



CIVIL CASE INFORMATION
MONTGOMERY COUNTY COMMON PLEAS COURT
GENERAL DIVISION
Room 5, 41 North Perry Street, Dayton, OH 45422

This form must be completed and filed with all civil suits.

Main Plaintiff _____ Case Number _____

Main Counsel for Plaintiff _____ Attorney Registration Number _____

Main Defendant _____ Jyllian Bradshaw, Barbara Doseck
Main Counsel for Defendant (If known) _____

Jury Demanded: Yes _____ No _____ Prayer Amt: \$500 + costs _____ Deposit Amt: _____

Type of Action
(Select Only One)

AA - Administrative Appeal

OT - Other Torts

A - Appropriation

PI - Personal Injury

DJ - Declaratory Judgment

PL - Product Liability

FE - Forcible Entry

PT - Professional Tort

HC - Habeas Corpus

WC - Worker's Compensation

I - Injunction

AO - All Others - State Type

MM - Medical Malpractice

MF - Mortgage Foreclosure

Refiling Information

Is this a refiling of a previous related case? Yes _____ No _____

If Yes, please complete the following: Previous Case Number: _____

Assigned Judge _____ vs _____
Party (1) _____ Party (2) _____

Suits Involving Like Issues and Similar Parties

Are there any other cases pending that arise from the same incident or related parties? Yes _____ No _____

If Yes, please complete the following: Previous Case Number: _____

Assigned Judge _____ vs _____
Party (1) _____ Party (2) _____

A handwritten signature in blue ink, appearing to read "John Doe".

Signature of Attorney or Party Filing Suit

Date

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

David Esrati	:	No.
113 Bonner St.	:	
Dayton, OH 45410	:	
	:	
Plaintiff,	:	
vs.	:	
	:	
Dayton City Commission	:	
101 W. Third St.	:	
Dayton, OH 45402	:	
	:	
and	:	
	:	
Jeffrey J. Mims, Jr.	:	
Member, Dayton City Commission	:	
Co-Chairman, School Facilities Task Force	:	
101 W. Third St.	:	
Dayton, OH 45402	:	
	:	
and	:	
	:	
Dayton Board of Education	:	
115 S. Ludlow St.	:	
Dayton, OH 45402	:	
	:	
and	:	
	:	
Mohamed Al-Hamdani	:	
Member, Dayton Board of Education	:	
Co-Chairman, School Facilities Task Force	:	
115 S. Ludlow St.	:	
Dayton, OH 45402	:	
	:	
Defendants.	:	

Preface:

I am not a lawyer, and while I can research and copy style and language, this document is and will not be technically correct legally I'm sure. Burdening the average citizen with this process as outlined in the Ohio Sunshine Laws, to keep a public meeting of a public body in the public eye is a high bar.

The filing fee is \$300 and the instructions on how to efile are 35 pages:
http://efiling.mcohio.org/sitedownloads/eFiling_Payment_Training_Manual.pdf

The law only offers \$500 compensation plus legal fees.

The Sunshine Laws are purposefully meant to be accessible, hence the handbook, with simple language. For the average citizen looking at a meeting in the school headquarters, attended by three board members, the two legal hires of the board (The Superintendent and the Treasurer) it shouldn't require squinting to discern if this is a public meeting of the school board or not, despite not having 4 members in attendance. If I was the lay citizen, I'd look at the task force in question, and believe that the school board duties had been usurped by this organization.

Knowing what I know from trying to follow the workings of this failing school district, the average citizen will have no help in policing their actions. I tried last year to have a board member removed for not living in the district. I reached out to every official channel, the board, the Ohio School Boards Association, The County Prosecutor, The Dayton Police Department, the Board of Elections, The Secretary of State, The Ohio Ethics Commission and the Ohio Attorney General. None would help. Only by providing a new voter registration address on election-day, was I able to prove my claim, and even then, the board and the board member wouldn't take action until I threatened to file a quo warranto (without standing) when the board member resigned.

School boards in Ohio have special standing in that their members are difficult to remove, the process is not clearly spelled out in law, and even then, the board is allowed to replace its own members. The concept of "local control" is epitomized by the powers awarded to a board. By that factor alone, this task force should be considered a tacit abdication of the new school boards duties and responsibilities. The actions of Al-Hamdani, before even elected to the board, should be grounds for removal from office. The same questions of conduct of state business by the Trump administration before taking office have been in the news.

The average citizen shouldn't have to bear the burdens of meeting the letter of the law when faced with an organization comprised of two public bodies, who have the bully pulpit of power, and continue to state that they are within the law. If laws are only for lawyers, and for those in power, then they really aren't the laws of the land. I humbly ask the court to give me some latitude in my form and format in this pleading for injunctive relief. I believe I am presenting more than one case in one brief- but, due to the cost of filing, the cost of time in preparing and other factors, this lay-person asks forgiveness in advance.

End Preface.

This action is brought in haste in the name of David Esrati who is petitioning this Court pro se, for An injunction directing Defendants, the Dayton City Commission, Jeffrey J. Mims, Jr., the Dayton Board of Education, and Mohamed Al-Hamdani, to comply with their legal obligations under Ohio's open meetings statute, specifically O.R.C. 121.22 and to comply with their properly elected duties of their offices.

Jurisdiction

1. An injunction is the appropriate remedy to compel compliance with O.R.C. 121.22, which specifically states that "the court of common pleas shall issue an injunction to compel the members of the public body to comply with [the statute's] provisions." O.R.C. 121.22(I)(1).
2. This Court has original jurisdiction over injunctive actions pursuant to Ohio Revised Code Section 121.22(I)(1).

Parties

Plaintiff David Esrati

3. Plaintiff David Esrati (“Esrati”) is a resident of the City of Dayton, Ohio and the Dayton City School District.
4. Esrati operates a prominent blog, esrati.com.
5. Through esrati.com, Esrati authors and publishes articles that cover a variety of topics. Some of the topics covered are politics, crime, education, and economic development. The vast majority of articles have a local focus. Over the last year, many have been about the school board.
6. Esrati has published more than 2,690 articles on esrati.com, and the page receives, on average, more than 900 unique visitors per day.
7. On January 8, 2018, 11:15 AM Esrati had contacted via email, the Executive Secretary of the Dayton Public School board Denise Gum, cc’ing Marsha Bonhart Media Relations person and board attorney Jyllian Bradshaw, requesting “I would like notification of all meetings of the “Task force” that was announced last Thursday.
For clarification- what time is the meeting tomorrow- and is there an agenda?
Could I please have those asap.”
8. In the same request, I asked for other information about how the members to the task force were assigned, since the Board had not discussed this in a public session:
“Also- can you please clarify when the authorization was voted on by the school board to direct the superintendent to engage the district in this task force?
And what the vote was?

Who chose the members of the task force? And when did the board assign Mohammed, Rev's Walker and Harris to this task force?” ~See attachment 1

9. Despite the meeting being scheduled in the District HQ the next morning, and Bonhart being in attendance, instead of complying with the request, a non-complying response was sent in return to Esrati: “David-
Again, please address your public records requests to DPS legal counsel Jyllian Bradshaw and/or the public information office; do not approach other DPS employees to obtain public records.
They can't help you.
FYI - district offices are closed today, January 8th.
Thank you
Marsha Bonhart ~See attachment 1.
10. Esrati, showed up at Board HQ at 9am on Jan 9, 2018. School personnel, including Superintendent Elizabeth Lolli were preparing for a meeting. When Esrati asked about the start time, he was then told it was 9:30. No mention was made that the meeting would be private.
11. On January 9, 2018, two reporters and a camera man from Cox Media were directed to leave a meeting of the newly created School Facilities Task Force (“Task Force”) being held in the Community Room in Dayton Public Schools’ administrative headquarters building. Due to the

reporter having print outs of ORC with him, he had obviously been told in advance when the meeting would be, and that it would be private.

12. Esrati, who was video recording the meeting, started recording the interchange between the reporters and task force personnel. ~See video on youtube: <https://youtu.be/152p6lZZ97M>
13. After the reporters and cameraman from Cox left the room, Esrati refused to leave, citing his right to attend a public meeting and record it.
14. Multiple members of the task force should be well qualified to know laws via multiple years of public service that has had to comply with the Ohio Sunshine Laws, including, Jeff Mims Co-chair, who has been a school board member, a state school board member and a city commissioner. Shelley Dickstein and John Gower both have had long careers in Dayton City Hall, Deborah Feldman from Dayton Children's Hospital was a long time County Administrator and employee, Interim School Superintendent Elizabeth Lolli has been a school superintendent in the state of Ohio for many years, School board members William Harris and Robert Walker, should have knowledge of the law, and at that point, school board member elect, Mohammed Al-Hamdani is also an attorney.
15. The repeated directives to leave the meeting by Al-Hamdani and Bonhart, were captured on Esrati's own video recording device, and Esrati told Bonhart that the only way he would leave is if police were called. ~Ibid youtube: <https://youtu.be/152p6lZZ97M>
16. Esrati maintained his presence in the meeting with his recording equipment until the meeting was pre-maturely adjourned, by the Superintendent, after consultation with Dayton City Manager Shelley Dickstein and others. ~Ibid youtube: <https://youtu.be/152p6lZZ97M>
17. Despite "adjourning" the meeting, the "Task force" members, continue to justify their intentions to meet in secret to the media, citing advice from City Attorney Barbara Doseck in articles in the Dayton Daily News, and even in the first official meeting that was held on January 24, 2018. ~see youtube <https://youtu.be/oW5Gjp9mIOc>
18. Esrati has still not received any official notifications from the School Board or the City, of meeting times or schedules, but determined from the handouts of the January 24th meeting that the "Task force" would be touring schools on Tuesday Feb 6, 2018. ~see attachment 2, task force handout
19. Esrati has been told that the tours will have to be during the school day, and that because of concerns for privacy of the students, he would not be allowed to record or attend these tours, but instead would be allowed to tour separately, after schools are closed, thereby subverting the requirements of the Open Meetings Laws.

Defendant Dayton City Commission

20. Defendant Dayton City Commission is the governing body of the City of Dayton, Ohio.

Defendant Jeffrey J. Mims, Jr.

21. Defendant Jeffrey J. Mims, Jr. ("Mims") is a resident of the city of Dayton, Ohio and the Dayton City School District.

22. Mims is a member of the Dayton City Commission, having served on the body since January, 2014. He resigned his elected position on the State Board of Education to take this office.
23. Mims is a former member of the Dayton Board of Education, having also served as the body's Board President.
24. Mims resigned the School Board to join the State Board of Education as an elected member.
25. Mims is the Co-Chairman of the School Facilities Task Force.
26. There is no record of any elected body, the City Commission or the School Board, or the appointed body, choosing Mims to be Co-Chair in a public meeting.
27. On January 9, 2018, Mims was presiding over the first meeting of the School Facilities Task Force as its Co-Chairman.
28. As the meeting of the Task Force was about to begin, a spokeswoman for Dayton Public Schools asked the media to leave, stating that the event was not open to the public. A document was immediately provided by a local news reporter to the spokeswoman, Mims, and others which documented suggestions that the meeting of the Task Force qualified as an open meeting under Ohio statute.
29. Mims reviewed the document, stated that he believed that the meeting should be closed to the public, and asked media to leave, stating: "We're going to ask you to leave and then you can challenge this later."
30. Mims' directive was recorded on video by local media.

Defendant Dayton Board of Education

31. Defendant Dayton Board of Education is the governing body of the Dayton City School District and Dayton Public Schools.

Defendant Mohamed Al-Hamdani

32. Defendant Mohamed Al-Hamdani ("Al-Hamdani") is a resident of the City of Dayton, Ohio and the Dayton City School District.
33. Al-Hamdani is a current member of the Dayton Board of Education ("Board").
34. Al-Hamdani was not yet a sworn member of the Board on January 9, 2018, but had been elected by popular vote to the Board during an election held in November, 2017.
35. Al-Hamdani is the Co-Chairman of the Task Force.

36. Al-Hamdani is also an attorney, who should be considered as having expert knowledge of the laws of the State.
37. There is no record of any elected body, the City Commission or the School Board, or the appointed body, choosing Al-Hamdani to be Co-Chair in a public meeting.
38. On January 9, 2018, Al-Hamdani was presiding over the first meeting of the Task Force as its Co-Chairman.
39. As the meeting of the Task Force was about to begin, a spokeswoman for Dayton Public Schools asked the media to leave, stating that the event was not open to the public. A document was immediately provided by a local news reporter to the spokeswoman, Al-Hamdani, and others which documented suggestions that the meeting of the Task Force qualified as an open meeting under Ohio statute.
40. Al-Hamdani reviewed the document, stated that he believed that the meeting should be closed to the public, and concurred that the meeting should be closed to the public. Al-Hamdani's remarks to this effect were recorded on video by local media.
41. Al-Hamdani, upon Esrati's refusal to leave the meeting, approached Esrati, stating: "David, that same argument applies to you as well, sir." Esrati further refused to leave the meeting, at which time Al-Hamdani returned to his seat. Al-Hamdani's remark was captured on Esrati's own video recording device.
42. Technically, I should also name William Harris, and Robert Walker, as defendants in this action, but they are also members of the defendant Dayton School Board, and other than their unauthorized participation on this task force, they didn't say anything to the point about the open/closed part of this argument. It should be noted by their participation, they acted as accomplices in the violation of law and aided in the presumptive appearance of the legality of these proceedings.

Factual Allegations

43. Plaintiff restates the allegations in all proceeding paragraphs as is fully restated herein.
44. On January 4, 2018, the City of Dayton issued a press release entitled: "Dayton Board of Education and Dayton City Commission Seat School Facilities Task Force." ~attachment 3, City of Dayton Press release announcing task force.
45. In part, the aforementioned press release states: "The task force...will evaluate all school facilities and their program usage and seek input from community members regarding Dayton school facilities. The committee will make recommendations by April 1st to the Board of Education about how these facilities can be best utilized to provide a high level of achievement opportunities for all of Dayton's children."
46. The aforementioned press release, as stated above, specifically labels the Task Force as a "committee".

47. The meeting of the Task Force, convened on January 9, 2018, was held in the Community Room in the administrative headquarters of Dayton Public Schools.
48. Dayton City Manager Shelley Dickstein and Dayton Public Schools Acting Superintendent Elizabeth Lolli (“Lolli”) were present at the meeting and spoke for the Task Force both to the media and to the Task Force members gathered in attendance.
49. Upon repeated refusals by Esrati to leave the January 9 meeting, it was adjourned by Lolli.
50. Two weeks following the adjournment of the January 9 meeting of the Task Force, Lolli stated in an article published on January 24, 2018 by the Dayton Daily News that the Task Force would begin meeting in public.
51. In the same January 24 article, comments attributed to Lolli read that the Task Force would tour multiple Dayton Public Schools buildings at risk of closure but would close the tours to the public because of the need to tour the schools during the day. ~see Dayton Daily News: <https://www.daytondailynews.com/news/dayton-task-force-plans-meet-public-tour-schools-private/G4lHtSeoddSuwDkly0cRcJ/>
52. In a Dayton Daily News article today, Feb 5, 2018, it was stated that this task forces beginnings were in the works as early as Dec 27, and that Al-Hamdani was involved, before he had taken office. ~see Attachment 4 Dayton Daily News article “Dayton Mayor led effort on task force”
53. The task force discussions resemble the work that is normally the assignment of the school board, thereby subverting the elected responsibilities of the board by this handpicked task force, creating an attempted end run around both the elected duties of the board, and of the Open Meetings Laws by three members of the school board who were never voted to be given these duties by the properly elected body.
54. The news article also quotes the City Attorney, ““In order to be most effective and have our limited time be put to best use, our gatherings will be for members of the task force and pertinent staff presenting information only,” the email said. “It is critical that all task force members employ the utmost confidentiality during these gatherings and with regard to our working group discussions.” Which suggests that since the organization still has yet to publish an agenda, send meeting notifications or offer to inform Esrati of the tour or alternate tour times and place, the organization is still acting as if the Sunshine Laws do not apply to them.

Rule

55. Section 121.22 of the Ohio Revised Code, entitled Public meetings – exceptions, states that “[t]his section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law. O.R.C. 121.22(A)
56. Similarly, the statute defines “public body” as: “[a]ny board, commission, committee, council, or similar decision-making body of a state agency, institution or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other public subdivision or local public institution;”. O.R.C. 121.22(B)(1)(a)

57. The statute further defined any “public body” as “[a]ny committee or subcommittee of a body described in division (B)(1)(a) of this section;”. O.R.C. 121.22(B)(1)(b)
58. The statute defines a “meeting” as a “pre-arranged discussion of the public business of the public body by a majority of its members.” O.R.C. 121.22(B)(2)
59. The statute specifically provides an itemized list of public entities and meeting types that do not fall under the provisions of the statute. O.R.C. 121.22(D)
60. The Attorney General of Ohio issued an opinion that that a citizens advisory committee is subject to the statute, even if public officials or public employees constitute less than a majority of its membership. 1994 Ohio Atty.Gen.Ops. No. 94-096. The opinion further states that if a political subdivision creates such a committee, then it is subject to the statute.
61. Ohio common law has interpreted the statute’s term “discussion” as suggested by an exchange of words, comments, or ideas between members of the public body. Springfield Local School Dist. Bd. of Edn. v. Ohio Assn. of Pub. School Emp., Local 530, 106 Ohio App. 3d 855, 667 N. E. 2d 458 (9th Dist. 1995)
62. Because the law can be difficult for common citizens to apply, the State of Ohio has provided a handbook in common language expressing the intent of the law and before they jump into legalistic lingo, quote the founders of our country who used clearer language: “The liberties of a people never were, nor ever will be, secure, when rulers may be concealed from them... [T]o cover with the veil of secrecy the common routines of business, is an abomination in the eyes of every intelligent man.” Patrick Henry ~see State of Ohio Sunshine Laws Manual <http://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Legal/Sunshine-Law-Publications/Sunshine-Laws-Manual.aspx>
63. The court should not need chapter and verse citation to apply these laws, esp. in a pro se filing. There are multiple rules that apply to this case, and for me to cite each and every violation is assuming that the courts are as ignorant as the people on this task force. However, please note the following:
64. From “Opening overview” page 88, “The Open Meetings Act requires public bodies in Ohio to take official action and conduct all deliberations upon official business only in open meetings where the public may attend and observe. Public bodies must provide advance notice to the public indicating when and where each meeting will take place and, in the case of special meetings, the specific topics that the public body will discuss.
65. “If any person believes that a public body has violated the Open Meetings Act, that person may file an action in a common pleas court to compel the public body to obey the Act. If an injunction is issued, the public body must correct its actions and pay court costs, a fine of \$500, and reasonable attorney fees.
66. “the Open Meetings Act is intended to be read broadly in favor of openness.”
67. And while the Sunshine Laws handbook includes this nonsense statement: “In evaluating whether particular gatherings of public officials constituted “meetings,” several courts of appeals have opined that the Open Meetings Act “is intended to apply to those situations where there has been

actual formal action taken; to wit, formal *deliberations* concerning the public business.”⁹⁴¹ Under this analysis, those courts have determined that gatherings strictly of an investigative and information-seeking nature that do not involve actual discussion or deliberation of public business are not “meetings” for purposes of the Open Meetings Act.⁹⁴² The public has no way of telling that the meeting was in compliance if it was held in secret, thereby negating any and all semblance of being open.

68. In the duties section, the law clearly states:” A public body cannot prohibit the public from audio or video recording a public meeting.⁹⁷⁰ A public body may, however, establish reasonable rules regulating the use of recording equipment, such as requiring equipment to be silent, unobtrusive, self-contained, and self-powered to limit interference with the ability of others to hear, see, and participate in the meeting.⁹⁷¹”
69. By suggesting that the tours have to be done when school is in session for the task force, and that the public can tour outside of school hours, the “task force” is purposefully using the claimed right of a child’s privacy as a shield to conduct discussions outside of the public view. ~Ibid Jan 24th Article “Dayton task force plans to meet in public, tour schools in private”
70. The “Task force” should be compelled to explain how an audio recording of the “Tours” would be a violation of child privacy, and that still photography to support the descriptions of the state of the buildings could not be taken without privacy issues being a question.

Second Action

1. Also, from the questions asked in the Jan 24th meeting, this task force seems to be involving itself in more than the issue assigned of determining building closing, discussing issues such as educational quality and performance of buildings. These issues are, by law, the responsibility of the school board and superintendent. Any discussions by this body should be limited to the physical plant and matching of resources to students. ~see attachment 5, “Official: DPS not closing 9 West Dayton schools” First paragraphs read: “The task force studying possible closure of Dayton Public Schools facilities spent as much time talking about school quality and academic performance as it did about school buildings during its first meeting Wednesday. The group asked about teacher staffing, student performance, busing access and parent engagement”
2. By the task force overstepping the boundaries of a facilities discussion, with the consent of the three school board members on the Task Force and the school staff in attendance, the task force is subverting the will of the people who elected four new board members to the School Board in November with the intention that they would perform these duties within their official capacity.
3. By working in what has become an alternate school board, made up of members who aren’t qualified by residency in the district, to conduct school business, these members have abdicated their responsibility to the people and have in fact, tried to create an alternate school board to subvert the will of the people. By trying to end run around the open meetings act, they (Al-Hamdani, Harris and Walker) are intentionally violating their sworn responsibilities to serve the public.
4. The repeated claims of legitimate rights to meet in private violate both the letter and intent of the law, and give the public the impression that the claims of the plaintiff are unfounded and that the body itself is legitimate, despite no formal vote by either body to give the public trust and duty to

un-elected and questionably qualified members of the task force.

5. The actual makeup of the task force has multiple members who have what would be considered conflicts of interest in the issue of school closings. Ron Budzik serves on boards of charter schools and Learn To Earn which is a quasi-public organization with zero elected oversight, that receives tax dollars to provide similar services that Dayton Public Schools provide via private business. Dr. Tom Lasley, another member, is the director of Learn to Earn.
6. The plaintiff in this case brought an issue of residency of a board member disqualifying him from serving in April 5, of 2017 www.esrati.com/manofmystery and the prior board failed to act or investigate, and refused to remove the board member until plaintiff threatened to file a quo warranto without standing on Nov 8, 2017 via his blog, Esrati.com <https://esrati.com/baguirovs-resignation-isnt-enough/15477>
7. The board member (Adil Baguirov) then resigned.
8. The remedy of filing a quo warranto in this case falls to the same people who failed to act in the previous cited action. From the Open Meetings Handbook “Once a court issues an injunction finding a violation of the Open Meetings Act, members of the public body who later commit a “knowing” violation of the injunction may be removed from office through a *quo warranto* action, which may only be brought by the county prosecutor or the Ohio Attorney General.¹⁰⁸”
9. Therefore plaintiff asks the court to direct the action on behalf of the plaintiff.

Analysis

10. The Task Force is a “public body” as defined by the statute.
11. The statute which regulates open meetings in Ohio is clear, and specifically defines “any subcommittee or committee” of “[a]ny board [or] commission...or [a] similar decision-making body...of any...municipal corporation [or] school district” as a “public body” for purposes of the statute’s requirements. O.R.C. 121.22(B)(1)(a) and (b). The January 4 press release submitted by the City of Dayton specifically labels the Task Force as a “committee” under a headline which reads: “Dayton Board of Education and Dayton City Commission Seat School Facilities Task Force.”
12. The Dayton City Commission is the “decision-making body” of the City of Dayton, Ohio, a “municipal corporation”. Further, the Dayton Board of Education is the “decision-making body” of the Dayton City School District, a “school district”. By the City’s own words, the Task Force is a committee of the decision-making body of a municipal corporation and the decision-making body of a school district. As such, the Task Force is a “public body” as defined by the statute and falls within the definition of an entity which must, by law, conduct its business in an open meeting.
13. A gathering of the Task Force to tour school buildings would constitute a “meeting” as defined in statute.
14. The statute defines a “meeting” as a “pre-arranged discussion of the public business of the public body by a majority of its members.” Should the Task Force meet to tour public school buildings at risk of closure, it is logical to conclude that a discussion of school closures will be conducted by the membership of the Task Force assembled. The closure of public schools is public business.

If a majority of the membership of the Task Force tours the public schools and discusses the closure of public schools, the tour would constitute a “meeting” as defined in statute and, thus, be subject to the statute’s provisions requiring public access.

15. The Task Force is not exempt from the provisions of the statute even if it is found to be merely an advisory panel of community members. *Wheeling Corp. v. Columbus & Ohio River RR. Co.*, 147 Ohio App.3d 460, 2001-Ohio-8751
16. The Attorney General of Ohio issued an opinion that that a citizens advisory committee is subject to the statute, even if public officials or public employees constitute less than a majority of its membership. While a majority of the membership of the Task Force is comprised of non-elected citizens, the very purpose of the Task Force is to advise a legislative body on public business. Even if the Task Force is found to be solely a citizen advisory committee, the Ohio Attorney General has opined that such a body falls within the bounds of the statute’s requirement for open meetings.

Injunction is Appropriate

17. Defendants’ attempts to curtail the statute’s requirements by meeting in closed session is unlawful, whether meeting in a tour setting or a traditional setting.
18. Plaintiff has the legal right to attend all meetings of the Task Force and to record it.
19. Defendants have a clear legal duty to comply with the statute and conduct all meetings of the Task Force in an open manner including notification and published agendas.
20. Plaintiff has no adequate remedy in the ordinary course of law and the statute specifically provides for the issuance of an injunction to compel the members of the public body to comply with the statute’s provisions mandating open meetings.
21. The Task Force members who are members of the school board (Al-Hamdani, Harris, Walker), seem to have been acting outside of their legal capacity as board members by engaging in similar business to their elected roles, without a vote by the full board to give them that authority. Their repeated insistence that these meetings can and should be held in private, constitute grounds for removal from office.

Wherefore, Plaintiff requests judgment in their favor and requests that the Court:

- (1) Issue an injunction compelling Defendants to hold all meetings of the Task Force in open session;
- (2) Issue an injunction preventing Defendants from touring school buildings if Defendants continue to refuse public access in such tours;
- (3) Direct the Defendants to only discuss issues of school building feasibility, usage and allocation of physical resources and avoid all discussion of school performance, quality or administrative operational issues which are issues the public entrusts to local control under a duly elected school board.
- (4) Direct the Defendants to inform the public of all meetings of this task force, to keep and publish minutes, and to publish an agenda in advance of each meeting per the Ohio Sunshine laws.

- (5) Award Plaintiff his court costs associated with bringing this action, including statutory damages; and
- (6) Grant such other and further relief as the Court deems equitable, just, and proper.
- (7) A long shot: call the entire task force an illegal abdication of the duties expected to be carried out by the locally elected school board and declare the task force an illegal body, formed to purposefully circumvent both their duties and the open meetings laws. Censure the School Board members who have actively participated in this process and order the board and superintendent to do their jobs as outlined by State law during their regular open meetings.

Respectfully submitted,



David Esrati
113 Bonner St.
Dayton, OH 45410

Subject: Re: Request to be added to the mailing list- Public records request
From: "Marsha Bonhart Neilson" <mkbonhar@dps.k12.oh.us>
Date: Mon, 08 Jan 2018 11:22:42 -0500
To: "Denise Gum" <DLGum@dps.k12.oh.us>,<david@electesrati.com>
CC: <JRGuerri@dps.k12.oh.us>

David -

Again, please address your public records requests to DPS legal counsel Jyllian Bradshaw and/or the public information office; do not approach other DPS employees to obtain public records. They can't help you.

FYI - district offices are closed today, January 8th.

Thank you -

Marsha Bonhart

>>> David Esrati <david@electesrati.com> 01/08/18 11:15 AM >>>

Ms. Gum,
I would like notification of all meetings of the "Task force" that was announced last Thursday.
For clarification- what time is the meeting tomorrow- and is there an agenda?

Could I please have those asap.

Also- can you please clarify when the authorization was voted on by the school board to direct the superintendent to engage the district in this task force?

And what the vote was?

Who chose the members of the task force? And when did the board assign Mohammed, Rev's Walker and Harris to this task force?

Thanks

--

David Esrati

[\[D\] Esrati For Dayton City Commission](#)

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Re: Request to be added to the mailing list- Public records request

School Facilities Task Force: Meeting One

Tuesday 1/24/2018

10:30 AM – 12:00 Noon

1. Welcome & Opening Remarks (10 minutes) – *Jeff Mims & Mohamed Al-Hamdani*

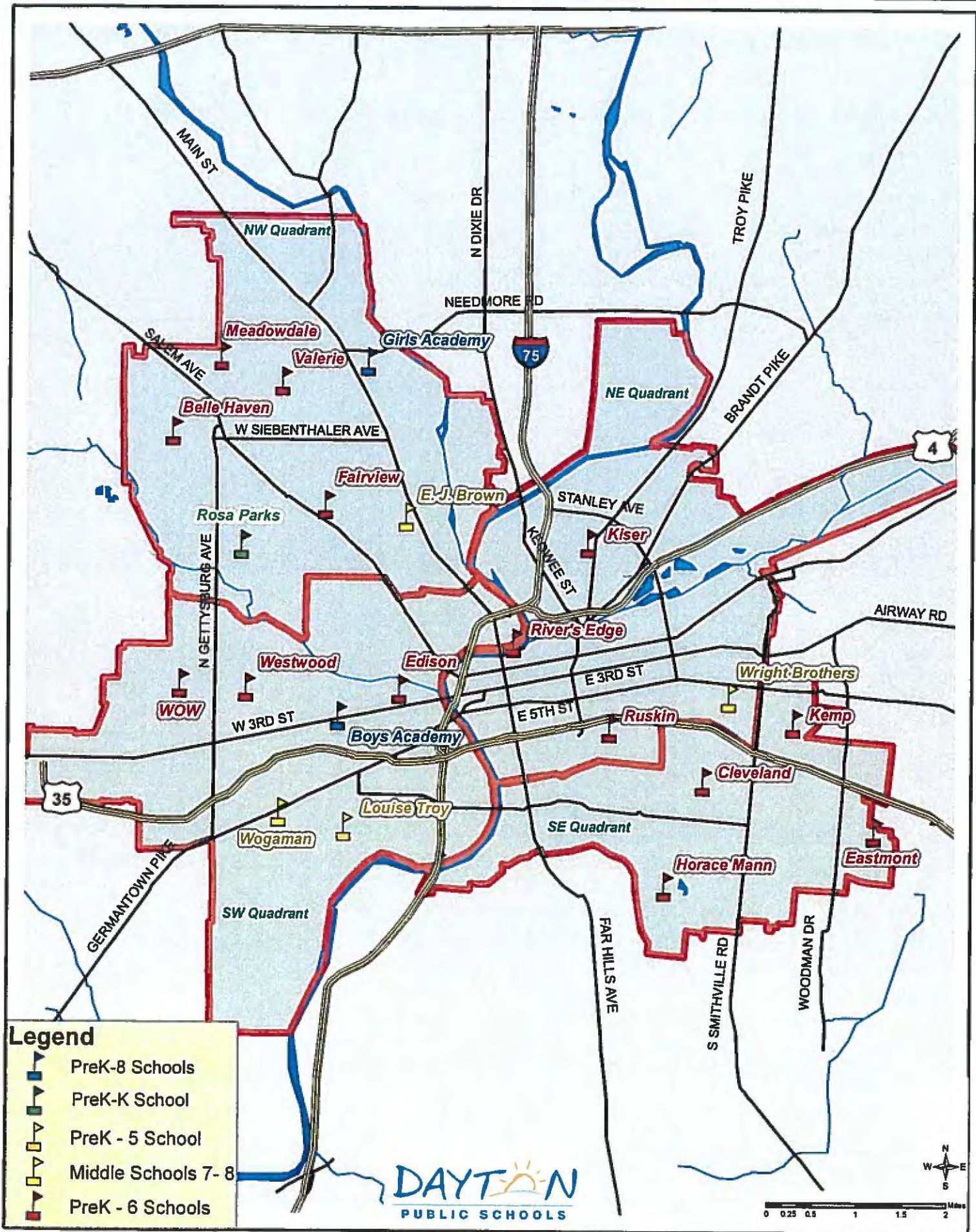
- a. Introductions
- b. Task Force Charge: Advisory to the Superintendent for purpose of right-sizing the district
 - i. Right-sizing DPS facilities
 - ii. Position DPS for growth in enrollment

1. Guiding Principles (20 minutes) – *Shelley Dickstein***1. Prioritization Criteria (20 minutes) – *Dr. Lolli*****1. District Reports (30 minutes) – *Dr. Lolli, Hiwot Abraha, Dr. Burton, Rick Rayford*****1. Wrap Up (5 minutes) – *Shelley Dickstein***

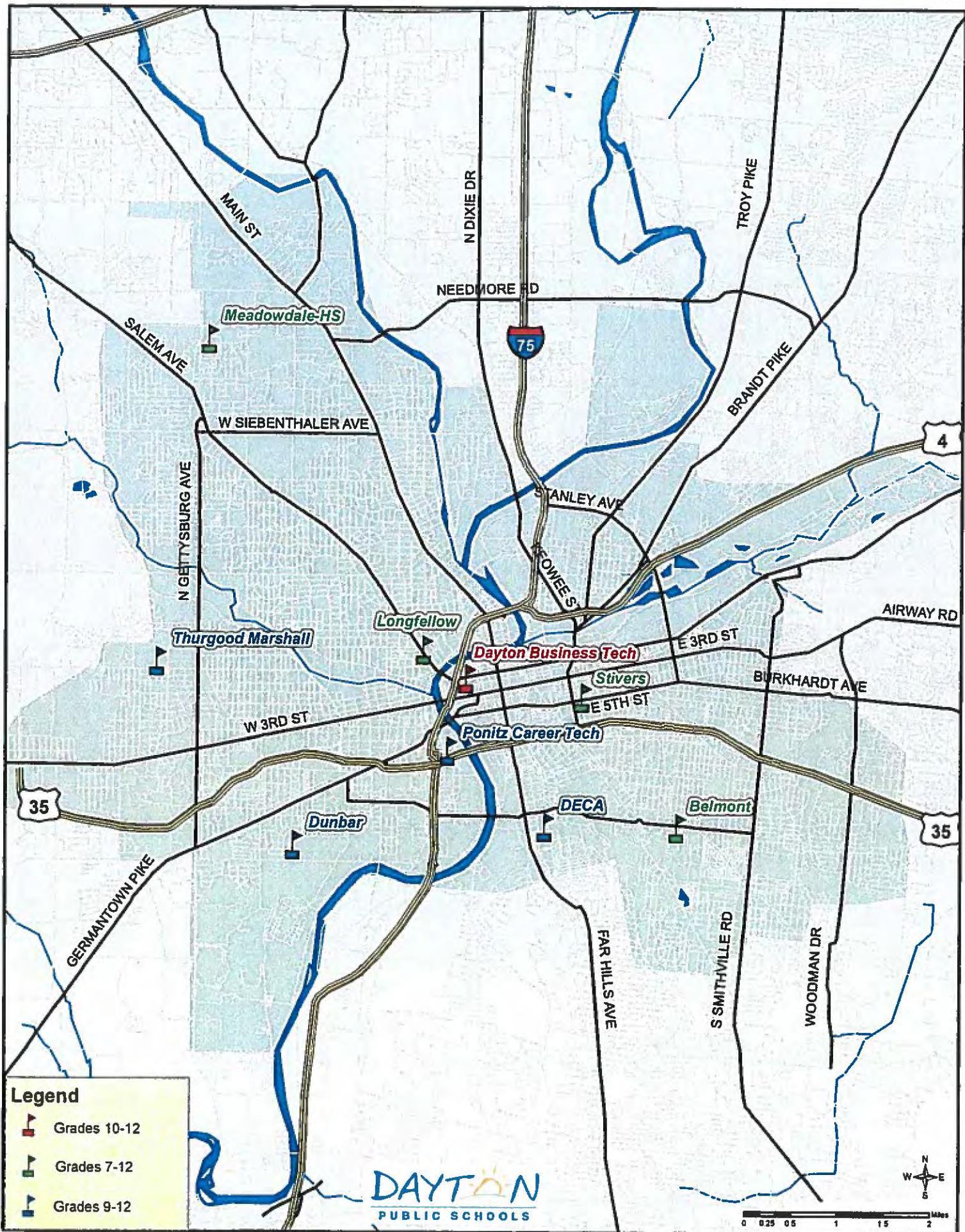
- a. Next meeting: Tuesday, February 6 from 9:30 – 11:00 AM
- b. Visitation to Valerie, Meadowdale Elementary and Wogaman MS
- c. Future Meetings:

Tuesday, Feb. 6	9:30 – 11:00	Valerie, Meadowdale Elementary, Wogaman
Tuesday, Feb. 20	9:30 – 11:00	DPS Community Room
Tuesday, March 6	9:30 – 11:00	DPS Community Room

Dayton Public Schools PreK-6 and Middle School Locations



Dayton Public Schools High School Locations



Enrollment Numbers by Building and Grade as of Jan 23, 2018

Enrollment Count	EC	PM	PN	PT	OK	01	02	03	04	05	06	07	08	09	10	11	12	23	Total
Belle Haven PreK-6 School	21				51	67	57	65	51	46	60							418	
Belmont High School (7-12)												120	118	385	241	134	140	3	1,141
Charity Adams Earley Girls Academy PreK-8					49	46	53	50	54	50	45	30	23					400	
Cleveland PreK-6 School	20	7	8	54	52	72	77	52	58	37								437	
David H. Ponitz Career Technology Center												177	199	185	179	16		756	
Dayton Boys Preparatory Academy @ Roosevelt Commons PreK-8					7	20	22	24	23	27	27	34	25					209	
Dayton Innovation Virtual Academy												14	8	7	10			39	
Dunbar Early College High School												199	139	111	127			576	
Eastmont PreK-6 School	20	8	7	52	75	56	63	60	55	47								443	
Edison PreK-6 School	20	5	7	47	52	54	56	59	52	57								409	
Edwin Joel Brown Middle School											142	152						294	
Fairview PreK-6 School @ Fairview Commons		6	9	52	70	68	78	54	72	56								465	
Horace Mann PreK-6 School	20	8	8	52	51	85	58	56	53	51								442	
Innovative Learning Center (ILC)									3	4	9	7	8	7	2	3	5	48	
Kemp PreK-6 School		9	6	54	75	93	75	77	56	43								488	
Kiser PreK-6 School	21	8	8	78	77	80	86	70	82	55								565	
Louise Troy PreK-6 School	16			50	63	67	98	63	51	48								456	
Meadowdale High School (7-12)											52	54	105	100	86	84	5	486	
Meadowdale PreK-6 School	20	5	8	55	50	43	53	46	47	35								362	
River's Edge Montessori PreK-6 School	21	26	8	8	75	83	74	69	68	59	59							550	
Rosa Parks Early Learning Center (PreK-K)	37	54	44	94														229	
Ruskin PreK-6 School	37	8	8	77	77	82	84	75	65	57								570	
Stivers School for the Arts (7-12)											139	141	172	132	145	144		873	
Thurgood Marshall STEM High School											165	148	119	122				554	
Valerie PreK-6 School	20	5	7	50	49	50	73	56	56	52								418	
Westwood PreK-6 School	18	1		55	51	46	55	43	46	43								358	
Wogaman Middle School											120	114						234	
World of Wonder PreK-6 School @ Residence Park	19				46	51	49	53	41	50	49							358	
Wright Brothers Middle School											58	178	188					424	
Total(Current Building Name)	310	26	132	128	998	1,009	1,051	1,117	948	928	883	824	822	1,225	974	789	809	29	13,002

DPS Vacant Property (include buildings and land)

	Title	Location	Acres
1	Allen	132 Alaska	2.03
2	Carlson	807 S. Gettysburg	17.49
3	Central Kitchen* (Heid)	125 Heid	3.00
4	Colonel White	501 Niagra	5.20
5	Fairport	1952 Fairport	9.58
6	Franklin	2617 E. Fifth	
7	Gardendale*	1733 N. Gettysburg	2.18
8	Gettysburg	2201 N. Gettysburg	12.60
9	Grace A. Green	503 Edison	1.95
10	Hickorydale	2101 Hickorydale	14.25
11	Highview	2101 McAurthor	8.60
12	Homewood	325 Homewood	10.42
13	Jane Adams	35 Victory	5.86
14	Jefferson	1231/1223 N. Euclid	9.10
15	Longfellow*	245 Salem	2.18
16	Loos	45 Wampler Ave,	13.41
17	MacFarlane	215 S. Paul L. Dunbar	5.04
18	McNary	2400 Hoover	5.01
19	Merchants	6900 N. Main St.	17.00
20	Old Belmont Football field	(adjacent to Old Belmont)	
21	Orville Wright	200 S. Wright	18.67
22	Patterson Kennedy	258 Wyoming	3.27
23	Shiloh	5670 Philadelphia Dr	5.12
24	Townview	(adjacent to Transportation Bldg)	
25	US Grant*	4309 North Arcadia	
26	Weaver	Howell Ave	2.58
27	Webster	115 Keifer	2.38
28	Whitter	721 Miami Chapel	4.49

1/8/2018

* Vacant Building

DPS Facilities

Facility	Street		# Stories	Sq Footage	Year Built/ Additions
4 Gas Pump Canopies	R4290 James H. McGee Blvd.	45402			
Belle Haven Prek-6	4401 Free Pike	45416	1	71,979	2006
Belmont High School - New location	2615 Wayne Ave	45420	2	148,625	2011
Board Offices	115 S. Ludlow Street 136 S. Ludlow Street	45402	6	227,362	
Dayton Boys Preparatory Academy	1923 W. 3rd Street	45417	3	73,153	2011
Dayton Business Tech	1601 W. First Street	45402	1	19,000	
Bus Parking Canopy	R4290 James H. McGee Blvd.	45402			
Bus Washing Building	R4280 James H. McGee Blvd.	45402			
Central Kitchen (Held)	125 Held Avenue	45404	1	33,165	1966
Charity Adams Earley Girls Academy	444 Shoup Mill Rd.	45415	2	64,697	2011
Cleveland Prek-6	1102 Pursell Ave	45420	2	73,360	2006
David H. Ponitz Career Technical Center	741 Washington St.	45402	2	198,933	2009
Dunbar High School	1400 Albritton	45417	2	117,763	2009
Eastmont Prek-6 School	1480 Edendale Road	45432	2	73,153	2011
Edison PreK-6	228 N. Broadway	45402	2	75,264	2010
Edwin Joel Brown Prek-6	31 Willow wood Drive	45405	2	73,460	2008
Fairview Prek-6 School	2314 Elsmere	45406	2	74,613	2011
Gardendale	1733 N. Gettysburg Avenue	45417	1 & 2	50,848	1957
Ground Crew Building	400 Antioch Street (Garage)	45402	1	2,770	1966
Horace Mann Prek-6	715 Krebs Avenue	45419	2	73,461	2008
Innovative Learning Academy (ILC) @ Jackson Center	329 Abbey	45417	2	47,609	1921
Kemp Prek-6	1923 Gondert Ave	45403	2	67,994	2008
Kiser & Challenger Center	1401 Leo Street	45404	1 & 2	77,400	2006
Longfellow Alternative Center	245 Salem avenue	45406	1, 2 & 3	98,934	1880, 1906, 1926, 1957, 1961
Louise Troy Prek-5	1630 Miami Chapel Drive	45417	2	72,295	2008
Maintenance Building #2	1601 W. First Street	45402		Included	
Maintenance Building #3	1601 W. First Street	45402		Included	
Maintenance Building #4	1601 W. First Street	45402		Included	
Maintenance Building #5	1601 W. First Street	45402		Included	
Maintenance Building #6	1601 W. First Street	45402		Included	
Maintenance Building #7	1601 W. First Street	45402		Included	
Meadowdale High School	3873 Whitestone Ct.	45416	1 & 2	118,279	2009
Meadowdale Prek-6 School	3871 Yellowstone Ave	45416	2	81,288	2011
Transportation Center	4290 James H. McGee Blvd	45417	1	23,408	1988
River's Edge Montessori Prek-6 School	108 Linwood St.	45405	3	84,181	2011
Rosa Parks Early Learning Center	3705 Lori Sue Ave.	45406	1	72,295	2008
Ruskin Preschool	407 Ambrose Drive	45410	2	73,461	2008
Service Building	4280 James H. McGee Blvd.	45417	2	71,629	
Stivers School for the Arts	1313 E. Fifth Street	45402	2 & 5	209,960	1908, 1954, 1967, 2008
Thurgood Marshall High School	4447 Hoover Ave.	45417	2	129,517	2008
U.S. Grant School - Vacate-used for record storage	4309 Arcadia	45420	2	70,218	1936
Valerie Prek-6	4020 Bradwood Drive	45405	1	54,500	1966
Welcome Stadium	1433 Edwin C. Moses Blvd.	45417		21,620	1949
Westwood Prek-6	2805 Oakridge Drive	45417	2	73,475	2008
Wogaman Prek-6	920 McArthur	45417	2	71,896	2006
World of Wonder Prek-6	4411 Oakridge Dr	45417	1	71,981	
Wright Brothers Middle School	1361 Huffman Ave.	45403	3	82,598	2012



Dayton Board of Education and Dayton City Commission Seat School Facilities Task Force

Release Date: Thursday, January 4, 2018

Contact: Monica Jones, Assistant to the City Manager, 937-333-3663

Today the newly seated Dayton Board of Education and the Dayton City Commission, along with Interim Superintendent Elizabeth Lolli and Mayor Nan Whaley, announced the seating of a task force to look at the future of Dayton's school facilities.

The task force, comprised of sixteen key community leaders, co-chaired by City Commissioner Jeff Mims and Board member-elect Mohamed Al-Hamdani will evaluate all school facilities and their program usage and seek input from community members regarding Dayton school facilities. The committee will make recommendations by April 1st to the Board of Education about how these facilities can be best utilized to provide a high level of achievement opportunities for all of Dayton's children.



The School Facility Task Force committee members are:

Jeff Mims, Dayton City Commissioner co-chair
Mohamed Al-Hamdani, Board Member co-chair
Elizabeth Lolli, interim Dayton Public School Superintendent
Bryan Bucklew, Greater Dayton Area Hospital Association
Ron Budzik, Dayton Business Committee
Bing Davis, Artist and Community Activist
Shelley Dickstein, Dayton City Manager
Deborah Feldman, Dayton Children's Hospital
Bill Harris, Dayton Public School Board
Tim Kambitsch, Dayton Metro Library
Tom Kelley, Montgomery County
Tom Lasley, Learn to Earn Dayton

Brandon Policicchio, Dayton RTA
David Romick, Dayton Education Association
Richard Stock, University of Dayton
Robert Walker, Dayton Public School Board

"Great cities require great schools. In order for us to provide the best possible future for Dayton's children, this task force is of the utmost importance," said City Commissioner Jeff Mims. "I am proud to be a part of the new partnership between the city and the schools."

"As a district, we only become stronger and better by creating productive, positive partnerships with the City, the business community and the stakeholders we directly serve," said Elizabeth Lolli, interim superintendent. "We are excited to have the support and ideas that will be generated by the work of this task force."

#



EDUCATION

Dayton mayor led effort on task force

Whaley one of 2 people to contact leaders to get their involvement.

By Jeremy P. Kelley
Staff Writer

Dayton Mayor Nan Whaley played a significant, hands-on role in the formation of the task force studying Dayton Public Schools facilities, according to documents obtained via public records request by the Dayton Daily News.

Whaley was one of two people, along with new school board member Mohamed Al-Hamdani, who made contact with community leaders in December to confirm whether they would serve on the task force.



And on the evening before the task force was announced, Whaley personally wrote the press release announcing the creation of the group.

“I completely disagree with folks who would say the city and schools should be separate. They should be together as much as possible frankly, because that helps both of them,” Whaley said, adding that she’s happy with the newly elected school board and acting Superintendent Elizabeth Lolli. “It’s not an issue of seeking control; it’s an issue of aiding them.”

Whaley has long made education a top focus — launching her City of Learners effort on the day she took office as mayor in 2014, and urging passage of an income tax increase in 2016, with some money dedicated to expanding high-quality preschool. Last fall, she pushed DPS officials to get more involved in her City of Learners group, and she endorsed a slate of four candidates in the school board race — three of whom were elected.

“I think the future of our workforce and the future of our city is tied unmovably to education,” Whaley said. “Every mayor that’s doing anything to move their community forward is involved in it. We cannot move the city forward quick enough without it.”

On Dec. 12, Lolli first told the school board at a public meeting that DPS might need to close about three schools. Lolli has said that in the days that followed, it was Whaley who suggested a joint city-schools task force might be a good way to address the issue. In the past month, Lolli has repeatedly mentioned a desire to build better business and community relationships.

The Dayton Daily News asked both the city and the school district for emails and other public documents related to the creation of the task force currently studying DPS facilities. We received hundreds of pages tracking the origins of the group.

An email from Whaley on Dec. 27 showed that she personally

reached out to confirm that certain task force members would participate — Bryan Bucklew of the Greater Dayton Area Hospital Association, school board members William Harris and Robert Walker, Tim Kambitsch of the Dayton Metro Library, and Ron Budzik of the Dayton Business Committee.

By that date, almost three-fourths of the task force had been assembled. Whaley said this week that she saw the task force as more than just an answer to a narrow problem. She said it was also a vehicle to get community and business leaders re-involved in Dayton Public Schools.

“That’s why I got really involved. I thought this would be a good opportunity to get the schools to have some partners,” Whaley said. “The only way you can move any organization forward is through partnership, especially in Dayton.”

A series of emails in early January show Whaley, Lolli and City Manager Shelley Dickstein suggesting ideas on the task force launch and principles, and openly encouraging others to edit their work.

On the evening of Jan. 3, about 12 hours before the press conference announcing the task force, Whaley sent out a draft of the press release, which she wrote herself, asking Lolli, Dickstein and task force co-chairs Jeff Mims and Al-Hamdani for input. The document would be released the next morning with minimal changes.

Joked Dickstein, “Nice job Nan. After you’ve tired of politics you could do public relations work as an exit!!”

The task force’s first meeting Jan. 9 was canceled after a dispute over open meetings law, but the city and school district response to our records request showed that in the next 48 hours, there were no text messages on the topic and only one significant email. That was a message to task force members from Al-Hamdani and Mims, stating that the city’s attorney provided a legal opinion saying the

Ohio Open Meetings Act did not apply to the group.

“In order to be most effective and have our limited time be put to best use, our gatherings will be for members of the task force and pertinent staff presenting information only,” the email said. “It is critical that all task force members employ the utmost confidentiality during these gatherings and with regard to our working group discussions.”

A week later, the task force reversed that approach, opening its Jan. 24, Feb. 20 and March 6 meetings to the public.

Contact this reporter at

Jeremy.Kelley@coxinc.com.



IN OUR SCHOOLS

Official: DPS not closing 9 West Dayton schools

Task force meeting covers range of issues facing school district.

By Jeremy P. Kelley
Staff Writer

true

The task force studying possible closure of Dayton Public Schools facilities spent as much time talking about school quality and academic performance as it did about school buildings during its first meeting Wednesday.

The group asked about teacher staffing, student performance, busing access and parent engagement, as it began the work that Acting Superintendent Elizabeth Lolli has referred to as “right-sizing” the district. The group also hopes to position DPS to increase its enrollment.

“It has to be an all-encompassing plan,” Lolli said. “It’s not just about selling off all the properties or closing buildings or tearing down four empty buildings. It’s about what’s the best decision for everyone in the Dayton Public Schools to make sure they have the highest quality of education possible.”

Not closing 9 schools

Perhaps the loudest concern in the past week has come from West Dayton residents worried that DPS would close nine schools, all in their neighborhoods. The Dayton Business Journal reported in December that the district was considering closing nine schools, and that claim has been

repeated by multiple community groups.

“There is no way we can possibly close nine schools,” Lolli said Wednesday, adding that the district wouldn’t be able to properly serve the students it has today if it made that many closures.

When DPS mentioned those nine West Dayton schools — Wogaman, Boys Prep, Rosa Parks, EJ Brown, Meadowdale Elementary, Meadowdale High, World of Wonder, Westwood and the Innovative Learning Center at Jackson Center — it was to identify them as the schools currently emptiest.

But DPS officials said no decision had been made on what buildings to close or how many. It’s possible the district could shutter buildings that are not on the empty list and shift students around. DPS’ large headquarters building downtown also is significantly underused, according to associate superintendent Shelia Burton, and Valerie Elementary needs \$2 million in maintenance work, raising questions about its future.

“The data that we gave you will show (right-sizing is needed),” said task force co-chair Mohamed Al-Hamdani. “That has to be part of the conversation. But folks are really more concerned with what

happens to their students, what happens to our teachers, and that's what we're focused on."

Task force priorities

Task force members were asked to vote on what factors should drive recommendations if some schools need to be chosen for closure.

The clear top vote getter was a need for clear data on student and teaching needs. The group also said any facilities plan needs to support the district's overall academic plan, and expressed a desire to analyze the current academic performance of each school.

That dovetailed with the guiding principles the group adopted at the beginning of Wednesday's meeting.

The top principle that the task force prioritized was assuring that high-quality, appropriately licensed staff were in place for all schools, to improve academic performance. Others near the top of the list were advancing the fiscal responsibility of the district and making racial equity a key concern in decision making.

Repositioning district facilities — the core issue that led to creation of the task force — came in behind those issues.

Next steps

The task force is now up to 18 members with the addition of NAACP education chair Lauretta Williams and Zion Baptist Church Pastor Rockney Carter, representing a group of West Dayton clergy members.

Carter asked how the public can be better informed and have their voices heard, expressing concerns about the impact of potential schools closures in West Dayton. Richard Stock, director of the Business Research Group at the University of Dayton, also emphasized that racial equity must be considered in the choices the task force makes.

The task force will tour Meadowdale Elementary, plus Valerie and Wogaman schools on Feb. 6. Then they will return to DPS headquarters for public meetings at 9:30 a.m. on Feb. 20 and March 6.

Lolli said two community meetings for the task force to hear input from the public are being moved up from March to February, with dates and sites to be announced soon. The task force intends to make recommendations to the school board by April 2. Dayton's school board will make any final decisions on school closures.

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