

**Des Moines Public Schools
Special Meeting of the Board of Directors
1800 Grand Avenue
October 10, 2012, 7:30 p.m.**

The October 10, 2012, special meeting of the Des Moines Public Schools Board of Directors to evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and/or to review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for the governmental body's possession or continued receipt of federal funds was called to order at 7:32 p.m.

Present: Boesen, Caldwell-Johnson, Elsbernd, Howard, Jongewaard, Murphy, Sweeney

Absent: None

Also in attendance for the meeting were:

Patricia Lantz, legal counsel for the Board

Superintendent Thomas Ahart

Drew Bracken, legal counsel for the Superintendent

Tom Mihalovich, head football coach at Lincoln High School

Jeff Krausman, Marc Ward and Sarah Laughlin, attorneys for Tom Mihalovich

Tom Mihalovich confirmed that he requested the meeting be held in open session. Drew Bracken confirmed the student provided a waiver of his confidentiality under state law to allow for discussion of the matter in open session.

Ms. Lantz stated this meeting before the Board of Directors of the Des Moines Independent Community School District is to determine whether the Board should accept the recommendation of the superintendent to terminate the contract of Tom Mihalovich effective immediately.

Mr. Mihalovich confirmed that he has been provided the notice of the reasons for the superintendent's recommendation to terminate employment with the district, that this is his opportunity to respond to those recommendations, and he requested the hearing be held at 7:30 p.m.

Conflict of interest statements from the Board of Directors were made as follows:

Ms. Caldwell-Johnson: Her son was a member of the Lincoln High School athletic program. He was not officially on the football team while at Lincoln, but was in the Little Rails program where Coach Mihalovich was involved. She does not feel that will prejudice her decision.

Ms. Boesen: She works with a current coach at Lincoln High School, and she feels she can be fair and impartial.

Mr. Howard: He worked 35 years for the District and has had the opportunity to work with individuals in the H.R. department and with one of the investigators who dealt with this case; however, he has been removed from the district for a period of time and does not think it will be a conflict.

A binder with material being covered was provided to each board member and again to Mr. Krausman. The reasons for the superintendent's recommendation to terminate the employment of Mr. Mihalovich were presented by Mr. Bracken.

As the head football coach at Lincoln High School, Mr. Mihalovich was directly or indirectly responsible for the mistreatment of a sophomore student in the following ways:

1. By punishing the sophomore for merely expressing his opinion outside of school via Twitter.
2. By verbally abusing the sophomore.

3. By allowing other coaches, including an unlicensed coach, to verbally abuse the sophomore.
4. By allowing students on the varsity squad to verbally abuse the sophomore.
5. By engaging the bullying and harassment of the sophomore and/or allowing others to engage in bullying and harassment of the sophomore.
6. By subjecting the sophomore to conditions harmful to learning.
7. By allowing the use of unreasonable means to punish the sophomore.
8. By allowing the use of corporal punishment to punish the sophomore.
9. By failing to make reasonable effort to protect the health and safety of the students involved in the situation and/or creating conditions harmful to student learning.
10. By conducting professional business in such a way that you allowed the student or students to be repeatedly exposed to unnecessary embarrassment or disparagement.

Mr. Bracken stated the student has the constitutional right to express his opinion via Twitter during nonschool time at a nonschool location and not be subjected to punishment for doing so. Mr. Bracken further reviewed the information compiled which lead to the superintendent's recommendation to terminate the coaching contract of Mr. Mihalovich.

Mr. Krausman then presented the case for Mr. Mihalovich. Once finished, he granted permission for the board to go into closed session for deliberation if they so preferred. After a brief discussion, Mr. Krausman waived any rights to closed deliberations that may have been afforded the Board.

The board chose to hold their deliberation in open session. Following discussion, Mr. Jongewaard moved the superintendent's recommendation, seconded by Ms. Boesen.

Mr. Sweeney moved to amend the motion to provide a probationary period and a training program lined up by the program manager and the administration's athletic director, seconded by Ms. Caldwell-Johnson.

Aye: Howard, Caldwell-Johnson, Sweeney
Nay: Boesen, Murphy, Elsbernd, Jongewaard
Amendment failed 3-4.

Chair Murphy called the vote on the original motion:

Aye: Boesen, Murphy, Elsbernd, Jongewaard
Nay: Caldwell-Johnson, Sweeney
Abstain: Howard
Motion passed 4-2.

Meeting adjourned at 10:54 p.m.