

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

PHOENIX-TIMES PUBLISHING
COMPANY, D/B/A/ EAST BAY
NEWSPAPERS, JOSH BICKFORD, RHODE
ISLAND AFFILIATE, AMERICAN CIVIL
LIBERTIES UNION, INC. AND STEVEN
BROWN,

Plaintiffs

v.

BARRINGTON SCHOOL COMMITTEE,
JAMES HASENFUS in his official capacity
as a member of the Barrington School
Committee; ROBERT E. SHEA, JR., in his
official capacity as a member of the
Barrington School Committee; PATRICK
GUIDA, in his official capacity as a member
of the Barrington School Committee;
THOMAS R. FLANAGAN, in his official
capacity as a member of the Barrington
School Committee; and AMY PAGE
OBERG, in her official capacity as a member
of the Barrington School Committee,

Defendants

C.A. No. 09-4665

COMPLAINT

Introduction

Plaintiffs Phoenix-Times Publishing Company, d/b/a East Bay Newspapers, Scott Pickering, Rhode Island Affiliate, American Civil Liberties Union, Inc. ("RI ACLU"), and Steven Brown file the instant action for declaratory and injunctive relief against the Barrington School Committee (the "Committee") and its members acting in their official capacities. Plaintiffs contend that the Committee, through its members, violated R. I. Gen. Laws § 42-46-1,

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et seq., (the “Open Meetings Act”) by unlawfully meeting in executive session on February 26, 2009 to discuss the merits of instituting a mandatory breathalyzer testing policy for all students attending social dances. The Committee contends that convening in executive session was proper pursuant to R. I. Gen. Laws § 42-46-5(a)(2) as the closed meeting concerned “litigation.” At the time of the executive session, however, there was no litigation pending or threatened. There was not even a specific policy in place that could have been challenged through litigation.

A letter sent by the RI ACLU months earlier setting forth policy arguments and urging that the mandatory breathalyzer testing policy be rejected was proffered by the Committee as justification for its decision to debate public policy in executive session. The Open Meetings Act allows narrow exceptions to the general rule that public business be conducted publicly. If the Committee’s rationale for convening in executive session is validated, then the exception has swallowed the rule. Any opposition to a proposed public policy could provide the basis for secret debate by elected officials relying on phantom and wholly hypothetical “litigation.”

Parties

1. Plaintiff, Phoenix-Times Publishing Company is a domestic for-profit corporation doing business as “East Bay Newspapers” and is the publisher of The Barrington Times. Its principal place of business is located at One Bradford Street, Bristol, Rhode Island.

2. Plaintiff, Josh Bickford, is a resident of Barrington, Rhode Island and is the editor of The Barrington Times.

3. Plaintiff, Rhode Island Affiliate, American Civil Liberties Union, Inc. (RI ACLU) is a non-profit corporation existing under the laws of the State of Rhode Island with a principal place of business in Providence, Rhode Island.

4. Plaintiff, Steven Brown, is a resident of Barrington, Rhode Island and is Executive Director of Rhode Island Affiliate, American Civil Liberties Union, Inc.

5. Defendant, Barrington School Committee is a municipal body operating and organized pursuant to R. I. Gen. Laws § 16-2-9.

6. Defendant, James Hasenfus, is sued in his official capacity as a member of the Barrington School Committee, Barrington, Rhode Island.

7. Defendant, Robert E. Shea, Jr., is sued in his official capacity as a member of the Barrington School Committee, Barrington, Rhode Island.

8. Defendant, Patrick Guida, is sued in his official capacity as a member of the Barrington School Committee, Barrington, Rhode Island.

9. Defendant, Thomas R. Flanagan, is sued in his official capacity as a member of the Barrington School Committee, Barrington, Rhode Island.

10. Defendant, Amy Page Oberg, is sued in her official capacity as a member of the Barrington School Committee, Barrington, Rhode Island.

Jurisdiction and Venue

11. This action is brought under R.I. Gen. Laws §§42-46-1, *et seq.*, entitled, "Open Meetings." Jurisdiction is proper pursuant to R.I. Gen. Laws §§42-46-8(c).

12. Venue is proper in the Superior Court for Providence and Bristol Counties.

The Facts

13. The Barrington School Committee was asked to consider the adoption of a policy requiring mandatory breathalyzer testing of students attending dances in or about December 2008.

14. On or about December 26, 2008, the RI ACLU and Mr. Brown sent a letter to the Principal of Barrington High School urging him to reject any policy that required universal breathalyzer testing at school dances. Exhibit A.

15. The minutes of the January 29, 2009 Committee meeting indicate that

Committee member Ms. Oberg suggested the inclusion of a public comment period on a future agenda to address the issue of breathalyzer testing at the high school. Exhibit B.

16. The Barrington School Committee Meeting Agenda for the February 26, 2009 Committee meeting (the “Agenda”) includes the topic “Public Comments Re: Breathalyzer Testing.” Exhibit C.

17. This same Agenda includes the following vague statement at the end of the enumerated agenda items: “Executive Session pursuant to Sections 42-46-5(a)(1) and 42-46-5(a)(2) for Personnel and Collective Bargaining and Litigation.” Exhibit C.

18. The Agenda provides no specific reference to any particular litigation or the subject matter related to any litigation scheduled to be addressed by the School Committee in executive session. Exhibit C.

19. The Agenda failed to adequately provide notice as to the nature of the business to be discussed in executive session in violation of Rhode Island Gen. Laws § 42-46-6(b).

20. The February 26, 2009 Committee meeting (the “Committee Meeting”) minutes reflect that the Committee decided to hear the agenda item concerning the proposed breathalyzer policy near the beginning of the meeting – rather than in the order listed on the agenda – in order to accommodate the public who attended specifically for this item.

21. The official Committee Meeting minutes state as follows:

A lengthy discussion took place regarding whether or not to make breathalyzer testing mandatory at high school dances for all students. Mr. Hasenfus emphasized that there is no formal proposal at this time and that we want to give all due consideration in order to properly handle this issue. Much input was given by members of the audience with regard to the pros and cons of this initiative. More discussion will take place before any decision is made regarding this issue. Mr. Hasenfus urged members of the audience to contact the School Committee or administration with their views.

Exhibit D at page 2.

22. The Committee Meeting minutes make clear that there was no formal proposal for a breathalyzer testing policy. Exhibit D.

23. The Committee Meeting minutes make clear that the Committee wanted to give “all due consideration in order to properly handle this issue.” Exhibit D.

24. The Committee Meeting minutes make clear that the public participated in lengthy public debate about the pros and cons of the policy proposal. Exhibit D.

25. The Committee Meeting minutes make clear that the Committee intended to conduct additional discussion before any decision was made regarding breathalyzer testing. Exhibit D.

26. The Committee Meeting minutes make clear that the Committee urged the public to contact the Committee or school administration with their views. Exhibit D.

27. At the end of the Committee Meeting, the Committee unanimously voted to go into executive session pursuant to Rhode Island Gen. Laws §§ 42-46-5(a)(1) and 42-46-5(a)(2) “specifically for Personnel and Litigation” and further voted to seal the resulting minutes. Exhibit D.

28. As had the Agenda, the Committee failed to identify at the meeting itself any specific “litigation” that it would be discussing in the closed session. Exhibit D.

29. The Committee Meeting minutes establish that there was no formal proposal to implement mandatory breathalyzer testing, let alone threatened or active litigation over such policy at the time of the February 26, 2009 meeting. Exhibit D.

30. Upon information and belief, the Committee discussed breathalyzer testing in executive session on February 26, 2009.

31. The Committee relied on the litigation exception provided in R. I. Gen.

Laws § 42-46-5(a)(2) to remove the Committee's internal deliberations concerning an important public policy from public scrutiny.

32. The Committee relied upon the so-called litigation exception provided in R. I. Gen. Laws § 42-46-5(a)(2) even though there was no active or threatened litigation, in direct contravention of the purpose of the Open Meetings Act.

33. Any discussion by the Committee members as of February 26, 2009 concerning implementation of a mandatory breathalyzer testing policy is the type of public business that must be conducted in an open and public manner so that citizens are aware of the performance of public officials and the deliberations that go into the making of public policy pursuant to R. I. Gen. Laws § 42-46-1.

34. Upon learning that the breathalyzer testing policy was discussed during executive session at the February 26, 2009 meeting, Plaintiff, Mr. Bickford, editor of The Barrington Times, a publication of Plaintiff East Bay Newspapers, filed a complaint with the Rhode Island Attorney General ("RIAG") challenging the Committee's use of the litigation exception to convene in executive session and also the Committee's vote to seal the minutes resulting from the executive session. Exhibit E.

35. The RIAG investigated the complaint filed by The Barrington Times and issued decision OM 09-10 / PR 09-13 on May 18, 2009, denying Mr. Bickford's request for relief.

36. The RIAG decision states that the Committee considered the RI ACLU's December 26, 2008 letter urging the Principal of Barrington High School to resist implementing a mandatory breathalyzer testing policy to be an express threat of litigation.

37. Several other citizens objected during the Committee Meeting to the implementation of a mandatory breathalyzer testing policy but their objections were not similarly

considered to be a threat of litigation. Exhibit D.

38. Nothing in the letter sent by the RI ACLU and Mr. Brown to the Principal of Barrington High School mentions litigation or threatens a lawsuit. Exhibit A.

39. At the time of the Committee Meeting, no litigation was threatened or possible.

40. All that existed at the time the Committee convened in executive session was a public policy debate during an open meeting concerning breathalyzer testing and an invitation by the Committee for the public to communicate their views.

41. This is confirmed by the minutes of the June 18, 2009 Barrington School Committee meeting ("June Minutes"). Exhibit F.

42. The June Minutes state that a draft of the proposed breathalyzer policy was provided to the Committee. Exhibit F.

43. The June Minutes also state that the Committee voted to support the *"updated procedure for breathalyzer testing proposal submitted this evening ... contingent upon feedback and approval from legal counsel."* Exhibit F.

COUNT I *(Improper Executive Session)*

44. Plaintiffs incorporate the averments contained in paragraphs 1 through 43 as if fully set forth herein.

45. The purpose of the Open Meetings Act is to ensure that public business is performed in an open and public manner and that the citizenry is aware of the deliberations and decisions that go into the making of public policy. R. I. Gen. Laws § 42-46-1.

46. Rhode Island Gen. Laws §§ 42-46-4, 42-46-5 and 42-46-6 set forth the procedures by which and the purposes for which a public meeting may be closed. Section 42-46-5 specifically provides, in relevant part, that:

(a) A public body may hold a meeting closed to the public pursuant to § 42-46-4 for one or more of the following purposes:

(2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to ... litigation.

...

47. The Committee asserted the exception provided in R. I. Gen. Laws § 42-46-5(a)(2) to justify going into executive session to discuss the proposed breathalyzer policy.

48. There was no litigation at the time of the Committee Meeting.

49. There was no threatened litigation at the time of the Committee Meeting.

50. In fact, there was not even a formal proposal to adopt a mandatory breathalyzer policy at the time of the Committee Meeting.

51. The actions of the Committee in discussing possible breathalyzer testing policies in executive session on February 26, 2009 were in willful contravention of the public policy set forth in the Open Meetings Act, R. I. Gen. Laws § 42-46-1, et seq.

WHEREFORE, Plaintiffs Phoenix-Times Publishing Company, d/b/a East Bay Newspapers, Josh Bickford, Rhode Island Affiliate, American Civil Liberties Union, Inc. and Steven Brown seek an Order that provides as follows:

a. A declaration by this Court, pursuant to R. I. Gen Laws § 9-30-1, et seq., and in accordance with R. I. Gen Laws § 42-46-1, et seq., that the executive session convened by the Barrington School Committee on February 26, 2009 to discuss the breathalyzer policy proposal was a violation of the Open Meetings Act, R. I. Gen Laws § 42-46-1, et seq.;

b. An Order directing the Barrington School Committee to unseal and publish the minutes resulting from the February 26, 2009 executive session to the extent they relate to the breathalyzer policy proposal;

c. An award of attorneys fees and costs to Plaintiffs;

d. Imposing a civil fine against the Barrington School Committee pursuant to and in accordance with R. I. Gen Laws § 42-46-8(d); and

e. An award to the Plaintiffs of such other relief as the Court deems just and proper.

COUNT II
(Deficient Public Notice)

52. Plaintiffs incorporate the averments contained in paragraphs 1 through 51 as if fully set forth herein.

53. Rhode Island Gen. Laws § 42-46-6 sets forth the requirements for providing adequate notice of public meetings. It states, in relevant part, that:

(b) Public bodies shall give supplemental written public notice of any meeting within a minimum of forty-eight (48) hours before the date. This notice shall include the date the notice was posted, the date, time and place of the meeting, and a statement specifying the nature of the business to be discussed.

54. The Agenda included an item relating to public comment about the breathalyzer policy proposal.

55. The Agenda failed to state that the Committee would also meet in executive session to discuss the same policy proposal.

56. The vague statement at the end of the enumerated agenda items generically reciting “Executive Session pursuant to ... 42-46-5(a)(2) for ... Litigation” fails to adequately provide public notice regarding the nature of the business to be discussed, particularly where no litigation was pending or threatened.

57. Plaintiffs are entitled to relief as provided by R.I. Gen. Laws §42-46-8, as the Defendant has willfully violated R.I. Gen. Laws § 42-46-1, et seq., by failing to adequately provide public notice of the business to be discussed during an executive session.

WHEREFORE, Plaintiffs Phoenix-Times Publishing Company, d/b/a East Bay Newspapers, Josh Bickford, Rhode Island Affiliate, American Civil Liberties Union, Inc. and Steven Brown seek an Order that provides as follows:

a. A declaration by this Court, pursuant to R. I. Gen Laws § 9-30-1, et seq., and in accordance with R. I. Gen Laws § 42-46-1, et seq., that the failure to give written notice on the February 26, 2009 agenda of the executive session by the Barrington School Committee to discuss the breathalyzer policy proposal was a violation of the Open Meetings Act, R. I. Gen Laws § 42-46-1, et seq.;

b. An Order directing the Barrington School Committee to unseal and publish the minutes resulting from the February 26, 2009 executive session to the extent they relate to the breathalyzer policy proposal;

c. An award of attorneys fees and costs to Plaintiffs;

d. Imposition of a civil fine against the Barrington School Committee pursuant to in accordance with R. I. Gen Laws § 42-46-8(d); and

e. An award to the Plaintiffs of such other relief as the Court deems just and proper.

PHOENIX-TIMES PUBLISHING
COMPANY, D/B/A/ EAST BAY
NEWSPAPERS, JOSH BICKFORD,
RHODE ISLAND AFFILIATE,
AMERICAN CIVIL LIBERTIES UNION,
INC.

By Their Attorneys,



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DATED: August 14, 2009

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EXHIBIT A



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PROVIDENCE, RI 02903
401.831.7171 (t)
401.831.7175 (f)
www.riaclu.org

December 26, 2008

John Gray, Principal
Barrington High School
220 Lincoln Avenue
Barrington, RI 02806

Dear Mr. Gray:

I am writing in regards to today's *Providence Journal* article promoting the proposal that the high school institute a "breathalyzer testing" requirement on all students attending school dances. For a variety of reasons, we urge you to resist this suggestion.

As I expressed to you just two months ago when I wrote to object to the school's new policy imposing penalties on athletes merely for being "in the presence of" alcohol or drugs, we appreciate the pressures on school officials to address what everybody acknowledges is a serious problem of underage drinking in Barrington. But too often, the proposed "solutions," like this one, are ineffectual and inappropriately dismissive of students' legitimate rights.

We believe the school's current policy has it right in allowing for breathalyzer testing when there is a reasonable suspicion that a particular student is impaired. Rather than treating every student as a suspect, the current policy recognizes that the privacy rights of students should not be so cavalierly ignored, and that intrusions on those rights should be limited to circumstances when officials have reason to believe a student may have engaged in improper conduct.

The news article stated that Seekonk schools have been using an all-inclusive breathalyzer requirement at school dances for some time, and that this requirement is now taken for granted. That is precisely the problem with the institutionalization of infringements on liberty: after a while, most people become accustomed to them. From our perspective, that is hardly something to brag about.

The article also states that students no longer show up to Seekonk school dances with alcohol on their breath. That may be so, but as I am sure you recognize, that does not mean that students there are drinking less. Social problems like underage drinking are not so easily solved. I have little doubt that Seekonk's policy has only had the ironic effect of encouraging students to "beat the system." Some students may simply decide to wait until after the school function to drink alcohol. Some might ingest drugs that will not be detected. Some, we suspect, forgo the opportunity to attend the dance in order to consume alcohol elsewhere undetected. In short, adopting a policy that merely diverts student drinking to other locations is not, we submit, the same thing as addressing an underage drinking problem.

It is also worth noting the technical challenges inherent in implementing a breathalyzer testing requirement on all students. These tests must be administered properly, and with machines that are properly maintained. A breathalyzer reading will be inaccurate if any part of the machine is not working correctly. Even more problematic than potential technical errors is the inability to distinguish ethyl alcohol from other substances. One of the most common reasons for inaccurate readings is the presence of alcohol in the mouth. Though it is not in the bloodstream and does not cause intoxication, "mouth alcohol" can cause high breathalyzer readings. A variety of over-the-counter medicines, mouthwashes and throat sprays (just the sorts of items that students attending school dances and similar functions may very well use) contain high percentages of alcohol that could lead to "false positives" on a breathalyzer. Since we assume that a zero reading on a breathalyzer will be required, the possibilities for error are not insignificant when every student – not just those suspected of drinking – is subject to a test.

We know that you and the school district have been working very hard to address this serious issue. But I'm sure you are also aware that there are no shortcuts in dealing with a social problem like this. Tragic teenage deaths in the town, not to mention increased and severe penalties, both administrative and criminal, have not solved the problem. We do not, of course, suggest school officials throw up their hands. Ultimately, we believe, school officials can continue to do serious, intensive education about rules against alcohol use by minors at school events. Chaperones can be vigilant, as we understand they are, for signs of alcohol use or any other inappropriate conduct that might warrant intervention, and address such conduct as necessary. Good, careful supervision is always preferable to this type of testing. The current measures are not foolproof, but little is gained by implementing policies like breathalyzer testing that are just as imperfect but that undermine the rights of students as well. For all these reasons, the ACLU strongly urges you to decline the suggestion to implement uniform breathalyzer testing on students at school dances.

If you have any questions about our position, please feel free to let me know. Thank you for your attention to our views.

Sincerely,

Steven Brown
Executive Director

cc: Barrington School Committee

EXHIBIT B

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

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Minutes of School Committee Meeting 01/29/09
General Public Discussion and Information

No issues were raised at this time.

Old Business from Superintendent and Staff

Dr. McIntyre confirmed the upcoming meeting with Mr. Gary Sasse on Saturday, February 7th at 10 a.m. in the Barrington Middle School presentation room.

Old Business from School Committee

No School Committee policies were discussed this evening.

New Business from Superintendent and Staff

Mrs. Oberg moved and Dr. Shea seconded to approve the recommendation of the Superintendent with respect to the appointment of Bryan Caswell, Assistant Coach Girls Basketball. The motion passed 4-0.

Dr. Shea moved and Dr. Flanagan seconded to approve the recommendation of the Superintendent with respect to the appointment of Caitlin Corlett, Cheerleading Advisor. The motion passed 3-0. Mrs. Oberg recused herself due to her affiliation with the YMCA where Ms. Corlett also works.

Mrs. Oberg moved and Dr. Shea seconded to approve the recommendation of the Superintendent with respect to the appointment of Emmett Donegan, Assistant Coach Boys Lacrosse. The motion passed 4-0.

Mrs. Oberg moved and Dr. Shea seconded to approve the recommendation of the Superintendent with respect to the resignation of Lee Ann Markowski, Junior Varsity Lacrosse Coach. The motion passed 4-0.

Mrs. Oberg moved and Dr. Shea seconded to accept the recommendation of the Superintendent with respect to the request for a leave of absence for Lisa Mendo, HS, Math. The motion passed 4-0.

Following Mr. Tarro's explanation regarding his request for the Committee to reject all School Bus Bids:

Mrs. Oberg moved and Dr. Shea seconded to accept the recommendation of Mr. Tarro to reject all School Bus Bids. The motion passed 4-0.

Mrs. Oberg moved and Dr. Shea seconded to approve the recommendation of the

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

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Minutes of School Committee Meeting 01/29/09

Superintendent with respect to the Request for Use of School Facilities by the US Census Bureau. The motion passed 4-0.

New Business from School Committee

Dr. McIntyre and members of the Committee expressed their best wishes to John Lazzaro, a member of the Town Council, who recently had surgery.

Members of the Committee expressed their condolences to June Speakman, President of the Town Council, in the recent loss of her mother and requested that a plant be sent to her.

Mr. Hasenfus noted that he received two articles from Mr. James Tumber regarding underage drinking which he will forward to the central office to be copied and distributed to all School Committee members.

Discussion of Future Agenda Topics

Mrs. Oberg suggested that we include "Public Comment Regarding Breathalyzer Testing at the High School" which might aid the Committee in a broader based decision regarding this issue.

Dr. Flanagan requested the Committee be provided with information regarding the strategies used to incorporate technology into the curriculum and classrooms.

Mr. Hasenfus suggested topics be included that mesh with our strategic plan and the direction the district is taking to incorporate it into our strategic plan.

Dr. McIntyre briefly summarized steps taken with regard to a recent incident in which a child was approached as he was walking home from school.

General Discussion to Guide Future Recommendations

February 5th 7:30 p.m. Budget Workshop

General Public Discussion and Information

No issues were raised at this time.

No Executive Session was necessary.

The meeting was adjourned at 9:20 p.m.

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

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Minutes of School Committee Meeting 01/29/09

RIF LIST 09 - 10

1. Diane Aguiar-Boleates
2. Elizabeth Alexander
3. Daniel Amaral
4. Peter Ansel
5. Jason Appel
6. Maggy Bell
7. Anita Bench
8. Melissa Bento
9. Sasha Blake
10. Peter Blasi
11. Heidi Brousseau
12. Bryan Caswell
13. Carrie Clegg
14. Caroline Conaty
15. Andrea Correia
16. Joseph DaCosta
17. Anna DaSilva
18. Eliza Davis
19. Brian Dedentro
20. Karen DeSpirito
21. Elaine Dickervitz
22. Lisa DiPaola
23. Amanda Fonseca
24. Lynn Galvin
25. Kara Gelke
26. Allynn Grantham
27. Nicholasw Guadagno
28. Danamarie Ingram
29. Kendra Lenzire
30. Jeffrey Levesque
31. Helen Li
32. Catherine Liska-McBride
33. Amanda McCann
34. Jessica McDonnell
35. Megan Medeiros
36. Amy Nicodemus
37. Diana Ouellette
38. Samantha Palombo

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

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Minutes of School Committee Meeting 01/29/09

- 39. Erin Parker
- 40. Aubrie Pascale
- 41. Joseph Pirraglia
- 42. Teresa Smith
- 43. Stephanie Spaziano
- 44. Emily Vincent
- 45. Kristen White

EXHIBIT C

BARRINGTON SCHOOL COMMITTEE MEETING

Barrington Middle School, 261 Middle Highway

Barrington, RI 02806

AGENDA

February 26, 2009

7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ACHIEVEMENT RECOGNITION

C. APPROVAL OF MINUTES

D. APPROVAL OF FINANCIALS

E. INFORMATION AND PROPOSALS

1. Special Education Update

2. Social Emotional Concerns/Stress

F. GENERAL PUBLIC DISCUSSION AND INFORMATION

G. OLD BUSINESS

Superintendent and Staff

1. FY08 Audit Report

2. Budget Update

School Committee

1. Discussion School Committee Policies

2. Public Comments Re: Breathalyser Testing

H. NEW BUSINESS

Superintendent and Staff

1. Personnel

2. Approval of Bid

3. Transfer of Asset to Police Department

4. Approval of Request for Use of School Facilities

School Committee

1. Discussion Regarding The BAY Team Link with School Committee

I. DISCUSSION FUTURE AGENDA ITEMS

J. GENERAL DISCUSSION TO GUIDE FUTURE RECOMMENDATIONS

K. GENERAL PUBLIC DISCUSSION AND INFORMATION

EXECUTIVE SESSION pursuant to Sections 42-46-5(a)(1) and 42-46-5(a)(2) for Personnel and Collective Bargaining and Litigation

The Government Center is accessible to the handicapped. Individuals requiring any accommodations for disabilities must notify the Barrington School Department 245-5000 (TTD 247-3750) not less than 48 hours in advance.

EXHIBIT D

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

Page 1

Minutes of School Committee Meeting 02/26/09

A regular meeting of the Barrington School Committee was held on Thursday, February 26, 2009 at Barrington Middle School. Mr. Hasenfus called the meeting to order at 7:35 p.m. Present were Mr. Hasenfus, Dr. Shea, Mr. Guida, Mrs. Oberg, Dr. Flanagan, Dr. McIntyre, Dr. Calise and Mr. Tarro.

Ms. Denise Javery led the Committee in the Pledge of Allegiance to the Flag.

Achievement Recognition

Dr. McIntyre was pleased to report that the Barrington Education Foundation donated \$57,000 to all the schools. He expressed his appreciation to this organization for their hard work and tremendous contributions to this community.

Dr. McIntyre recognized Alexandria Personeus, a 7th grader in the Orange Cluster, who was selected as a 1st place winner in the R.I. State Elks Americanism Essay contest. He noted that she will be presented with a \$100 Savings Bond at a dinner in honor of the winners on March 8th. Her language arts teacher is Kristen Poland.

Dr. McIntyre was pleased to announce that the following students are finalists in the 2009 Competition for National Merit Scholarships: Erica Chin, Sara Clemens, Audrey Dunne, Andrew Engvall, Sarah Genetti, Anne Kenyon, Kelsey Perkins, Amy Rasmussen, Margaret Tam, Alexandra Wardlaw and Benjamin Xiao.

Approval of Minutes

Mrs. Oberg moved and Mr. Guida seconded to approve the minutes of the School Committee meeting of 01/29/09 as written. The motion passed 5-0.

Mrs. Oberg moved and Mr. Guida seconded to approve the minutes of the Budget Workshop of 02/05/09 as written. The motion passed 5-0.

Approval of Financials

Upon review and discussion of the restated October financial reports, and the November and December financial reports:

Mrs. Oberg moved and Mr. Guida seconded to approve the restated expenditures for July 1 through October 31, 2008 in the amount of \$222,578.23; the expenditures for November in the amount of \$3,152,323; and the expenditures for December in the amount of \$3,109,748.85. The motion passed 5-0.

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

Page 2

Minutes of School Committee Meeting 02/26/09

Mr. Hasenfus entertained a motion to suspend the rules and change the order of the agenda in order to accommodate the members of the audience who were present for specific topics on the agenda.

Mrs. Oberg moved and Dr. Flanagan seconded to suspend the rules and move the agenda to a discussion regarding the formation of a link between the Bay Team and the School Committee and then to public comments regarding the possibility of instituting breathalyzer testing for all students at high school dances. The motion passed 5-0.

Kristen Westmoreland, Program Manager for the Bay Team, requested that the School Committee consider formalizing a relationship with the Bay Team, which is a community coalition to prevent underage substance use. Following a discussion with many questions asked for purposes of clarification, it was decided that the Bay Team would submit information to Dr. McIntyre which he would share with the School Committee. The Committee would then contact the Bay Team with their decision.

A lengthy discussion took place regarding whether or not to make breathalyzer testing mandatory at high school dances for all students. Mr. Hasenfus emphasized that there is no formal proposal at this time and that we want to give all due consideration in order to properly handle this issue. Much input was given by members of the audience with regard to the pros and cons of this initiative. More discussion will take place before any decision is made regarding this issue. Mr. Hasenfus urged members of the audience to contact the School Committee or administration with their views.

The agenda then returned to **Information and Proposals.**

Mrs. Susan Healy-Mills presented an update on the status of Special Education in the district. The handout provided to the members of the School Committee was used as the basis of her presentation. Much discussion took place regarding various aspects of her update. Members of the School Committee and administration praised Mrs. Healy-Mills for the outstanding job she has done.

Presentations were made regarding an overview of social emotional concerns/stresses at both the high school and middle school. Mrs. Natalie Stein, Middle School Guidance Counselor and Mrs. Courtney Canario, Middle School Student Assistant Counselor focused on the middle school and Mrs. Joanne Royley, High School Student Assistance Counselor, focused on the high school. They highlighted some of the programs and support services presently in place to deal with these issues. Much discussion took place regarding various aspects of their presentations.

Mr. Hasenfus requested a brief break be taken.

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

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Minutes of School Committee Meeting 02/26/09

Dr. McIntyre noted that Mr. Tarro left the meeting due to a home emergency.

General Public Discussion and Information

No issues were raised at this time.

Old Business from Superintendent and Staff

It was suggested that the FY 08 Audit Report be deferred until a later meeting.

Dr. McIntyre presented a brief update on the status of the budget negotiations with the Committee on Appropriations (COA) which have been cordial and respectful. Dr. McIntyre indicated that questions asked by the COA have been answered adequately and that the COA understands that the major issue with our budget is with state funding and the cap imposed upon us for being our rationale for requesting the maximum amount to increase our budget.

Mr. Guida was pleased with the editorial in the Barrington Times which also expressed an understanding that the problem with the budget was due to state funding.

Old Business from School Committee

Following Dr. McIntyre's explanation regarding why School Committee Policy GBB was amended to replace "Gatekeeper" with "Third party Administrator":

Mrs. Oberg moved and Mr. Guida seconded to adopt School Committee Policy GBB -403(b) Retirement Plan as amended. The motion passed 5-0.

It was the consensus of the Committee to table a discussion of the draft School Committee policy, Fund Balance Policy, until the next School Committee meeting.

New Business from Superintendent and Staff

Mrs. Oberg moved and Mr. Guida seconded to accept the recommendation of the Superintendent with respect to the following resignation and requests for leaves of absence.

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

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Minutes of School Committee Meeting 02/26/09

Resignation

Kelly McKenney, HS, RTI Chairperson

Requests for Leaves of Absence

Dawn August, MS, Reading Specialist

Kristen Matthes, SO, Special Education – D. P.

Jaime Poirier, HM, Guidance

Jennifer Scott, MS, Science

The motion passed 5-0.

Mrs. Oberg moved and Mr. Guida seconded to accept with regret the retirement of Judith Squires, HS, Health/Physical Education. The motion passed 5-0.

Mrs. Oberg moved and Mr. Guida seconded to approve the award of the Convection, Double Deck, Gas Oven Bid to Sam Tell and Son, Inc. in an amount not to exceed \$7,328.81, which was the lowest qualified evaluated bidder. The motion passed 5-0.

Mr. Guida moved and Mrs. Oberg seconded to transfer our old middle school server (BPS-BMS2) to the Police Department. The motion passed 5-0.

Mr. Guida moved and Mrs. Oberg seconded to approve the recommendation of the Superintendent with regard to the following requests for use of school facilities:

**Barrington Diamonds Softball
Ballet Prestige**

The motion passed 5-0.

General Discussion to Guide Future Recommendations

March 2 nd	7:30 p.m.	Town Council Meeting Re: Broudy Report on Underage Drinking
March 2, 3, 4		BEF Telethon
March 5 th	7:30 p.m.	District Report Night @ AO

General Public Discussion and Information

No issues were raised at this time.

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

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Minutes of School Committee Meeting 02/26/09

Mrs. Oberg moved and Mr. Guida seconded to adjourn the regular meeting at 10:35 p.m. and go into Executive Session pursuant to Sections 42-46-5(a)(1) and 42-56-5(a)(2) for Personnel and Collective Bargaining and Litigation; specifically for Personnel and Litigation. The motion passed 5-0.

Mrs. Oberg moved and Mr. Guida seconded to adjourn the Executive Session at 11:15 p.m. and to seal the minutes and report that no votes were taken. The motion passed 5-0.

The regular meeting was adjourned at 11:16 p.m.

EXHIBIT E

Barrington Times
 Bristol Phoenix
 Sakonnet Times
 Warren Times-Gazette
 Westerly Times
 Westerly Times-Gazette
 Westerly Times
 East Providence Post
 Seekonk Star
 Swansey News

EastBay[®]

NEWSPAPERS

March 6, 2009

Rhode Island Attorney General's Office
 Attn: Micheal Field, Open Government Unit
 150 South Main St.
 Providence, RI 02903

P.O. Box 80
 Bristol, Rhode Island 02800
 (401) 253-6000
 www.eastbayri.com

Mr. Field,

The Barrington Times is challenging the Barrington School Committee's right to meet in executive session on Feb. 26, 2009 to discuss an issue that is not a matter of litigation, collective bargaining or personnel.

The school committee had previously requested an opinion from its attorney regarding the implementation of mandatory breathalyzer tests at Barrington High School dances. The committee discussed the issue in executive session, stating that it fell under the subject of the implicit threat of litigation; they had previously received a letter from the ACLU which recommended the district not implement mandatory tests.

I questioned Barrington School Committee Chairman Jim Hasenfus, stating that the threat of litigation and litigation are different, although I am not convinced that the letter from the ACLU even poses a threat of litigation. I believe it simply states the ACLU's opinion regarding the issue.


I also requested the minutes from the executive session and any correspondence between the school committee and its attorney, Daniel K. Kinder, and was denied in a March 5 letter from Barrington School Department Superintendent Robert McIntyre.

I question whether the school committee properly convened in executive session under the Rhode Island Open Meetings Act, and I am still seeking the aforementioned information from the school committee.

Enclosed is a copy of my request for information sent to the school department on Feb. 27, the denial letter from the superintendent and a copy of an e-mail from the school committee chairman stating his position.

I welcome your response as soon as possible. Thank you for your attention.

Sincerely,



Josh Bickford
 401-245-6000 ext. 108
 jbickford@eastbaynewspapers.com

Barrington Times
Bristol Phoenix
Sakonnet Times
Warren Times-Gazette
Westport Shoreline
Newport This Week
East Providence Post
Seekonk Star
Swansea News

EastBay[®]

NEWSPAPERS

Feb. 27, 2009

P.O. Box 90
Bristol, Rhode Island 02809
(401) 253-6000
www.eastbayri.com

Barrington School Committee
Attn: Chairman Jim Hasenfus
School Administration Building
283 County Road
Barrington, RI 02806

Following up on a conversation I had earlier today with Mr. Hasenfus, I am requesting a copy of a letter sent to the school committee by its attorney, Dan Kinder, on the topic of a proposed breathalyzer policy considered for Barrington school events. Furthermore, I would request any correspondence, prior to this most recent letter, between Mr. Kinder and the school committee on this topic.

Under the Rhode Island Access to Public Records Act, I am also requesting a copy of the minutes from the Feb. 26 executive session meeting of the school committee. I question whether the school committee properly convened in executive session under the Rhode Island Open Meetings Act, and I intend to seek the opinion of the Rhode Island Attorney General's Office and its Open Government Unit. I do not believe the school department is facing litigation or even possible litigation for the breathalyzer proposal and do not believe the discussion should have been held behind closed doors.

I welcome your response as soon as possible. Thank you for your attention.

Sincerely,



Josh Bickford
401-245-6000, ext. 108
jbickford@eastbaynewspapers.com

Open records

EXHIBIT F

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

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Minutes of School Committee Meeting 06/18/09

A regular meeting of the Barrington School Committee was held on Thursday, June 18, 2009 at the High School. Mr. Hasenfus called the meeting to order at 7:37 p.m. Present were Mr. Hasenfus, Dr. Shea, Mr. Guida, Mrs. Oberg, Dr. Calise, Mr. Tarro and Dr. McIntyre. Dr. Flanagan was absent.

Mr. Michael Messore led the Committee in the Pledge of Allegiance.

Achievement Recognition

Dr. McIntyre commended all the high school graduates, parents and Mr. Gray for the outstanding graduation ceremony.

Approval of Minutes

Mr. Guida moved and Dr. Shea seconded to approve the minutes of the regular School Committee meeting of 06/04/09 as written. The motion passed 3-0. Mrs. Oberg abstained as she was not present at that meeting.

Approval of Financials

None were available this evening.

Information and Proposals

Ms. Kathy Sullivan, with the assistance of Dr. Kristen Westmoreland and recent high school graduate, Seth Chitwood presented an overview of the BAY Team's work this past year. The Committee was provided with handouts and a PowerPoint presentation highlighting their efforts to date. They also outlined some of their future goals. Much discussion took place as Committee members asked questions regarding various aspects of their report.

Mrs. Tracey Orchard, Volunteer Coordinator, presented an update on the School Volunteer Program. She highlighted some of the volunteer activities presently in place and included future volunteer program plans. Dr. McIntyre commended Mrs. Orchard for the excellent job she is doing.

Mr. Michael Messore presented an update on the status of the successful Summer School Program including future goals of the program. He distributed a handout to the Committee that was used for the basis of his discussion. Questions were asked by members of the School Committee regarding various aspects of his presentation.

Minutes of School Committee Meeting 06/18/09

Mr. Joseph Hurley presented an update on Common Planning Time and used a handout as the basis of his presentation. Following an overview of his proposal for common planning time:

Mr. Guida moved and Mrs. Oberg seconded to approve and endorse the proposal for the adoption of the master schedule, the master schedule for common planning time and the master schedule for advisory days as presented this evening. The motion passed 4-0.

Mr. Hurley provided the Committee with the present protocol in the student handbook dealing with the use of breathalyzers and a draft of the new protocol with regard to the use of breathalyzers. He presented an overview of the history of the rationale for developing a breathalyzer protocol. Following much discussion regarding this issue:

Mr. Guida moved and Mrs. Oberg seconded to support the updated procedure for breathalyzer testing as stated in the proposal submitted this evening and recommended by the Superintendent contingent upon feedback and approval from legal counsel. The motion passed 4-0.

There was no **General Public Discussion and Information.**

Old Business from Superintendent

Dr. McIntyre and Mr. Tarro updated the Committee on the status of the budget with regard to state aid and indicated that our cut in state aid was back filled with stimulus money. The impact of the state budget to the school budget will not be known until we can confirm the pension savings originally estimated at \$925,000. The approved state budget shows that Barrington will be receiving \$223,000 over the \$2.6 million. However, included in the state's reported numbers are restricted federal IDEA funds of \$351,000. This leaves us short about \$128,000.

Old Business from School Committee

It was the consensus of the Committee to table a discussion of a Student Survey Policy until a future meeting as Dr. Flanagan was absent this evening and he was overseeing the development of this policy.

New Business from Superintendent

Mrs. Oberg moved and Mr. Guida seconded to approve the recommendation of the Superintendent with respect to the retirement of Joan Cruickshank, NA, Reading Specialist. The motion passed 4-0.

Minutes of School Committee Meeting 06/18/09

Mrs. Oberg moved and Mr. Guida seconded to approve the requests for leaves of absence for Maggy Rose Bell, MS, School Psychologist and Diana Siliezar-Shields, HS, Science. The motion passed 4-0.

Mrs. Oberg moved and Mr. Guida seconded to approve the recommendation of the Superintendent with respect to the resignations of William Barrass, Girls' Assistant Cross Country Coach and Sasha Blake, HS, English. The motion passed 4-0.

Following Mr. Tarro's overview regarding the sale of ten (10) used copy machines:

Mr. Guida moved and Mrs. Oberg seconded to approve Mr. Tarro's recommendation to sell ten (10) used copy machines to CopEx., Inc. in the amount of \$3,000. The motion passed 4-0.

Following Mr. Tarro's overview of the Interactive Classroom Student Remotes Clickers Bid:

Mrs. Oberg moved and Mr. Guida seconded to award the Interactive Classroom Student Remotes/ Clickers Bid to UNICOM in an amount not to exceed \$12,395.97, which was lowest qualified evaluated bidder. The motion passed 4-0.

Following Mr. Tarro's overview of the transfer of a file server to the Police Department:

Mrs. Oberg moved and Mr. Guida seconded to accept the recommendation of Mr. Tarro with respect to the transfer of a file server (Dell Power Edge 2600) to the Police Department. The motion passed 4-0.

New Business from School Committee

It was the consensus of the committee to have Mr. Guida develop some type of formal expression of gratitude to Mr. Gray from the School Committee commending Mr. Gray for his length of service and dedication.

General Discussion to Guide Future Recommendations

August 27th 7:30 p.m. Business Meeting

General Public Discussion and Information

Members of the audience inquired about the status of a state aid funding formula and inquired as to how they could help with regard to this issue.

**SCHOOL COMMITTEE
BARRINGTON PUBLIC SCHOOLS
BARRINGTON, RHODE ISLAND**

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Minutes of School Committee Meeting 06/18/09
Discussion Future Agenda Topics

No issues were raised at this time.

Mr. Guida moved and Mrs. Oberg seconded to adjourn the regular meeting at 10:08 p.m. and go into Executive Session pursuant to Sections 42-46-5(a)(1) and 42-46-5(a)(2) for Personnel and Collective Bargaining and Litigation; specifically for Personnel. The motion passed 4-0.

Mr. Guida moved and Mrs. Oberg seconded to adjourn the Executive Session at 10:32 p.m. and to seal the minutes and report that no votes were taken. The motion passed 4-0.

The regular meeting was adjourned at 10:32 p.m.