

**ENFIELD BOARD OF EDUCATION
SPECIAL MEETING MINUTES
JULY 18, 2012**

A special meeting of the Enfield Board of Education was held on Wednesday, July 18, 2012 at 6:30 PM in Council Chambers at the Enfield Town Hall.

1. **CALL TO ORDER:** Mr. Neville called the meeting to order at 7:32 PM.
2. **PLEDGE OF ALLEGIANCE:** Those present joined in the Pledge of Allegiance.
3. **FIRE EVACUATION ANNOUNCEMENT:** Chairman Neville announced the fire evacuation announcement.
4. **ROLL CALL:**

Present: Peter Jonaitis, Tina LeBlanc, Charles Johnson, Vincent Grady (participated remotely), Kevin Fealy, Joyce Hall (participated remotely), Jennifer Rancourt, and Timothy Neville, Chairman

Absent: None

Also Present: Jeffrey A. Schumann, Superintendent; Chris Drezek, Deputy Superintendent and Shipman and Goodwin Attorney Linda Yoder

Chairman Neville stated that two Board members will participate at tonight's meeting remotely. We have conference calls setup for Vin Grady and Joyce Hall so they can participate per BOE Policy #9341.8 Participation at Board meetings by Remote Methods.

5. **SUPERINTENDENT'S REPORT REGARDING PROPOSED SETTLEMENT OF ACLU LITIGATION (INCLUDING PROCEDURAL RULES REGARDING DISCUSSION)**

Dr. Schumann reviewed the procedural rules from Roberts Rules of Order for tonight's meeting with Board members. Attorney Yoder will sit in Mr. Grady's seat as the Board's attorney so she can provide assistance to the Chair if needed regarding procedural conduct of the meeting.

Dr. Schumann reviewed the superintendent report that was sent electronically to Board members per request from the Board Chair for tonight's meeting. The Board is being requested to consent to the terms of the settlement agreement negotiated by CIRMA under the terms of the Board's insurance policy. Payment for the settlement will be made by CIRMA. Payment will not affect the Board's Budget. Our insurance rates will not increase and there will be no costs to the taxpayer's. Failure to consent will have the same effect as CIRMA has imposed a deadline for response of July 20, 2012.

Dr. Schumann further added that he hopes this information will help the Board to make their decision on this matter.

Mr. Johnson asked about the time limit set for tonight's meeting. Dr. Schumann stated it is part of the Board's By-laws that references Robert's Rules of Order and unless there is a set amount of time, ten minutes would be the amount permitted. Robert's Rules recognizes that ten minutes is the appropriate amount of time unless the Board has set another amount of time for discussion.

Mr. Johnson asked for the actual references. Dr. Schumann stated it is in the newly revised Robert's Rules Eleventh Addition on pages 30, 31, 43, 387 and 388.

Mr. Jonaitis stated this is the first that he is hearing about this or seeing this. He has asked that all of his Board packets to be delivered to his home and does not know why he didn't receive it prior to tonight. When did the Board adopt the new version of Robert's Rules? This is not the copy that the Board received at the beginning of our term.

Dr. Schumann apologized for not getting the items to Mr. Jonaitis and will do so in the future. We follow the rules from Robert's Rules and assumed that Board members would use the most recent version.

Chairman Neville added that in the Board's By-laws it refers to Robert's Rules and he is also under the same assumption that we would use the most current version.

Chairman Neville stated we will now move into audience participation of the meeting. We wanted to give the audience information about the meeting. He reviewed the procedures for audience participation. Mr. Drezek will be the time keeper for audience participation.

Mr. Jonaitis objected to the three minute time limit. Chairman Neville stated we have used the three minute time limit since we started. Mr. Jonaitis asked if they can speak a second time.

Mr. Jonaitis moved seconded by Mr. Fealy to allow audience members more than three minutes to speak.

Discussion:

Mr. Jonaitis believes this issue is important and audience members deserve time to express their concerns. They should be able to ask their questions, not a filibuster.

Mrs. Szewczak stated that three-five minutes should be sufficient for audience participation.

Mr. Jonaitis stated it would depend on who was addressing the Board. He would have no objections for the Chair to interrupt someone that was going on and on.

Mrs. Szewczak stated that setting a time limit would be best. If the Chair interrupted someone, it would give the appearance that he might be giving his opinion by cutting an audience member off. A time limit keeps it cleaner. A maximum time of three-five or three-six minutes would be best and would make it more neutral.

Mr. Jonaitis would consider a five minute limit with an option to come up a second time. Chairman Neville stated we have done that in the past.

Mr. Fealy thanked everyone for coming tonight. He believes that a five minute time limit for audience participation should be adequate for the public to voice their opinions. This is why he asked for the meeting tonight.

Mr. Grady stated in the past when there have been a lot of people wanting to address the Board, a three minute limit has been established to allow everyone the opportunity to speak. At a normal meeting the time limit was five minutes for audience participation but when there are important issues that are being discussed by the Board and the Town Council a three minute limit is set. He would not like to see anyone not be able to address the Board by going over five minutes. He would not recommend a second time for audience participation because it is not set on our agenda for that.

Mr. Johnson is in agreement that it is important to hear from audience members. Everything was done in executive session up to this point. He would like to hear from audience members and if someone wants to speak a second time to complete their comments it would be appropriate.

Mr. Jonaitis moved, seconded by Mr. Fealy to amend the original motion to allow each audience member to speak for five minutes and after all speakers are done, they can speak for an additional three minutes.

Discussion:

Mr. Grady asked if this would be allowed since it is not on the Special Meeting Agenda. We have had this discussion before and it has never been approved for audience members to address the Board a second time. Mr. Grady feels that if it is not on the agenda, audience members should not be allowed to address the Board a second time.

Chairman Neville stated it is not on the agenda. We only have a one item agenda.

Ms. Hall stated the Chairman has the privilege to limit the audience participation per our policy regarding meetings. This is what the Chairman has done.

Mr. Jonaitis stated this is what he is objecting. Chairman Neville stated he is trying to speed up the process tonight.

Ms. Hall added that this is a special meeting and no items can be added to a special meeting agenda. Except for tonight's meeting, we have not had audience participation at a special meeting. The Board Chairman has the right to limit the amount of time for audience participation.

Mr. Grady asked for the amended motion to be read again.

Mr. Jonaitis stated the amended motion is to allow each speaker to speak for five minutes and after all speakers have spoken, they can come and address the Board for an additional three minutes if they chose to do so.

Mr. Fealy stated this would still be under Item Audience Participation. This would just give them a second time to speak. If it is not on the special meeting agenda it can not be added.

Chairman Neville asked for clarification – it would be the same people addressing the Board for a second time if they so chose. Mr. Jonaitis stated that is correct.

Chairman Neville does not object to audience members addressing the Board a second time. He would ask audience members to keep their comments to the same vein as before. If we do this, we do not need to continue with the motion. You can withdraw your motion.

Mr. Jonaitis stated audience members will be able to address the Board a second time. Chairman Neville stated that is correct.

Both Mr. Jonaitis and Mr. Fealy withdrew the amended motion.

6. AUDIENCE:

Round #1

Lynn Scull, Pinecrest Road – Mrs. Scull is a former Board of Education Member and is also an attorney. She has been in your seat and the decisions you make are not easily done. The decision you make will affect us for many years to come. Decisions she made as a Board member in 1999 are still in effect. The decisions you make as Board members, you will have to live with. She asked Board members to look towards the future and going forward for the town and the citizens of Enfield. By continuing this lawsuit and proposed settlement you are keeping us in the past. We do not have a chance of winning. It is time to move forward. She thanked the Board and wished them luck with their decision.

Bill Thomson, Duff Drive – Mr. Thomson is a former Chairman of the Board of Education. He welcomed Dr. Schumann to Enfield. He would like the Board to put this graduation lawsuit behind them. We need to be fiscally responsible. To continue this fight would be irresponsible. The Board needs to focus on what is most important – education. The Board has faced severe budget restraints over the past five years. The Board should look for a venue that is most affordable for graduations. Continuing to fight this lawsuit could cost us money that we do not have and will put tax payers at risk. Mr. Thomson added that the Town has cut the funding for ARC. If we cannot afford to fund something as fundamental as this, how can we continue this fight.

Judy Apruzzese-Desroches, Celtic Court – Mrs. Apruzzese-Desroches is a former Board member. She served on the Board for 6 years. She was part of the Board that made the decision to go to the Cathedral and part of the decision for the lawsuit. She was not in favor of the lawsuit. Our intent was to go to the Cathedral for 1 year when the Fermi football field was unavailable. Our mistake was allowing the schools to go back to the Cathedral. If there is no money put aside in the budget for this and you lose, you as Board members will pay for it. She does not want to see her tax dollars going for this. You are the Board of Education and should focus on education. Where the graduations are held should not be a huge issue.

Sue Braun, Light Street – Mrs. Braun spoke against this previously at many Board meetings. This still bothers her and none of our tax dollars should go towards this lawsuit. You can not waste any more time on this. You have more important issues to deal with. The more time you spend on this, the more you ruin our reputation. She remembers when Mr. Stokes mentioned that this law suit would not cost us anything. If the Board goes forward with this lawsuit and it costs us money, how can anyone trust anything that you say. We need to stop this now. Thank you.

Jack Sheridan, Buchanan Road – Mr. Sheridan is the President of the Enfield Taxpayers Association and Chairman of the Enfield Taxpayers. He attended many of the past Board meetings where this was discussed and when the decision was made. He believes the Board made the correct decision to fight this. He agrees with Mrs. Apruzzese-Desroches about the decision to use the Cathedral while the athletic fields were unavailable. He feels we are being bullied and believes we are surrendering to them. This is not a good precedent to set. He thinks the Board made the right decision and you should continue to fight and not be bullied.

James Bailey Brislin, Oakwood Street – Mr. Brislin stated 2 years ago it was the opinion of the town and students to go to the Cathedral. He wished we had more information and notice about this meeting instead of keeping everything done behind closed doors. He finds it interesting that the ACLU kept the proposed settlement amount secret and the amount of the invoices secret. He filed an FOI request asking to inspect the \$1.3 million dollars in invoices. The ACLU is known to over-bill and inflate costs to intimidate settlements. You are still in the pre-trial phase and have not gone to trial yet. He would like to see the Board ask the ACLU to keep this open to see if it really is a good faith offer until a decision is made. He does not believe that CIRMA is acting in good faith for us. He would like the ACLU to wait until a decision is made by the courts.

Kathy Thomson, Duff Drive – Mrs. Thomson believes the Board has wasted way too much time on this. You have spent more time on graduations than you have on the consolidation of the two high schools. Let's put an end to this nonsense and start to make education our priority. Both of her children graduated from Enfield. One ceremony was held on the field and the other was held at the Cathedral. They both received diplomas. Mrs. Thomson also understood that the graduations were to be held at the Cathedral until the fields were completed. What happened to that?

Eugene Berman, The Laurels – Mr. Berman takes pride in our community. He has lived here for 15 years. He is also an attorney. You can not use tax dollars for religious purposes. The 7th circuit negated the decision. There is no doubt in his mind constitutionally, this is a losing battle. Wasting tax dollars on this case does not make sense. The Board's job is to educate our students. This case is dividing our community. We are overriding the matters of the minority. You are squandering your time, tax payer money and the future of our students discussing something that should not be discussed here. We are wasting our money fighting this case. We should be discussing inclusion and our constitutional rights. This isn't the forum for this. The students are entitled to graduate and you are not allowed to spend funds in a sectarian place for graduations. He is confident when the Board votes on this you will accept the settlement and get on with what matters the most – educating our children. Thank you.

Dominick Alaimo, New King Street – Mr. Alaimo thanked the Republican Party for bringing this topic out in the public to allow for transparency. When the insurance company met with the former Board they were told there was a \$10 million dollar coverage and a hammer clause was never mentioned. He believes there is some collusion between the ACLU and CIRMA. Parents and students signed petitions and supported this lawsuit. The lead attorney for the ACLJ has asked the Board to not concede on this fight. Why are you not listening to counsel on this. There was no religious intent when the Cathedral was used for the graduations. How can you make this decision to never go to the Cathedral again. You will be tying the hands of future Boards. Do you think the ACLU would settle this case if they thought they were winning this case? They want to settle the case to use the money for other cases around the country. He would like to see the Board continue this battle and set a precedent across the country.

Chairman Neville asked audience members to refrain from clapping.

John Unghire, Abbe Road – Mr. Unghire stated he has heard many things tonight like we should move on, this is risky, financially irresponsible, wasteful and nonsense. This is an important issue. He is in favor of fighting this. We have the right to decide where we hold our graduations. We should be able to hold graduations where we chose. He remembers when he first heard about this case on the radio and he thought who is the ACLU telling us we cannot hold graduations at the Cathedral. He is in favor of fighting this. A graduation is not a religious activity. The ACLU is promoting their own agenda and we should not let them push us around. He is a tax payer and is standing up to fight for the principle of this.

Tom Walsh, Rosanne Street – He agrees with Mr. Unghire and Mr. Alaimo. We should fight for this. What are we teaching our children – not to fight the bully. He did not do well when he was in school but he has been following this very closely. He has read the constitution and it does not say that. The government cannot form a church. The former Board Chair was just renting a building. He was not forming a church. Your faith makes it a church. It was just a building. If they were winning the lawsuit, why would they settle for half the money. They are bullies and they have been beaten before. We are giving our kids an education with this fight. A lot of people have fought and died for us to support this United States Constitution – don't spit on their graves. Don't give into them.

Mary Ann Turner, Meadow Road – Mrs. Turner appreciates that this is being televised live. She has not met the superintendent yet but will be on her list of things to do when she gets back from her vacation. She finds it a bit disturbing that you would spend 20 minutes on how you would be conducting tonight’s meeting and whether or not you would allow audience members the opportunity to speak twice. The public is the reason that you sit in your seats. You were elected to do a job and sometimes your constituents will need to voice their opinions. In the future she would like you to be very careful when treading on the public’s right to speak. Transparency is important in Enfield. Closing schools was done because we had more than we needed and by doing this we were able to shift the funds around. The Cathedral was built so they could use it as a secondary business for renting it out. Many towns have used the Cathedral. It is just a building. It was a comfortable venue to hold the graduations in unlike this year’s extreme heat concerns. Previous Boards made the decision to go with this lawsuit. Now the insurance carrier wants to make a change. She did not know about the hammer clause and takes offense with this. It appears that you are being bamboozled by your own people. Whatever decision the Board makes, we will stand with you. We put you in charge to make a decision. She has her own opinion. Please be sure that you are all on the same page and it can’t change later.

Round #2:

Chairman Neville reminded audience members to limit their comments to three minutes.

Judy Apruzzese-Desroches, Celtic Court – Mrs. Apruzzese-Desroches stated the ACLU served the Board with a notice that this was a problem and they would be pursuing this. The Board at that time notified them that this was a one-time event to be held at the Cathedral and they agreed to not pursue it at that time. We were mistaken and did not do what we were supposed to do. The ACLU represents students and parents. The ACLJ represents us. Both organizations have an agenda. The ACLU is not moving alone on this. There are Enfield citizens that came to them as we went to the ACLJ for assistance with this after they contacted us. She does not recall the ACLU coming to us with a settlement. She would be curious to know who went to whom about a settlement. She hopes this can be answered under Board comments.

Eugene Berman, The Laurels – Mr. Berman appreciates the second opportunity to express that he is opposed to bullying. The bullying he is objecting to is the bullying of the majority when they seek to take away the rights of the minority. America stands for a single individual to have rights that may differ from the majority. The constitution and the amendments protect those rights of that individual. The rights of the individual can not be trampled on by the majority. We are individuals standing for rights of the minority. The Board and the citizens should learn to respect the rights of all individuals among us that are guaranteed by the constitution. Many of us were in the military and fought for the rights of the minority. Thank you.

Dominick Alaimo, New King Street – Mr. Alaimo stated the ACLU is nothing more than a bunch of thugs. We need to draw a line in the sand and move forward with this case. Why would they settle for \$400K when they know they can get \$1 million dollars? No one in their right mind would do this. The drop dead date is July 20th. A decision will be made by the courts in several weeks. Why don’t we just wait and see what the decision will be. This will be the direction for all of these cases. Thank you.

James Bailey Brislin, Oakwood Street – Mr. Brislin thanked the Board for the second chance to address the Board. He reviewed the hearing from the Elmbrook case. The taxpayers do not want you to settle. They are misusing the hammer clause and he takes objection to it. He would like the Board to fight for our freedom that our forefathers fought for. Today is graduations; next it will be polling places. Please stand up for our rights.

Mary Ann Turner, Meadow Road – Mrs. Turner stated we all have a voice. The unknown plaintiffs have the right to their voice and opinion as well as the public has their voice and opinion. She is annoyed when we play taffy and try to make the constitution fit. We all have rights and need to respect those rights. The insurance company originally told the Board that there was a \$10 million dollar cap. Now the amount is \$450K. She is quite concerned that the insurance company is playing with you and she does not understand why. Maybe this is something that you can expand on later. It is incorrect to say that the ARC lost their funding from the Town. The ARC did not conduct any fundraising. They are a private non-profit organization. They were in charge of their own destiny. The Town gave them money and this should not be used as a catalyst for one political agenda in front of another. This town has done very well with keeping the budget in tact while keeping services in place. We all have our opinions on this. This is not the fault of the Town Council when they were doing the budget.

Bill Thomson, Duff Drive – Mr. Thomson stated if holding graduations on the fields are too hot there are cheaper alternatives. We are in the 2nd circuit not the 7th circuit. Judges and circuits disagree and when you get to the appeals court you are talking about a lot of money. Mr. Thomson read an article about the funding for the ARC closing its doors due to lack of funding from the town. Mr. Thomson suggested taking the money we will be saving by settling this case and using the money for people with disabilities. That would be a valuable lesson for everyone. Thank you.

7. ACTION, TO REMOVE MOTION FROM TABLE REGARDING PROPOSED SETTLEMENT OF ACLU LITIGATION

Ms. Hall moved, seconded by Mrs. Rancourt that the Enfield Board of Education removes from being tabled the discussion of the proposed settlement of ACLU Litigation.

Discussion:

Mr. Jonaitis asked Chairman Neville to explain what is being done. Chairman Neville stated at the last meeting this item was tabled to be continued at a special meeting. Mr. Jonaitis stated we will discuss this and will then vote on it. Chairman Neville stated yes.

Attorney Yoder from Shipman and Goodwin joined the Board at 8:50 PM.

Mr. Fealy asked if it would be appropriate to hear from our attorney on this.

Chairman Neville stated we can not discuss this at all until it has been taken off of the table.

Chairman Neville called for a roll call vote.

A vote by **roll call 6-3-0** passed with Mr. Jonaitis, Mr. Johnson and Mr. Fealy in dissent

8. DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED SETTLEMENT OF ACLU LITIGATION

Chairman Neville stated that Board members will each have up to ten minutes to discuss this. Per Roberts Rules, Mr. Grady made the motion and can speak first.

Mr. Grady moved, seconded by Ms. Hall that the Enfield Board of Education accepts the terms of the settlement offer as presented.

Discussion:

Mr. Johnson would like to talk to Attorney McCarthy.

Attorney Yoder does not see anything that would prevent questions during this debate.

Chairman Neville stated our past practice was to discuss this in executive session. We did not invite all of the attorneys to be present tonight. It might be unfair to not have all of the attorneys present tonight to answer questions.

Mr. Johnson stated that we needed to take our time with this and would like to ask some questions. He would like to ask the experts a question.

Mr. Jonaitis stated we are asking if the experts can join us.

Chairman Neville stated he is giving his opinion on this. Mr. Johnson has the floor and he is asking me a question.

Chairman Neville stated based on what he feels, if you ask questions, it will come out of the ten minute time line. He further added that he does not have a problem with Attorney McCarthy or Attorney Gerarde answering any questions.

Chairman Neville stated the tone at our last meeting is one of the reasons why we are doing this. Roberts Rules allows for one person to speak at a time. This was not done at the last meeting. It was short of a filibuster.

Mr. Fealy stated it was done in executive session. Chairman Neville stated this is not allowed per Roberts Rules. We may not have operated this way in the past but probably should have. This way everyone will get a chance to speak. You asked a legitimate question and he does not have a problem with both attorneys joining the meeting.

Both Attorney McCarthy and Attorney Gerarde joined the meeting at 9:05 PM.

Mrs. Szewczak stated that she feels having the attorneys present is similar to when we have a Board guest and a presentation is made - we ask questions and they respond.

Ms. Hall stated the time limit will be used to include the attorney's responses.

Mr. Johnson asked if Board members can speak more than one time. Chairman Neville stated after everyone has had a chance to ask a question.

Mr. Grady stated he was not in favor of this a few years ago. We voted as a Board of 9 members. It was not a unanimous decision. Other towns were also dealing with the same issue and decided not to pursue just because of what we are going thru now. We need to make a fiscal decision that will benefit the children of Enfield. The insurance carrier gave us the hammer letter. This is their decision not ours and they have the right to do this. It is our decision to either go forward or stop. He does not believe it would be a sound decision to go back and forth in the courts. This is a financial decision it is not a bullying decision. We can not use our funds for this. This is a financial decision and that is what he is basing his decision on tonight. Thank you.

Mr. Fealy stated he wanted to hear what the public had to say about this issue. We heard from several audience members tonight. It was equally split, six were in favor and six were against the lawsuit. He was not on the Board when they chose to fight this. This continues to be a divisive issue. He volunteered for this job knowing it would be time consuming. This has not impacted our budget yet. His personal point of view as a parent with children in school and as

someone that attended the graduations in the heat, does not care where the graduations are held, just as long as they are held in a comfortable location where everyone can attend.

Mr. Fealy cares about the rights of the minority and their voices should be heard equally. He is against bullying and does not agree with settling. He believes that deep pockets are pushing us into a corner. The insurance company attorneys are doing what is in their best interest. The past Board chose to fight this and it was not a unanimous vote. They did have the communities support. He believes it will set a bad precedent if we succumb to this. He would like to see us hold graduations at a place that will allow us to celebrate. We fought to bring this out to the public so you could hear about this and voice your opinions. He appreciates you coming tonight. We are not fighting for a building. We are fighting for our ability to do as we wish in this community. Several attorneys spoke tonight and felt this is a losing case.

Mr. Fealy asked Attorney McCarthy for his opinion about this case.

Attorney McCarthy stated that he has given his opinion to the Board on many occasions. The circuit court favors the Boards position. We are still in the preliminary stage of the case. A public graduation is not a religious event – it is a graduation and does not fall under the prohibition of the establishment clause. That is the opinion he has given consistently. The insurance company has reserved the rights to contest the claim in this case.

Attorney McCarthy stated if the Board decides to approve the settlement from the insurance company he believes additional language should be added to the agreement to include that all potential claims arising from the insurance company to the Board and from the Board to the insurance company should be resolved by this agreement.

Mr. Fealy thanked Attorney McCarthy for his opinion. Based on what he has heard tonight from audience members and people he has spoken to, he will not support the settlement agreement.

Ms. Hall thanked those that have responded to her by e-mail regarding this issue. It has been very interesting that all the e-mails are in support for the Board to settle. She is also in agreement with them.

Mr. Johnson stated the ACLU is a bunch of bullies. He is concerned that the settlement does not make any sense to give them everything they are asking for plus money. We should not give them any money. We needed to bring this out to the public to give us their input on this. We did some interesting things at the last meeting in order for this to be brought in front of the community. We as a Board need to hear from the community and will need to make our decision based on that. We did not start this settlement.

Mr. Johnson asked where the settlement came from. Was this an offer from the insurance company, the Board, the ACLU or ACLJ.

Attorney Gerarde stated the settlement came from the plaintiffs for \$1.05 million in a settlement demand letter shortly after the Board was elected in November/December 2011. It was rejected by the insurance carrier because that would have been giving them everything they asked for. The insurance carrier a month or so ago under the insurance contract, called the plaintiffs and were trying to negotiate a settlement offer in April 2012.

Mr. Fealy asked if the Board was ever involved in any of these discussions.

Attorney Gerarde stated after we received the first letter from the plaintiffs, we met with the Board in November or December and did not recommend doing this. The insurance carrier initiated the response in April 2012. That was not done in consultation with the Board.

Mr. Johnson stated for clarification purposes, the Board and our attorneys were not involved with the negotiations for this.

Attorney Gerarde stated no and Attorney McCarthy was not involved in the voice to voice negotiations between the insurance carrier and the plaintiffs. The attorneys were involved along the way and did not come to the Board for the Board's consent unless there is an agreement. That is when you would come to the Board.

Mr. Johnson asked if Attorney McCarthy was involved in this.

Attorney McCarthy stated that he was involved in December because the Board was informed but not the subsequent discussions. Mr. Johnson stated you were not involved in any negotiations. Attorney McCarthy stated that is correct.

Mr. Johnson asked Attorney McCarthy when he found out about the settlement. Attorney McCarthy stated that he found out about the settlement around a month ago when the Board did.

Mr. Johnson stated our attorneys were not involved. Attorney McCarthy stated they were involved a month ago.

Attorney Gerarde further stated that is a bit too broad. The attorneys have been involved but Attorney McCarthy was not involved in the voice to voice negotiations with the plaintiffs. He has been involved in the case all along. The insurance carrier has the rights to settle this case and get consent from the Board. The negotiations did not involve either Attorney McCarthy or Attorney Gerarde. When we both found out about the settlement agreement we scheduled a meeting to meet with the Board. This happens with every insurance contract in the state. Attorney McCarthy stated that is accurate. We found out at the same time the Board found out.

Mr. Johnson asked if this is typical.

Attorney Gerarde stated every case is different and the insurance carrier has the right to settle. You have the right to consent to this settlement agreement or not. The insurance carrier has a contract right to make a settlement. If the Board says no, there is no settlement. If the Board says yes, then you have a settlement.

Mr. Johnson asked if we can find out if the insurance company has the right to do this and are we being represented correctly?

Attorney Gerarde stated the insurance policy is a document and the provision will list this. You can consult with an attorney to review this but this is pretty plain English.

Attorney McCarthy stated the statement made by the insurance carrier is consistent. He does not know what was said to the Board from the insurance carrier. There would be an issue if they said thing that were inconsistent with what is in the contract.

Mrs. Rancourt stated she also had a six to six tally like Mr. Fealy. She also received many e-mails that all Board members received that were in favor of the settlement. We have many different forums to use to see what the public's opinion is. She is on the Board for the education of our children. This lawsuit has nothing to do with education. We teach our children to respect and not to bully or be bullied, have respect for each other and respect each others differences. Many people were offended by this venue. If it affects a few people, we need to respect their opinions and find another venue. She is in favor of the settlement. We do not

have deep pockets considering the last four years we only received 0% and there is no where to get the money for. She is in support of the settlement.

Mr. Jonaitis stated that he has not received any e-mails. He has asked for items to come to his home computer.

Chairman Neville stated he will have someone look into this. The intent was to share this information with all Board members.

Mr. Jonaitis stated many attorneys have spoken for and against the settlement. The Springfield Symphony Hall was not cheaper. He understands the intent was to go to the Cathedral once but that was not the case. The schools decided to go back to the Cathedral. Each school has always made the decisions where to hold their graduations. We are not using tax dollars for religious purposes. We have not wasted any school funds or tax dollars on this. There are a lot of principles involved in this.

Mr. Jonaitis stated we are being made to pay the ACLU. He asked what have we done to them that we need to pay the ACLU.

Attorney McCarthy stated the money is being paid by the insurance company. From the insurance companies point of view they could potentially lose more than the \$500K. From the Board's point of view it is a bit harder to view. The Board will need to go along with the insurance company or pay more money. The Board would need to come up with a way to fund this.

Mr. Jonaitis asked if the ACLJ ever contacted our insurance carrier. The plaintiffs made the initial contact.

Attorney McCarthy stated no, we did not contact them. The insurance carrier spoke directly to the plaintiffs. Mr. Jonaitis asked if he was present at any time. Attorney McCarthy stated no.

Mr. Jonaitis stated he originally was on the fence about this. They are pushing their legal weight around. This is a matter of principle. We have made a heart wrenching decision. Both Mrs. Szewczak and Mr. Jonaitis were really torn about this in the beginning. We let our insurance carrier lead us in one direction and now there is this hammer clause. They are making this decision. Something is rotten in Denmark and the insurance company. They are doing this for financial reasons. This is not why we got into this.

Mr. Jonaitis could care less if we ever went back to the Cathedral again. It is our right as a Town to make that decision. We were told two years ago that we could never go on the fields again for graduation.

Attorney McCarthy stated this settlement has nothing to do with the merits of the case.

Mr. Jonaitis stated if this issue of the settlement did not come up, the case would still be going forward and we would still be waiting for a decision by the court.

Mrs. Szewczak stated she was on the fence and sees everything in grey and not black and white. This is something that she was told that they were fully indemnified by. She understands professional insurance liabilities. She knows that you don't need to be wrong to still have to pay. She is choosing to settle because the most important thing she does on this Board is for the education. She feels the issue of graduation has diminished our abilities to move forward with the reorganization and she will not allow this to impact the high school consolidation. The venue for the next high school graduation will need to large enough and we should choose something that is more vanilla. She appreciates the town's indulgence. She

does not appreciate some of the things that the Board has had to go through. Her personal life has been impacted by this and she is glad to see this come to an end.

Chairman Neville stated that he has expressed his opinions to Board members previously. He will express his opinion in his vote.

Mrs. LeBlanc thanked both sides that spoke tonight. Her focus is on education. She works for an insurance company. She believes in fiscal responsibility. Going forward with this would be irresponsible. She has heard from taxpayers on both sides of this. She attended both graduations and it is something to see the students come down the hills in their caps and gowns there is something to be said about that. We have lost some of the traditions in this town. We no longer have our Thanksgiving Day game. She would like to move forward with the Board and the high school consolidation. She is in favor of the settlement.

Mr. Fealy stated that not all education lessons are taught in school. The lesson we are teaching our children if we move forward with this decision is divided in the community. He is going to go with his conscious and vote no.

Mr. Johnson stated the ACLU was formed in the early 1920's by several socialists. Can we have an insurance attorney look at our contract to see if what our insurance carrier has done is ok. We never had any discussions on the possibility of a hammer letter. When we spoke with our insurance carrier this was never mentioned.

Ms. Hall stated the hammer letter was discussed in our early meetings with CIRMA and their representatives.

Mr. Johnson does not like the idea that the insurance company can come up with this before we even get to trial. They are doing this to us. They are going out of their way and had a discussion with the ACLU and came up with this conclusion without informing our attorneys. It might be legal but he does not like it. We haven't spent any money yet. This has not cost us anything yet. He would like us to continue this and settle later. Settling this case before the 7th circuit makes a decision does not make any sense. He believes we will continue to win if we continue with this case. Our insurance rates will go up one way or the other because they are paying out a half a million dollars. We can continue and not settle and take a risk and see where this will go. Our attorneys are telling us we should continue with this lawsuit. He agrees with our attorneys.

Mr. Johnson asked Attorney McCarthy if his opinion is to continue this lawsuit.

Attorney McCarthy believes we have a good chance of winning this case. He is concerned with the vote of the Board. The Board is not fully behind this based on what he is hearing tonight. There is not a majority to continue this. He still feels the case will win. It would be hard to represent you without a strong consensus. You need to have patience to persevere. It would be hard to continue this without the Boards support.

Attorney Gerarde is not here to advise you to go forward or not. You need to understand there are consequences to your vote. We are not here to debate the merits of the settlement. Do not make an emotional decision. Don't put your backs up against a wall. Litigation is battle. Do what is best for the students.

Ms. Hall would like to call for the question. Chairman Neville will let Mr. Jonaitis ask his question first then you can call for the question.

Mr. Jonaitis stated we are not under an injunction to not go to the Cathedral. We could do this all over again if we wanted to and wished we had done this sooner. He thanked Mr. Johnson for the transparency of this meeting. He thanked Attorney McCarthy for your time and effort.

Ms. Hall moved, seconded by Mr. Fealy to call for the question.

Chairman Neville stated there is no discussion and asked for a roll call vote.

A vote by **roll call 6-3-0** passed with Mr. Jonaitis, Mr. Johnson and Mr. Fealy in dissent

Mr. Grady stated there is still a motion on the floor. Chairman Neville stated that is correct and asked for the motion to be read.

Mr. Grady moved, seconded by Ms. Hall that the Enfield Board of Education accepts the terms of the settlement offer as presented.

Mr. Grady moved, seconded by Ms. Hall that the Enfield Board of Education accepts the settlement offer.

A vote by **roll call 6-3-0** passed with Mr. Jonaitis, Mr. Johnson and Mr. Fealy in dissent

9. ADJOURNMENT:

Mr. Grady moved, seconded by Ms. Hall to adjourn the July 18th Special Meeting. The motion passed unanimously by a **show-of-hands 9-0-0**.

The Special Meeting adjourned at 10:02 PM.

Donna Szewczak
Secretary

Respectfully submitted,

Kathy Zalucki, Recording Secretary