

# Wayne

## Township Public Schools

### SPECIAL MEETING MINUTES

JUNE 6, 2019

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The Special Meeting of the Wayne Township Board of Education was held on Thursday, June 6, 2019 in the Large Conference Room in the Administrative Building, 50 Nellis Drive, Wayne, New Jersey 07470. The meeting was scheduled to begin at 7:00 p.m., pursuant to the terms of the Sunshine Law.

The meeting was called to order at 7:04 p.m., by Michael Bubba, Board President.

#### I. Reading of Sunshine Law statement

**Adequate notice of this Special Meeting/Executive Session, setting forth time, date and location, has been provided in accordance with the requirements of the Open Public Meetings Act on June 3, 2019 by:**

**Prominently posting a copy on the bulletin board in the lobby of the offices of the Board of Education, which is a public place reserved for such announcements, transmitting a copy of this notice to The Record, The Wayne Today, and the Municipal Clerk.**

#### II. Roll Call

**PRESENT:** Eileen Albanese, Mitch Badiner, Michael Bubba, Sean Duffy, Matthew Giordano, Cathy Kazan, and Stacey Scher..

**ABSENT:** Donald Pavlak, Jr. and Suzanne Pudup

**ALSO PRESENT:** Dr. Mark Toback, Superintendent, Donna Reichman, Assistant Superintendent, Paula Clark, Director of Human Resources, Compliance and Labor Relations, Donna Demone, Assistant to the Business Administrator/Board Secretary and John Geppert, Board General Counsel.

A motion was made to convene into Executive Session.

### III. Approval to Convene into Executive Session

X - 2019 -

#### **RECOMMENDED ACTION:**

WHEREAS, the Wayne Township Board of Education (hereinafter referred to as the "Board") from time to time must convene into Executive Session to discuss confidential matters including but not limited to personnel issues, legal matters, student issues and labor negotiations.

NOW THEREFORE BE IT RESOLVED, the Board shall move into Executive Session to discuss negotiations and legal matters; and

BE IT FURTHER RESOLVED, that the minutes of the executive session will provide as much information as possible without violating any applicable privilege or confidentiality so that the public can understand what was discussed and when available what the Board decision was; and

BE IT FURTHER RESOLVED, that the minutes of the executive session will be released to the public in an appropriately redacted form within a reasonable period of time; and

BE IT FURTHER RESOLVED, that the redacted portion of the executive session minutes will not be released until such time as the privilege or confidentiality is no longer applicable.

Motion: To Approve, Moved by Sean Duffy; Seconded by Matthew Giordano.

### IV. Reconvene

**The Executive Session of the Wayne Board of Education Special Meeting of June 6, 2019 was convened in the Conference Room of the Wayne Board of Education, 50 Nellis Drive, Wayne, NJ 07470.**

**The Statement of Compliance setting forth time, date and location was read in accordance with the requirements of the Open Public Meetings Act and the roll call was taken. The meeting was recessed and is now being reconvened.**

The Board reconvened at 8:52 p.m. in the Board of Education Conference Room, 50 Nellis Drive, Wayne, New Jersey 07470. Mr. Michael Bubba, Board President, advised that the Board had been meeting in Executive Session at 50 Nellis Drive for the purpose of discussing legal matters. Information regarding these matters will be made public, if and when, appropriate.

PRESENT: Eileen Albanese, Mitch Badiner, Michael Bubba, Sean Duffy, Matthew Giordano, Cathy Kazan, and Stacey Scher.

**ABSENT:** Donald Pavlak, Jr. and Suzanne Pudup

**ALSO PRESENT:** Dr. Mark Toback, Superintendent, Donna Reichman, Assistant Superintendent, Paula Clark, Director of Human Resources, Compliance and Labor Relations, Donna Demone, Assistant to the Business Administrator/ Board Secretary and John Geppert, Board General Counsel, three Administrators, and approximately two members of the public.

**FLAG SALUTE**

**MOMENT OF SILENCE**

**V. Revisions to Agenda Items**

Nothing to report.

**VI. Open to Public Agenda Items Only**

This portion of the meeting is open to citizens for comment on agenda items only. Residents are to state their names, addresses, and subject matter. Comments may be limited to five minutes per person. Members of the public are discouraged from speaking negatively about an employee or a student. The Board bears no responsibility for comments made by the public. Comments regarding employees or students cannot be legally responded to by the Board. Other comments may be responded to tonight or at subsequent meetings under "old business."

A motion was made to open the meeting to public comment on Agenda items only.

Motion: To Approve, moved by Stacey Scher; Seconded by Eileen Albanese.

There being no one present from the public for comment, a motion was made to close the meeting to public comment on Agenda items only.

Motion: To Approve, moved by Sean Duffy; Seconded by Matthew Giordano.

**VII. Action on Agenda**

**Administrative:**

A motion was made to approve A-2019-1.

**Approval of Doctrine of Necessity**

A- 2019 - 1  
Approved

RESOLVED, that the Board approve the Doctrine of Necessity, as follows:

June 6, 2019

**RESOLUTION OF THE WAYNE TOWNSHIP BOARD OF EDUCATION  
COUNTY OF PASSAIC  
STATE OF NEW JERSEY  
INVOKING THE DOCTRINE OF NECESSITY**

**WHEREAS**, the School Ethics Act, *N.J.S.A. 18A:12-21 et seq.* was enacted by the New Jersey State Legislature to ensure and preserve public confidence in school board members and school administrators, and to provide specific ethical standards to guide their conduct; and

**WHEREAS**, questions arose regarding how a board should invoke the Doctrine of Necessity when a quorum of a board of education has conflicts of interest on a matter required to be voted upon; and

**WHEREAS**, the School Ethics Commission ("Commission") provided guidance in Public Advisory Opinion A03-98 (April 1, 1998); and

**WHEREAS**, the opinion set forth that, when it is necessary for a board to invoke the Doctrine of Necessity, the board should state publicly that it is doing so, the reason that such action is necessary, and the specific nature of the conflicts of interest; and

**WHEREAS**, the School Ethics Commission, by resolution dated February 25, 2003, clarified and required a board of education invoking the Doctrine of Necessity to adopt a resolution setting forth that they are invoking the Doctrine, the reason for doing so, and the specific nature of the conflicts of interest; and

**WHEREAS**, the School Ethics Commission further directed boards of education that invoke the Doctrine to read the resolution at a regularly scheduled public meeting, post it where it posts public notices for thirty (30) days, and provide the Commission with a copy; and

**WHEREAS**, the Wayne Township Board of Education ("Board") desires to settle a dispute brought on behalf of the Wayne Education Association ("WEA"); and

**WHEREAS**, the School Ethics Commission has issued advisory opinions in this matter (A10-17 and A28-18) identifying various conflicts; and

**WHEREAS**, Donald Pavlak, has a spouse, Barbara Pavlak, School Social Worker, in the Wayne School District, who is a member of the NJEA; and

**WHEREAS**, Mitchell Badiner, holds an administrative position as Director of Instruction for the Bergen County Special Services School District ("BCSS"); and

**WHEREAS**, Board Member Eileen Albanese received an endorsement from Community for Academic Excellence, a political action group for the WEA, and a campaign contribution for the November 2018 election; and

**WHEREAS**, Vice President Stacey Scher is employed by the Passaic Board of Education, is an NJEA member and received an endorsement from Community for Academic Excellence, a political action group for the WEA, and a campaign contribution for the November 2018 election; and

**WHEREAS**, Board Member Suzanne Pudup is a recent retiree of the WEA, has a son Michael Pudup, teacher; and daughter-in-law Alima Pudup, Guidance Counselor; who are employed by Passaic County Technical Institute and are NJEA members; and

**WHEREAS**, Board Member Matthew Giordano is employed by the Bloomfield Board of Education and is an NJEA member; and

**WHEREAS**, the inability of the above six (6) Board members to participate in this process results in the lack of a quorum; and

**WHEREAS**, in order to enter into a sidebar agreement with the WEA and related matters, the Board must have a quorum; and

**WHEREAS**, the Board desires to invoke the Doctrine of Necessity, in accordance with the procedures established by the Commission, to consider entering into a sidebar agreement with the WEA, and related

matters.

**NOW, THEREFORE, BE IT RESOLVED**, by the Wayne Township Board of Education, County of Passaic, State of New Jersey, as follows:

- 1. That the six (6) Board members, as noted above, are in conflict by nature of their endorsements, receipt of contributions, employment, and relatives' employment and the Board therefore invokes the Doctrine of Necessity to consider and act upon the sidebar agreement with the WEA, and related matters.
- 2. That this resolution shall be read at the public meeting of June 6, 2019 and shall be posted where the Board posts public notices for thirty (30) days.
- 3. That a copy of this resolution shall be forwarded to the School Ethics Commission by the Board Secretary.

Motion: To Approve, Moved by CATHY KAZAN, Seconded by EILEEN ALBANESE. Passed. 7-0-0. Board Members Voting: Ayes: ALBANESE, BADINER, BUBBA, DUFFY, GIORDANO, KAZAN, SCHER Absent: PAVLAK, PUDUP

**Human Resource:**

A motion was made to approve H-2019-1.

**Approval of Sidebar Agreement with the Wayne Education Association**

H - 2019 - 1

**RECOMMENDED ACTION:**

Approved

RESOLVED, that the Board of Education, upon the recommendation of the Superintendent, approve for the 2019-2020 school year, a sidebar agreement with the Wayne Education Association regarding employee ID#1134, as discussed in executive session.

Motion: To Approve, Moved by CATHY KAZAN, Seconded by EILEEN ALBANESE. Passed. 7-0-0. Board Members Voting: Ayes: ALBANESE, BADINER, BUBBA, DUFFY, GIORDANO, KAZAN, SCHER Absent: PAVLAK, PUDUP

**VIII. Open to Public**

This portion of the meeting is open to citizens for comment on any topic. Residents are to state their names, addresses and subject matter. Comments may be limited to five minutes per person. Members of the public are discouraged from speaking negatively about an employee or a student. The Board bears no responsibility for comments made by the public. Comments regarding employees or students cannot be legally responded to by the Board. Other Comments may be responded to tonight under "new business" or at subsequent meetings under "old business."

A motion was made to open the meeting to public comment.

Motion: To Approve, moved by Stacey Scher; seconded by Cathy Kazen.

There being no one present from the public for comment, a motion was made to close the meeting to public comment.

Motion: To Approve, moved by Cathy Kazan; Seconded by Sean Duffy.

**IX. Old Business**

Nothing to report.

**X. New Business**

Nothing to report.

**XI. Executive Session**

**XII. Adjournment**

There being no further business of the Board, a motion was made to adjourn the meeting at 8:58 p.m.

Motion: To approve, moved by Mitch Badiner; Seconded by Sean Duffy.

Respectfully submitted,



William P. Moffitt  
Business Administrator/Board Secretary