

Trustees sought legal advice to alter policy governance

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The billings included a series of phone calls and meetings, and the review of draft letters, e-mails and newspaper articles.

When the Burlington Post approached Miller Thomson in late September for a separate story, Mr. Lauwers said he couldn't comment on work he had done for his clients, citing privacy issues.

Last Friday, the public board's new Education Director Wayne Joudrie said he couldn't comment on the documents the Post obtained.

"I can't talk about any of this, this is all in-camera stuff."

Later the same day, Mr. Joudrie spoke to two Post editors and cautioned against publishing anything contained within the confidential documents, noting that it could be an infringement of the privacy rights of third party individuals and therefore a breach of confidentiality.

Policy governance — which underwent major changes during a raucous special board meeting May 18 — was introduced to the board in 2001.

Within that model, trustees had set broad strategic targets for staff under the management of the education director.

It had been a contentious issue among some trustees who felt strongly that it limited their decision-making abilities.

Mr. Tate — at that time — said he became concerned that the board might not be operating lawfully under policy governance and believed an independent legal opinion was needed as quickly as possible.

At Mr. Tate's request, Mr. Lauwers attended the May 16 and 18 special board meetings.

In Mr. Lauwers' opinion the board had been operating unlawfully by stating a two-thirds majority vote be required on decisions that are revisited, rather than a simple majority.

Trustees passed a motion that altered how they can amend bylaws. That means only a simple majority — or six votes — is required, which is a change from the previous policy that mandated a two-thirds majority, or eight votes among the 11 trustees.

Mr. Tate told the Post in May that Mr. Lauwers' fee for work provided would be around \$10,000 and would come from the board's \$500,000 legal fees fund.

Papke resigns after policy altered

When policy governance was altered at the May 18 board meeting, later that night Dusty Papke announced he was resigning as education director at the end of June.

He eventually departed with a controversial severance package of more than \$600,000.

The policy governance changes and bylaw amendments passed 6-5. Those voting for the changes were Milton's Mr. Tate, Burlington's Jennifer Hlusko, Wes Pulling and Peggy Russell and Oakville's Bruce Jones and Susan Shepherd.

Those voting against the policy governance changes and bylaw amendments included Halton Hills' Trustee Ethel Gardiner, Burlington's Debbie Downs and Janie Hames, and Oakville's Kelly Amos and Mary Chapin.

Ms Gardiner originally asked in June for a report breaking down how much it cost the board for the legal services, as well as a court reporter and two Halton police detectives who were present in May when policy governance was being discussed.

It has since been revealed the board paid \$700 for the court reporter; the two police officers were on duty and didn't require payment.

Mr. Tate said the law firm wasn't revealed November 2 in the public document of the committee of the whole agenda because that would mean all firms should be identified.

"We don't feel it's appropriate to name one (firm) without naming the others," he said. "We didn't feel it appropriate to name any of them."

When asked why his hiring of Miller Thomson wasn't discussed at the board table, Mr. Tate said that has never been done by past boards.

"It has never been discussed ever in public who the board was going to hire for a lawyer — ever," he said. "I don't mind being held to a standard that others have followed, but I don't need to be held to a standard that wasn't followed by anybody else."



Paul Tate

“When I get held to a standard that nobody has been held to, that is unfair.” Mr. Tate noted he has used Miller Thomson for personal and business use for 20 years prior to enlisting its services regarding policy governance at the public board.

He said he wished no money was spent on lawyer's fees, but in the end, he felt that it was appropriate and well spent.

Calling Miller Thomson an "excellent firm," Mr. Tate reiterated that he felt there needed to be a legal decision determining whether the board was acting lawfully

under policy governance. The board has hired quality staff with a new education director and superintendent of business services, he noted.

The issue of legal costs was discussed at the board's committee

meeting November 2. While not addressing any specific amount of money paid for any particular lawyer or law firm, Mr. Tate told trustees he would like to move on from the issue of spending money on legal services.

"It's in the past and we, as a board, should look to the future," he said.

Ms Chapin said the amount of cash spent on legal fees is upsetting. She said that's money that could have gone into the classroom, like hiring a couple of educational assistants or a teacher.

"It was an unnecessary expenditure," she said. "This, in my opinion, is a serious misuse of fiscal responsibility to our constituents."

"The public should be asking some hard questions of this school board."

Ms Gardiner believes the fact that money was spent on lawyers' fees is a waste. "I feel that somehow the point has been missed that it was an unnecessary expenditure," she said.



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