



Board of Education
Minutes
Special Board Meeting
Friday, March 11, 2022

Available seating is contingent on room capacity restrictions and provided on a first-come basis or lottery system, if necessary. Community members can also view this meeting via livestream via YouTube.

Call to Order and Roll Call

1. Roll Call

RECOMMENDATION: Presiding Board Member calls roll.

The special meeting of the Board of Education of Douglas County School District Number RE-1 was called to order by President Peterson at 10:00 a.m.

BOARD MEMBERS PRESENT: Hanson, Meek (remote), Myers, Peterson, Ray, Williams, Winegar

ALSO IN ATTENDANCE: Board Assistant Secretary Maresh

Pledge of Allegiance

2. Pledge of Allegiance

3. Acceptance of Agenda

RECOMMENDATION: That the Board of Education approves the Agenda as presented.

ORIGINAL - Motion

Member Myers moved, Member Winegar seconded the ORIGINAL motion that the Board of Education approves the Agenda as presented.

AMENDED - Motion

Member Williams moved to amend the Agenda to add an Executive Session to receive legal advice prior to the Study/Action Items.

AMENDED - Motion

Member Meek moved, Member Hanson seconded the AMENDED Motion to amend the Agenda to remove the limitation that the discussion will be limited to 30 minutes and to remove Attachment #2: 3.11.2022 Resolution to Seek Interlocutory Appeal Regarding Robert Marshall v. DCSD Board of Education et al from Agenda Item #4 as the second resolution regarding the interlocutory appeal does not meet the original purpose stated for the special meeting and would be in violation of Policy BE as well as it not being made available 24-hours in advance of today's meeting.

Board discussion.

Friendly Amendment by President Peterson to separate the AMENDED - Motion into two (2) separate motions.

Friendly Amendment accepted by Director Meek and Director Hanson.

AMENDED - Motion

Member Meek moved, Member Hanson seconded the AMENDED motion to amend the agenda to remove the limitation that the discussion will be limited to 30 minutes.

Hanson, aye; Meek, aye; Myers, nay; Peterson, nay; Ray, aye; Williams, nay; Winegar, nay.

Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 4. The motion failed 3 - 4.

AMENDED - Motion

Member Meek moved, Member Hanson seconded the AMENDED motion to amend the agenda to remove Attachment #2: 3.11.2022 Resolution to Seek Interlocutory Appeal Regarding Robert Marshall v. DCSD Board of Education et al from Agenda Item #4, as the second resolution regarding the interlocutory appeal does not meet the original purpose stated for the special meeting and would be in violation of Policy BE as well as it not being made available 24-hours in advance of today's meeting.

Board discussion.

General Counsel Klimesh provided the statute regarding the Board adding an item to the Agenda.

Friendly Amendment by President Peterson to amend the Agenda to add the item of the Resolution to Seek Interlocutory Appeal Regarding Robert Marshall v. DCSD Board of Education et al.

Friendly Amendment not accepted by Director Meek.

Hanson, aye; Meek, aye; Myers, nay; Peterson, aye; Ray, aye; Williams, aye; Winegar, nay.

Upon a roll call vote being taken, the vote was: Aye: 5 Nay: 2. The motion carried 5 - 2.

AMENDED - Motion

Member Peterson moved, Member Williams seconded the AMENDED motion to amend the Agenda to add the item of the Resolution to Seek Interlocutory Appeal Regarding Robert Marshall v. DCSD Board of Education et al.

Board discussion.

Hanson, nay; Meek, nay; Myers, aye; Peterson, aye; Ray, nay; Williams, aye; Winegar, aye.

Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 3. The motion failed 4 - 3, as unanimous consent is required to add an item to the Agenda.

AMENDED - Motion

Member Williams moved, Member Myers seconded the AMENDED motion to amend the Agenda to add an Executive Session to receive legal advice prior to the Study/Action Items.

Friendly Amendment by Director Ray to add the Executive Session after public presentation and discussion of the Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al.

Board discussion.

AMENDED - Motion to add an Executive Session withdrawn by Director Williams.

AMENDED - Motion

Member Winegar moved, Member Williams seconded the AMENDED motion to approve the Agenda as amended, to remove Attachment #2: 3.11.2022 Resolution to Seek Interlocutory Appeal Regarding Robert Marshall v. DCSD Board of Education et al from Agenda Item #4.

Hanson, nay; Meek, nay; Myers, aye; Peterson, aye; Ray, nay; Williams, aye; Winegar, aye.

Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 3. The motion carried 4 - 3.

Board discussion.

Study/Action Items

4. Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al

RECOMMENDATION: That the Board of Education consider the Resolutions and approve one of the Resolutions.

- Attachment #1: 03.11.2022 Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al
- Attachment #2: 3.11.2022 Resolution to Seek Interlocutory Appeal Regarding Robert Marshall v. DCSD Board of Education et al

The Resolution for Board President to Approve Recommendations Regarding Robert Marshall v. DCSD Board of Education et al generally concerns whether the Board shall appoint President Mike Peterson to approve strategic recommendations in the context of the Litigation and for its complete duration, including resolution of any appellate proceedings.

The Resolution to Seek Interlocutory Appeal Regarding Robert Marshall v. DCSD Board of Education et al considers limited joint action by the Board.

Discussion will be limited to thirty (30) minutes.

Board discussion regarding Attachment #1: 03.11.2022 Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al.

NEW - Motion

Member Ray moved, Member Hanson seconded the NEW motion to table Agenda Item #4 Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al and move to adjournment as soon as possible.

Outside legal counsel Hagerty provided comment.

NEW - Motion

Member Winegar moved, Member Myers seconded the NEW motion that the Board of Education convene in Executive Session.

General Counsel Klimesh provided statute requiring a statement of the reason for executive session as stated by the Board: to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b), including conferences to receive legal advice regarding the litigation in the matter of Robert Marshall v. Douglas County Board of Education et al, Case No. 2022CV30071.

Friendly Amendment by President Peterson to state the specific reason for Executive Session.

Friendly Amendment accepted by Director Winegar.

Hanson, nay; Meek, nay; Myers, aye; Peterson, aye; Ray, nay; Williams, aye; Winegar, aye.

Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 3. The motion failed 4 - 3, as a two-thirds majority is required to enter Executive Session.

Board discussion.

Outside legal counsel Hagerty provided comment regarding Colorado Rules of Appellate Procedure.

Point of Order by Director Hanson regarding the discussion of an interlocutory appeal.

Board discussion.

Outside legal counsel Hagerty continued comment regarding Colorado Rules of Appellate Procedure.

President Peterson requested clarification from outside legal counsel Hagerty.

Outside legal counsel Hagerty provided response.

Director Hanson provided comment regarding Colorado Rules of Professional Conduct Rule 1.4 Communication.

Board discussion.

NEW - Motion

Member Ray moved, Member Hanson seconded the NEW motion to end debate and call the question of the AMENDED - Motion to table Agenda Item #4 Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al and move to adjournment.

NEW - Motion

Member Winegar moved, Member Myers seconded the NEW motion to amend the Agenda to extend the 30 minute time limit to extend debate.

Hanson, nay; Meek, nay; Myers, aye; Peterson, aye; Ray, nay; Williams, aye; Winegar, aye.

Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 3. The motion passed 4 - 3.

NEW - Motion

Member Ray moved, Member Hanson seconded the NEW motion to end debate and call the question of the AMENDED - Motion to table Agenda Item #4 Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al and move to adjournment.

Hanson, aye; Meek, aye; Myers, nay; Peterson, nay; Ray, aye; Williams, nay; Winegar, nay.

Upon a roll call vote being taken, the vote was: Aye: 4 Nay: 3. The motion failed 4 - 3.

AMENDED - Motion

Member Ray moved, Member Hanson seconded the AMENDED Motion to table Agenda Item #4 Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al and move to adjournment.

Hanson, aye; Meek, aye; Myers, nay; Peterson, nay; Ray, aye; Williams, nay; Winegar, nay.

Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 4. The motion failed 3 - 4.

President Peterson suggested the following amendments to the Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al as follows:

- Change the title of the resolution to "Direction by the Board of Education Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al, Case No. 2022CV30071"
- Maintain the first two (2) WHEREAS statements
- Strike the third WHEREAS statement
- Strike the first two resolution statements
- Maintain the last resolution statement
- Add one (1) resolution statement prior to final resolution:
 - "THEREFORE, BE IT RESOLVED, that the Board of Education of the Douglas County School District RE-1 directs the counsel of record in the litigation to request and pursue and interlocutory appeal in the litigation."

Board discussion.

Outside legal counsel Hagerty provided comment.

AMENDED - Motion

Member Winegar moved, Member Myers seconded to approve the AMENDED motion to amend the Resolution of Delegation by the Board of Education to the President Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al as follows:

- Change the title of the resolution to "Direction by the Board of Education Regarding the Matter of Robert Marshall v. Douglas County Board of Education et al, Case No. 2022CV30071"
- Maintain the first two (2) WHEREAS statements
- Strike the third WHEREAS statement
- Strike the first two resolution statements
- Maintain the last resolution statement
- Add one (1) resolution statement prior to final resolution:
 - "THEREFORE, BE IT RESOLVED, that the Board of Education of the Douglas County School District RE-1 directs the counsel of record in the litigation to request and pursue and interlocutory appeal in the litigation."

Board discussion.

SECONDARY - Motion

Member Ray moved, Member Hanson seconded the SECONDARY motion to accept the ruling of the Douglas County District Court Case No. 2022CV30071, settle the outstanding issues from this litigation and that Board Directors simply move forward in acting in a transparent matter as required by law.

Board discussion.

Outside legal counsel Hagerty provided comment.

Board continued discussion.

Director Hanson requested formally that outside legal counsel Hagerty provide to all members of the Board every piece of communication with any individual member of the Board and a copy of the invoice to date be sent to the Board by close of business.

General Counsel Klimesh restated statute.

Board discussion.

Hanson, aye; Meek, aye; Myers, nay; Peterson, nay; Ray, aye; Williams, nay; Winegar, nay.

Upon a roll call vote being taken, the vote was: Aye: 3 Nay: 4. The motion failed 3 - 4.

Board discussion.

Outside legal counsel Hagerty provided additional comment regarding Colorado Appellate Rules.

Board discussion.

President Peterson requested clarification from outside legal counsel Hagerty regarding the time for an appeal.

Outside legal counsel Hagerty confirmed that the time for appeal would be 49 days from the date of the Court order.

President Peterson stated that with the new information provided to the Board by outside legal counsel Hagerty, there is no reason that the Board would need to act on this matter immediately and could place the item on the March 22, 2022 agenda with sufficient time to file an appeal.

Outside legal counsel Hagerty confirmed.

AMENDED - Motion withdrawn by Winegar.

Adjournment

5. Adjournment

RECOMMENDATION : That the Board of Education adjourns the meeting.

ORIGINAL - Motion

Member Meek moved, Member Ray seconded the ORIGINAL motion that the Board of Education adjourns the meeting.

Hanson, aye; Meek, aye; Myers, aye; Peterson, aye; Ray, aye; Williams, aye; Winegar, aye.

Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion carried 7 - 0.

President Peterson adjourned the special board meeting at 11:31 a.m.

These minutes summarize the final decisions made by the Board of Education at the referenced meeting. View the meeting via You Tube by accessing the following link: <https://www.youtube.com/watch?v=ZFHLrqqvXwUE&list=PLyjVvMhp58liz3QmZQeX7QUKKhYfNu4Rb&index=6>

Supporting document(s) attached to the agenda <https://douglas.ic-board.com>

Mike Peterson
Board of Education President

ATTEST

Becky Myers
Board of Education Secretary