed school closures, and disclosures by senior staff to the special advisor. As previously stated the September 26, 2016 meeting has been described as the "tipping point".

I confirm that [redacted] participation in this investigation is voluntary. I believe [redacted] have information about the matters set out above that have been described by other witnesses. As ex-trustees their perspective regarding the work environment will be of great

assistance to me in making findings required in this investigation. I hope that the information in this letter provides an overview of the nature and scope of the inquiries I will make

My intention is to ask _____ to describe the work environment – including the relationships amongst the ex-trustees and between ex- trustees and senior staff. I am interested primarily in the time period from the run up to the 2016 budget to September 2016.

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I will ask _____ describe the workload and meeting demands placed on senior staff in the last year and to describe and comment on interactions between staff and trustees at meetings at which the major board initiatives were discussed and in particular at the meetings on the dates set out above.

I will provide ex-trustees _____ i an opportunity to respond to the specific comments made with respect to their conduct.

Please advise if any further clarification is required. Otherwise I look forward to hearing that _____ remain willing to participate in the process and to setting interview dates at the earliest opportunity.

Yours truly,



Roslyn Goldner
Goldner Law Corporation

s.22

December 9, 2016

Roslyn Goldner
Goldner Law Corporation
By email: roslyn@goldnerlaw.ca

Dear Ms. Goldner:

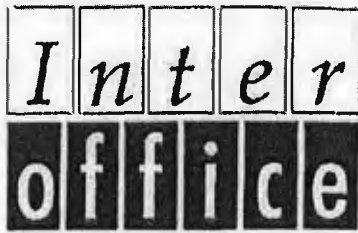
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Memorandum

vancouver school board

VSB

June 20, 2016

To: Board of Education

From: Scott Robinson, Superintendent of Schools

Re: Preliminary List of Possible Schools for Consideration of Closure

INTRODUCTION:

This report is for the information of trustees. No further action on the part of the Board is required at this time.

BACKGROUND:

Pursuant to Board policy and regulations FL and FL-R *School Closures* (Attachment A), all district facilities are to be regularly reviewed and assessed to ensure they are being utilized for efficient and effective delivery of a comprehensive educational program and associated services. Any school may be considered for closure when such an assessment:

- a) Identifies that the students could reasonably be accommodated in other local schools, and
- b) Those students can be provided with access to appropriate educational programs.

VBE Long Range Facilities Plan:

The Long Range Facilities Plan approved by the Board on May 24, 2016, identified that:

Following adoption of this plan staff will compile a preliminary list of possible schools for consideration for closure as per board policy and process governing school closure. In identifying schools for inclusion on the preliminary list, staff will use the factors for closure outlined in section 4.3 of this plan. This preliminary list will be presented to the Board at the June 20, 2016 Board Meeting.

As per VBE policy and procedures, staff will then develop a detailed Administrative Report providing details on the schools included on the June 20, 2016 preliminary list for possible closure. This report will be presented to the Board in September 2016.

Factors for Consideration:

District staff reviewed all VSB schools based on Level One factors for consideration in closing schools as identified in Section 4.3 of the Long Range Facilities Plan.

Level One Factors:

- Catchment students currently attending a school considered for closure can be accommodated in local catchment schools.
- Out-of-catchment students currently attending a school considered for closure can be accommodated at their home school and/or in local catchment schools.*
- Projected future student enrolment of the adjusted catchment area(s), as the result of a closure, can be accommodated.

** please note that in relation to the preliminary list of schools below, all students, including out-of-catchment students currently attending a school considered for closure, will be able to be accommodated in local catchment schools.*

Level Two Factors include:

- Geographic considerations (catchment size analysis, walk distances and routes, location of the school within the community in relation to other schools).
- Seismic risk of the building.
- School Site considerations including proximity to major roadways, play space, ability to use the building for temporary accommodation, ability to use the space for alternative functions.
- High deferred maintenance costs and high facility operating costs.
- Services and supports in place for vulnerable students, families, and communities.
- Education and social impacts of school closure on students and families, particularly in communities with high concentrations of vulnerable students and families.

SCHOOL ACT AND POLICY CONSIDERATIONS:

The British Columbia *School Act* and Board Policy and Regulation FL and FL-R: *School Closures* contain language that is relevant to this process:

B.C. School Act:

Through the *School Opening and Closure Order* (Attachment B), the *School Act* indicates that:

Closure of Schools

4 (1) The board must develop and implement a policy that includes a public consultation process with respect to permanent school closures and this policy must be made available to the public.

(2) When considering closing a school permanently, the board must apply the policy referred to in subsection (1).

5 (1) The public consultation process must include:

(a) a fair consideration of the community's input and adequate opportunity for the community to respond to a board's proposal to close the school permanently;

(b) consideration of future enrolment growth in the district of persons of school age, persons of less than school age and adults; and

(c) consideration of possible alternative community use for all or part of the school.

Board Policy:

Board policy FL-R School Closures satisfies the criteria set out in the *School Act*, describing the closure process, including the various steps required, the timeline and communication processes.

At this time, the District Management Team is implementing Section One of Policy FL-R, which states:

1. *The District Management Team will prepare a preliminary list of schools that might be considered for closure, and publish that list (the "Potential Consideration for Closure Notice") on the VSB website and in a letter to the school principals and PACs of each school on the list, all at least two months' prior to finalizing an administrative report to the Board, to give affected parties advance notice of the consultation process that will apply if the Board decides to consider those or any other schools for closure.*

In accordance with this section of policy FL-R, staff are hereby submitting the following preliminary list of schools that might be considered for closure:

PRELIMINARY LIST OF POSSIBLE SCHOOLS FOR CONSIDERATION FOR CLOSURE:

<u>Annexes:</u>	<u>Elementary Schools:</u>	<u>Secondary Schools:</u>
Champlain Heights Annex	Graham D. Bruce Elementary	Britannia Elementary
McBride Annex	Sir Guy Carleton Elementary	Gladstone Secondary
Queen Elizabeth Annex	Dr. A. R. Lord Elementary	
Tecumseh Annex	Queen Alexandra Elementary	
	Admiral Seymour Elementary*	
	Pierre Elliott Trudeau Elementary	

It is proposed that schools on this list be considered for closure effective June 30, 2017, with the exception of Admiral Seymour Elementary, which it is proposed be considered for closure effective June 30, 2018.

Pursuant to Policy FL-R, letters to the principal and PAC chairperson(s) of each of the schools on this list have been prepared and will be distributed on June 21, 2016. The Potential Consideration of Closure Notice will also be posted on the district website.

In addition, an information package to all parents in the district has been prepared which includes the list of schools which may be considered for closure (Attachment C).

TIMELINE AND PROCESS:

In accordance with Board policy FL and FL-R, the following timeline and process will be implemented:

DATE:	PROCESS:
September 15, 2016 5:00 pm Joint meeting of Board Standing Committee II (Planning and Facilities) and Committee III (Education and Student Services)	The District Management Team will present an administrative report that recommends schools to be considered for closure, describes closure evaluation criteria, public consultation processes and school closure decision time-lines. If consideration for closure is supported by the joint committee, then such recommendation will be forwarded to the next Board

	meeting to consider closing one or more schools recommended for closure in the administrative report.
September 26, 2016 7:00 pm Public Meeting of the Board	Decision by the Board as to whether or not to <u>consider</u> closing one or more schools recommended for closure in the administrative report.
September 27, 2016	Any school that the Board decides to consider for closure will be identified by name and the school will be notified.
September 27-November 18, 2016 Public Consultation Process	The district will undertake a public consultation process with each school community, internal VSB stakeholders and the public.
November 18, 2016	Deadline for public input
December 8, 2016 Joint meeting of Board Standing Committee II (Planning and Facilities) and Committee III (Education and Student Services)	The District Management Team will present an administrative report that summarizes the results of the consultation process. If closure of one or more schools is supported by the joint committee, then such recommendation will be forwarded to the next Board meeting for a final Board decision as to whether or not to close one or more schools.
December 12, 2016 Public Meeting of the Board	Final decision by the Board as to whether or not to close one or more schools.

CONCLUSION:

The preliminary list of schools which might be considered for closure is provided in order to give affected school communities notice of potential public consultations. Policy requires a minimum of 60 days notice which is hereby provided. It should be noted that public consultation will only proceed in the event that the Board makes the decision in September 2016 to consider one or more schools on the list for closure.

FL: School Closures - Formerly Retirement of Facilities

Classification: F: Facilities Development

Code: FL

ATTACHMENT A

The following process will be followed if schools are being considered for closure:

- The District Management Team will prepare a preliminary list of schools that might be considered for closure, and post that list on the VSB website to give affected parties advance notice of the consultation process that will apply if the Board decides to consider those or any other schools for closure
- An administrative report from the District Management Team detailing what schools are being considered for closure will be presented to a joint meeting of Board Standing Committee II - Planning & Facilities and Standing Committee III - Education and Student Services
- If consideration for closure is supported by the joint committee, then such recommendation will be forwarded to the next available Board meeting for decision
- Any school being considered for closure will be identified and notified
- Communication and consultation will include both the school community (staff, students and parents) as well as the general public
- Appropriate mechanisms will be provided within the consultation process to allow feedback from both the school community and the public prior to the decision on closure being made
- Any decision to close a school will be promptly communicated to both the school and the general public

The detailed steps, process and timelines for consideration of a school closure are contained in the companion Regulation **FL - R School Closure**.

This policy has been established by the Board of School Trustees (Board) and may not be changed except by approval of the Board.

This policy does not apply to temporary school closures pursuant to section 73(1)(b) of the *School Act* and section 3(2) of the *School Opening and Closure Order*.

Exclusions

Nothing in this policy prevents early communication or consultation with schools, their community or the public on the ongoing planning work within the Vancouver School Board or in relation to its partners as may occur from time to time in the daily conduct of district business.

DMT Responsibility

Legal References:

School Act Sec. 92(1), 182 (2)(g)

Cross References:

DFB: Revenues from School Owned Real Estate (pertains to the Board's options for dealing with surplus property); FLA*: Annex Closures (rescinded May 2007); FLB*: Secondary School Closures (rescinded May 2007); FLC*-R: Re-opening School Facilities for Local Needs or District

Adopted Date:

Monday July 09, 1979

Revision Date:

Oct 1979

Aug 1990

May 2007

Apr 2010

FL-R: School Closures

Classification: F: Facilities Development
Code: FL-R

All district facilities are regularly reviewed and assessed to ensure they are being utilized for efficient and effective delivery of a comprehensive educational program and associated services. Any school may be considered for closure when such an assessment:

- (a) Identifies that the students could reasonably be accommodated in other local schools, and
- (b) Those students can be provided with access to appropriate educational programs.

Closure Process

If a school is being considered for closure, then the following process will apply:

1. The District Management Team will prepare a preliminary list of schools that might be considered for closure, and publish that list (the "Potential Consideration for Closure Notice") on the VSB website and in a letter to the school principals and PACs of each school on the list, all at least two months' prior to finalizing an administrative report to the Board, to give affected parties advance notice of the consultation process that will apply if the Board decides to consider those or any other schools for closure.
2. At least two months after the Potential Consideration for Closure Notice has been posted, the District Management Team will finalize its administrative report detailing which schools it recommends to be considered for closure, and present the administrative report to a joint meeting of Board Standing Committee II - Planning & Facilities and Standing Committee III - Education and Student Services.
3. If consideration for closure is supported by the joint committee, then such recommendation will be forwarded to the Board for a decision at the next available board meeting or a special meeting called for the Board to consider closing one or more of the schools recommended for closure in the administrative report.
4. Any school that the Board decides to consider for closure will be identified by name and the school so notified.
5. If consideration for closure is supported by the Board, then at least one public meeting is to be scheduled to allow communication and consultation prior to a final determination being made by the Board. At least 14 calendar days prior to the public meeting:
 - (a) notice of the public meeting(s) is to be posted on the VSB website;
 - (b) notice is to be advertised in the appropriate local media;
 - (c) at least one sign is to be posted at the main entrance to the school and at other appropriate locations to advise the school community and the public;
 - (d) all signs are to be in the appropriate majority languages of the school community; and
 - (e) the school will provide written notification to the Parent Advisory Committee and parents of students enrolled at the school.
6. Appropriate mechanisms will be provided within the consultation process to allow feedback from affected school communities, internal VSB stakeholders and the public prior to a final decision on closure being made. No less than fourteen (14) calendar days will be allowed for the receipt of responses following a public meeting.

7. The District Management Team will coordinate a consultation report summarizing the results of each public meeting to a joint meeting of Committee II and Committee III. The consultation report shall include, at a minimum:

- (a) a fair consideration of the community's input;
- (b) consideration of future enrolment growth in the district of persons of school age, persons of less than school age and adults; and
- (c) consideration of possible alternative community use for all or part of the school.

8. Additional consultation may be undertaken if the Board in its discretion determines that relevant circumstances are substantially different from those considered by the District Management Team.

9. Consultation will be re-initiated under Section 4 above if a school not named in the Potential Consideration for Closure Notice is proposed for closure in a consultation report.

10. Final decisions on a school closure will be made by the Board, and will include, without limitation, the considerations listed in Section 7 above. A decision to close a school will only be made by bylaw.

11. If the Board decides to permanently close a school, then the Board will, without delay, provide the Minister of Education with written notification of the decision and the school's name, facility number, address and the date on which the school will close.

12. A decision to close a school will be communicated to the school and the general public as soon as practical following the Board decision. The school will then ensure written notice is provided to the Parent Advisory Committee and parents of students enrolled in the school. The district will provide instructions to parents on relocation options for all students affected by a school closure.

Effective Dates for School Closures

If a school is being considered for closure, the schedule for consultation will generally be organized such that a decision can be made no later than December, permitting a closure to occur at the end of the current school year. This permits:

- (a) Notice to parents and the public prior to registration for the next school year (in January);
- (b) Actual school closures to take effect at the end of a school year (June 30);
- (c) Adequate time to notify other users of the school i.e. childcare, leases, rentals, summer school programs, etc.;
- (d) If it is not practical to meet the above schedule, approval from the Board will be sought to permit closure to take effect on some other date, typically over the winter break (December/January). In this case:
 - (i) The closure process as outlined above will be followed;
 - (ii) The schedule for consultation will be organized such that the final decision by the Board can be made no later than June 30th of the calendar year the school is closed; and
 - (iii) The school would close on a date to be determined by the Board.
- (e) Where by virtue of a decline in enrollment a school does not register any students or, in the opinion of the Superintendent, registers insufficient students to practically offer an educational program in the school, then the Board will follow the consultation process described in paragraphs 1 through 12 above and the school may be closed on any day determined by the

Board.

Responsibility: DMT

Legal References:

Bylaw No. 2 Disposition of school Board Property (rescinded May 2007)

Cross References:

FLA*-R: Annex Closures (rescinded May 2007); FLB*-R: Secondary School Closures (rescinded May 2007); FLC*-R: Re-opening School Facilities for Local Needs or District Programs; FL -RE: School Closure formerly Retirement of Facilities

Adopted Date:

Monday October 01, 1979

Revision Date:

Aug 1990

Sep 1994

May 2007

Apr 2010

Apr 2016

SCHOOL OPENING AND CLOSURE ORDER

ATTACHMENT B

Authority: *School Act*, section 73 and 168 (2)(p)

- { Ministerial Order 194/08 (M194/08)..... Effective September 3, 2008
{ Repeals 320/02

Interpretation

1 “**alternative community use**” means alternative community use as defined in Ministerial Order 193/2008, the Disposal of Land or Improvements Order.

Opening of Schools

2 If a board decides to open a new school or to reopen a previously closed school under section 73 of the *School Act*, the board must, without delay, provide the Ministry with written notification of the decision containing the following information:

- (a) the school's name,
- (b) the school's facility number,
- (c) the school's address, and
- (d) the date on which the school will open or reopen.

Closure of Schools

3 (1) In this Ministerial Order, closing a school permanently means the closing, for a period exceeding 12 months, of a school building used for purposes of providing an educational program to students.

(2) Despite subsection (1), the closing of a school for the purposes of effecting repairs, renovations or additions to a school building shall not be deemed to be a permanent closure of the school if the board intends to reopen the building upon completion of the repairs, renovations or additions.

4 (1) The board must develop and implement a policy that includes a public consultation process with respect to permanent school closures and this policy must be made available to the public.

(2) When considering closing a school permanently, the board must apply the policy referred to in subsection (1).

5 (1) The public consultation process must include:

- (a) a fair consideration of the community's input and adequate opportunity for the community to respond to a board's proposal to close the school permanently;
- (b) consideration of future enrolment growth in the district of persons of school age, persons of less than school age and adults; and
- (c) consideration of possible alternative community use for all or part of the school.

SCHOOL OPENING AND CLOSURE ORDER

6 The power of a board to permanently, close a school under section 73 of the *School Act* must be exercised only by bylaw.

7 If a board decides to permanently close a school under section 73 of the *School Act*, the board must, without delay, provide the Minister with written notification of the decision containing the following information:

- (a) the school's name,
- (b) the school's facility number,
- (c) the school's address, and
- (d) the date on which the school will close.

8 This Order comes into effect on September 3, 2008.



Vancouver Board of Education

School District No. 39

OFFICE OF THE SUPERINTENDENT

1580 West Broadway

Vancouver, B.C. V6J 5K8

Telephone: 604-713-5000

Fax: 604-713-5412

ATTACHMENT C

June 20, 2016

Dear Parents and Guardians,

I am writing to you as Superintendent of Schools to tell you about the possibility of school closures in our district. Today, a preliminary list of schools which the Board of Education *may* consider closing is being released. It is important to note that **no decisions to close a school have been made at this time**. This letter is simply to inform you of the possibility of school closures. Between now and the middle of December 2016, the Board will engage in a process to determine whether some or all of the schools on this preliminary list will be closed effective June 30, 2017. If approved by the Board, the earliest any closure would occur would be for the 2017-18 school year.

For the past several months VSB staff have been consulting with the public in order to inform the development of the school district's Long Range Facilities Plan. As part of these consultations we spoke with many parents and members of the community about the possibility of school closures. Staff heard that there was some support for possible school closures from members of the community provided the closures improved educational programming within the VSB. In addition, there was support for some school closures provided it would allow for the seismic upgrading of schools to be completed more quickly and that it would strengthen funding requests to the Ministry of Education for new schools in areas of significant growth.

In addition, most of you are likely aware that the VSB has struggled with many consecutive years of significant budget shortfalls. These ongoing shortfalls have resulted in reductions to direct supports, services and programs for students. Reducing the number of school facilities would result in greatly decreased operating costs and could help prevent further cuts to staffing and student programming in our district.

The decision to place a school on the preliminary list of schools that may be considered for closure is not one I have taken lightly as Superintendent. However, in order to address budget shortfalls, get schools seismically upgraded, and build new schools where they are needed, the school district must consider school closure. It is essential that all our staff and students have access to a seismically safe school as quickly as possible and that as a district we move toward the achievement of greater budget stability.

As a former teacher and school principal and as a long time public educator I fully understand the important role schools play within the lives of students, families, staff and communities. I also acknowledge and recognize that the prospect of school closure will be unsettling for many families and that you will likely have many questions about what may happen if your school is to be considered for closure. I want to assure you that the district is committed to the open sharing of information and to

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engaging parents and the public in inclusive public consultation prior to any decisions being made regarding school closure.

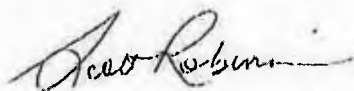
This coming September, VSB staff will provide trustees and the public with a detailed report providing background information and outlining proposed plans for each school identified on the preliminary list. At that time, the Board will decide which, if any, of the schools on the preliminary list will move forward to be considered for closure. If trustees support a school moving forward for closure consideration, parents and members of the public will be asked to share their thoughts and feedback in October and November. This feedback will be taken into consideration by trustees in making decisions as to whether or not to close a school. The Board will make the formal decision in December 2016 as to whether or not it closes any schools.

If a school closure is approved in December by the Board, staff will work closely with the school community in order to support implementation of the closure and the transition of students and families to other VSB schools. This will include paying special attention to students and families who may require additional support in order to make a successful transition. Every effort will be made to ensure that existing supports follow students to their new schools.

Attached please find some information regarding the preliminary list of schools which might be considered for closure. Further information regarding the school closure process is available at <http://engage.vsb.bc.ca>. I encourage you to check this site frequently as updates will be provided starting in mid-September.

I understand that the possibility of school closure may weigh heavily on the minds of many in our school communities during the summer months. With this in mind I encourage you to focus on celebrating the successes of the past school year and on enjoying the summer months ahead. I assure you that more detailed information will be provided in September and that your voices and opinions will be heard in October and November prior to any closure decisions being made by trustees in December.

Sincerest regards,



Scott Robinson
Superintendent of Schools

cc. Trustees
Russell Horswill, Secretary-Treasurer



Preliminary List Of Schools That Might Be Considered For Closure

After a year of development and months of public consultation, Vancouver School Board approved a Long Range Facilities Plan (LRFP) on May 24, 2016. The LRFP provides a road map for managing VSB facilities over the next 14 years while seismic upgrading is completed.

The LRFP includes consideration of school closures. VSB recognizes that the prospect of school closures will create anxiety and uncertainty within school communities. As we move through this process we intend to provide as much information as possible to answer questions and help reduce uncertainty.

Please note: At this point no decisions regarding school closures have been made.

This preliminary list identifies schools the Board may consider for closure. In September trustees will review a detailed staff report on each school identified on the preliminary list. At that time, trustees will decide whether or not a school, or schools, on the preliminary list should be considered for closure. Following this decision significant consultation with each affected community would occur in October and November.

Some of the reasons for considering closure include:

- Reducing the number of school facilities will reduce operating costs allowing funds to be redirected to educational programming
- Supporting VSB requests for Ministry of Education funding to complete the seismic mitigation program as quickly as possible
- Providing sites for use in temporary accommodation for school communities undergoing seismic construction enabling timely completion of seismic upgrading
- Supporting district funding requests for the construction of new schools in areas experiencing significant population growth
- Reducing the overall cost of facility maintenance including significant deferred maintenance requirements across VSB schools

In compiling the preliminary list of schools all 110 VSB schools were reviewed based on the factors for closure outlined in the Long Range Facilities Plan (LRFP). This included careful consideration of the impact of proposed school closures on the delivery of educational programming. Where possible, attempts were made to identify potential closures which keep communities together and minimize negative community impacts.



Staff will spend the summer reviewing and developing a detailed report on each school on the preliminary list. This will include looking closely at the impact of closures on vulnerable students and families, developing plans to address impacts on childcare services, and ensuring a clear understanding of school-specific programs and services. These detailed studies on each school will be presented to trustees and made public in mid-September.

If trustees approve moving forward with the closure process, significant communication and consultation with affected communities would begin in early October 2016. This public feedback will inform trustees as part of their decision-making regarding school closures. The process of deciding school closures is governed by VSB policy and the School Act. ("Potential Consideration for Closure" <http://www.vsb.bc.ca/district-policy/fl-r-school-closures-formerly-retirement-facilities>).

In December trustees will decide whether any schools will be closed. The earliest any school closure would take effect is June 30, 2017 (for the 2017-18 school year).

If approved for closure, VSB intends to use some closed schools to provide temporary accommodation (swing space) for students and staff from schools undergoing seismic construction. In cases where a closed school is not needed for temporary accommodation, VSB will look for possible community uses for the building and/or land.

For more information, visit engage.vsb.bc.ca.

PRELIMINARY LIST OF SCHOOLS FOR POTENTIAL CLOSURE CONSIDERATION:

1. Queen Elizabeth Annex (K - 3)

If approved for closure, the primary French Immersion program offered at Queen Elizabeth Annex would be accommodated at Queen Elizabeth Elementary.

Locating the French Immersion program at Queen Elizabeth Elementary could support closer connections and collaboration between staff and students in this primary program and the main school program at École Jules Quesnel, where students already go for Grade four.

2. Champlain Heights Annex (K - 3)

If approved for closure, students at Champlain Heights Annex would be accommodated at Champlain Heights Elementary.

The annex shares a catchment with the main school. Students enrolled at Champlain Heights Annex already move to the main school for Grade four.



3. Tecumseh Annex (K - 3)

If approved for closure, students at Tecumseh Annex would be accommodated at Tecumseh Elementary.

The annex shares a catchment with Tecumseh Elementary, where students already go for Grade four.

Tecumseh Elementary has been seismically upgraded, placing students in a seismically safe school.

4. McBride Annex (K - 3)

If approved for closure, students at McBride Annex would be accommodated at McBride Elementary.

The annex shares a catchment with the main school. Students enrolled at McBride Annex already move to the main school for Grade four. McBride Elementary has been seismically upgraded.

5. Dr. A.R. Lord Elementary

If approved for closure students at Lord Elementary would be accommodated at Begbie Elementary.

Begbie is on the priority list for seismic upgrading.

6. Admiral Seymour Elementary

If approved for closure, students at Seymour Elementary would be accommodated at Strathcona Elementary. **This would not occur until 2018/19** after seismic upgrading of Strathcona is complete and once the new school at International Village is open.

7. Graham D. Bruce Elementary

If approved for closure, students at Bruce Elementary would be accommodated at Grenfell Elementary and Collingwood Annex. Collingwood would become the annex of Grenfell.

Both Bruce and Grenfell are in need of seismic upgrading. By combining the school communities, VSB can make a stronger case for potentially building a replacement school for this community.



8. Sir Guy Carleton Elementary

If approved for closure, students at Carleton Elementary would be accommodated at Cunningham Elementary and MacCorkindale Elementary.

By combining these three school communities into two sites at MacCorkindale and Cunningham, VSB can make a stronger case for funding to complete the seismic upgrading of these two schools.

9. Queen Alexandra Elementary

If approved for closure, students at Queen Alexandra Elementary would be accommodated at Grandview Elementary and Florence Nightingale Elementary.

By combining these three school communities into two sites at Grandview and Nightingale, VSB can make a stronger case for funding to complete the seismic upgrading of these two schools.

10. Pierre Elliott Trudeau Elementary

If approved for closure, students at Trudeau Elementary would be accommodated at Walter Moberly Elementary.

Moberly Elementary has completed seismic upgrading.

11. Britannia Secondary

If approved for closure, students at Britannia would be accommodated at Templeton Secondary.

The combined school community would not fit into Britannia's building. But by combining the communities at Templeton, VSB can make a stronger case for potentially building a replacement school for the combined communities.

12. Gladstone Secondary

If approved for closure, students at Gladstone would be accommodated at Windermere Secondary, Vancouver Technical Secondary, John Oliver Secondary and Tupper Secondary.

The buildings at Tupper and Van Tech have been seismically upgraded, so students would get a safer school. With the incoming students, John Oliver and Windermere's new enrolment makes those sites better candidates for seismic upgrades or new school buildings in the coming years.

David Nelson

From: David Nelson
Sent: Wednesday, September 14, 2016 2:32 PM
To: Group Trustees
Cc: Elaine McKay; Scott Robinson (Supt Office); Russell Horswill
Subject: Vancouver Sun Question

Staff have been asked the following question by Tracy Sherlock at the Vancouver Sun. We will be calling her to provide background information this afternoon.

I wanted to share her question and the basis for our response to her query with all trustees for your information.

Tracy's Question:

The first is that I would like to ask if it is possible to get a comment as to why, in the end, students attending a school rather than the catchment population is what was counted when the schools were initially considered for the list. At first, VSB had said it would only count the students living in a school's catchment, but that isn't what happened in the end. Just want to explain why the change was made.

First, there was no change. The VSB never said it would only consider students living in a school's catchment.

LRFP Level One of the LRFP states:

"Out of catchment students currently attending a school considered for closure can be accommodated at their home school **and/or** in local catchment schools."

Staff, from the outset, pursued the accommodation of **all continuing students in local schools** (schools receiving students from a closed school) rather than making cross boundary students with continuing status return to their catchment school.

Further staff determined that for this round of potential closures we would look to consolidate closed schools with local schools with **adjacent catchments**. We also looked for options to consolidate 1 school into 1 or 2 adjacent schools. (Gladstone being the one exception.)

All of these decision were grounded in Board policy and practice regarding maintaining certainty, stability and continuity for students and families (JECC). For your background here are the relevant policies:

1. Student Admission and School Choice Policy (JECC):

One of the guiding principles in Board policy is:

Certainty, Stability, Continuity

The admission process should support certainty, stability, and continuity for students and families.

Further, Board Regulation JECC-R defines a continuing student in a school as one who was in attendance last year.

2. Student Admission and School Choice Regulation (JECC-R):

Defines continuing students as:

Continuing Student: A person of school age in attendance at the school during the previous school year.

This includes both in and out of catchment students.

So in short staff felt that the decision to explore the options to accommodate all students in 1 or 2 adjacent schools:

- Followed policy regarding the rights of continuing students within a closing school
- Promotes the principle of stability, continuity and certainty for students and families
- Reduces disruption, as much as possible, to families and communities as it does not see a school population divided into many different schools
- Keeps school communities together, as much as possible, by again striving to accommodate all continuing students within 1 or 2 adjacent schools (with the exception being Gladstone)

David Nelson
Vancouver Board of Education

VS B

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III. COMMITTEE II/III: PLANNING & FACILITIES / EDUCATION & STUDENT SERVICES

29:30

B. Matters Arising from the September 15, 2016 Report

1. Administrative Report: Schools Considered for Potential Closure

Moved by P. Bacchus, seconded A. Wong, that the board request staff prepare a revised set of proposals utilizing the board-approved level-one criteria, specifically based on in-catchment-only enrollment and projections.

The revised proposals should:

- Utilize the board-approved level-two factors, in particular giving full consideration of the impact on closing schools in relation to their specific community and social impacts to ensure schools with higher concentrations of vulnerable students and families are not disproportionately targeted for closure, as they are in the September 2016 report.
- Be developed with the understanding that 95% average capacity utilization is no longer a goal of the LRFP and incorporate any other new information that has become available since the report was adopted by the VSB in May 2016.
- Explore split wing sites for secondary schools in lieu of closing entire schools, similar to what is currently being proposed for Kingsford-Smith.
- Contemplate the educational and social impacts of proposing large combined school populations and will ensure there is a process for consulting with proposed "receiving" schools.

A Trustee noted that the motion is out of order.

The Chairperson ruled that the motion should be considered.

Moved by A. Wong, seconded by P. Bacchus, that the ruling of the chair be sustained.

CARRIED

For: J. Alexander, P. Bacchus, J. Fraser, M. Lombardi, A. Wong
Against: F. Ballantyne, P. Noble, C. Richardson, S. Robertson

Moved by J. Fraser, seconded by J. Alexander, that the motion be referred to the October 3rd meeting.

CARRIED

For: J. Alexander, P. Bacchus, J. Fraser, M. Lombardi, A. Wong
Against: F. Ballantyne, P. Noble, C. Richardson, S. Robertson

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XII. MOTION TO EXTEND MEETING

~ 11:00pm

Moved by P. Bacchus, seconded by A. Wong, to extend this meeting of the Board until agenda item XII. New Business / Enquiries, Notice of Motion: Letter to City of Vancouver Mayor has been dealt with.

Discussion ensued on the rationale for and against the motion.

A vote was taken on the motion and it was declared

CARRIED

For: J. Alexander, P. Bacchus, J. Fraser, M. Lombardi, A. Wong
Against: F. Ballantyne, P. Noble, C. Richardson, S. Robertson

Trustee Noble left the meeting.

XIII. NEW BUSINESS / ENQUIRIES

A. Notice of Motion: Letter to City of Vancouver Mayor

Moved by P. Bacchus, seconded by J. Alexander, that the Board direct the Chairperson to write a letter to Mayor Gregor Robertson thanking him and City Council for their unanimous support of Councillor Reimer's motion entitled "Standing up for Vancouver's Neighborhood Schools."
<http://council.vancouver.ca/20160920/documents/motionb3.pdf>.)

And that in the letter the Chairperson request that the Mayor ask city staff to do an analysis of the enrollment projections and closure proposals contained in the "VBE Administrative Report - Schools Consider for Potential Closure, September 2016."

Moved by J. Fraser, seconded by P. Bacchus, that the motion be amended as follows:
Delete the words "the enrollment projections and closure proposals contained in" and replace with "neighborhood plans and population projections in regard to".

Discussion ensued on the rationale for and against the amendment.

A vote was taken on the amendment and it was declared

CARRIED

For: J. Alexander, P. Bacchus, J. Fraser, M. Lombardi, A. Wong
Against: F. Ballantyne, C. Richardson, S. Robertson

A vote was taken on the amended motion which reads:

That the Board direct the Chairperson to write a letter to Mayor Gregor Robertson, thanking him and City Council for their unanimous support of Councillor Reimer's motion entitled "Standing up for Vancouver's Neighborhood Schools."
<http://council.vancouver.ca/20160920/documents/motionb3.pdf>.)

And that in the letter the Chairperson request that the Mayor ask city staff to do an analysis of neighborhood plans and population projections in regard to the "VBE Administrative Report - Schools Consider for Potential Closure, September 2016."

CARRIED

For: J. Alexander, P. Bacchus, J. Fraser, M. Lombardi, A. Wong
Against: F. Ballantyne, C. Richardson, S. Robertson