

the schedule. She suggested holding some of the facilities meetings during the day as they had in the past.

2. Mrs. Peyser reported that the superintendent had been quoted in the Silver Chips as saying the grading system was a bad grading system. The superintendent replied that this was something he stated a long time ago and was in reference to six-week grading systems versus nine-week grading systems. He said they had changed the process and schools now had to apply each year to be on the six-week grading system.

3. Mrs. Peyser commented that she was disturbed about class size trends, especially at the secondary level. There were more academic classes over the Board maximum than there were last year, and the worst situation was at the senior high school. She did not understand this because they had added teachers to implement the seven-period day. She requested an explanation of what had happened. Dr. Pitt explained that before they went to the seven-period day they had retained teachers for the smaller schools, so this had cancelled out. He said that this was a factor of the number of youngsters enrolled, and he would give the Board a more in-depth analysis of the situation. Mrs. Peyser asked whether they had plans for correcting this in the second semester, and Dr. Pitt replied that they would not have any additional staff but hoped that class sizes would level off. Mrs. Peyser asked whether they would try to improve the situation next year, and Dr. Pitt replied that they should discuss this during budget. Dr. Greenblatt requested that the report include a breakdown of classes that were one or two students over the maximum.

4. Mrs. Praisner reported that Saturday's Forum on the superintendent selection process and directions for the Montgomery County Public Schools had been attended by 77 individuals. She appreciated that people had come out on a Saturday to participate in the process, and she thanked Mr. Fess, Mrs. Wood and other staff who had helped with the program. Mr. Ewing felt that it was a very useful session and a lot of good suggestions had come forward from it.

5. Mr. Ewing thanked the staff who had put in a great number of hours working with the Board subcommittees on the budget.

6. Mr. Ewing noted that the school system was very much involved in activities recognizing the birthday of Dr. Martin Luther King, Jr. Some years ago the Board had adopted a policy of declaring his birthday a school holiday, and on Saturday the county was holding its annual commemoration at Montgomery College. As Board president, he would be making a few remarks and other Board members would be attending. He acknowledge the efforts made by MCPS staff to recognize the many contributions Dr. King made to American life.

7. Mr. Ewing reported that the Board was scheduled to hold budget public hearings on January 17, 19, and 20. Nine hours of hearing had been scheduled, and they had extended the hearing for an additional hour on January 19.

Re: Executive Session

Mr. Ewing stated that the Board had met in executive session on January 3, 4, and 6 on personnel matters as well as the superintendent selection process.

Resolution No. 2-83 Re: Executive Session - Personnel Matters

On recommendation of the superintendent and on motion of Mrs. Peyser seconded by Mrs. Praisner, the following resolution was adopted unanimously:

WHEREAS, The Board of Education of Montgomery County is authorized by Article 76A, Section 11(a) of the Annotated Code of Maryland to conduct certain of its meetings in executive closed session; now therefore be it

Resolved, That the Board of Education of Montgomery County hereby conduct its meeting in executive closed session at times to be determined to discuss, consider, deliberate, and/or otherwise decide the employment, assignment, appointment, promotion, demotion, compensation, discipline, removal, or resignation of employees, appointees, or officials over whom it has jurisdiction, or any other personnel matter affecting one or more particular individuals; and be it further

Resolved, That the president of the Board of Education will announce at public business meetings when the Board of Education has held these executive sessions.

Resolution No. 3-83 Re: Minutes of November 22, 1982

On motion of Mrs. Peyser seconded by Mrs. Praisner, the following resolution was adopted unanimously:

Resolved, That the minutes of November 22, 1982, be approved as amended.

Resolution No. 4-83 Re: Minutes of December 6, 1982

On motion of Mrs. Praisner seconded by Mrs. Peyser, the following resolution was adopted unanimously:

Resolved, That the minutes of December 6, 1982, be approved.

Resolution No. 5-83 Re: Impartial Hearing Officer

On recommendation of the superintendent and on motion of Mrs. Praisner seconded by Dr. Shoenberg, the following resolution was adopted unanimously:

WHEREAS, The Office of the Ombudsman and Staff Assistant to the Board of Education is responsible for assigning hearing officers to the

Gaithersburg Elementary School modernization and addition project, has completed 77 percent of all specified requirements and has requested that the 10 percent retainage amount, which is based on the completed work to date, be reduced to 5 percent retainage; and

WHEREAS, The project bonding company, The Insurance Company of North America, by letter dated November 10, 1982, consented to this reduction; and

WHEREAS, The project architect, by letter dated November 13, 1982, has recommended that this request for reduction in retainage be approved; now therefore be it

Resolved, That the contract's specified 10 percent retainage withheld from periodic construction contract payments to Jesse Dustin & Son, Inc., general contractor for the Gaithersburg Elementary School modernization and addition project, currently amounting to 10 percent of the contractor's request for payment to date, now be reduced to 5 percent with the remaining 5 percent to become due and payable after formal acceptance of the completed project and total completion of all remaining contract requirements.

Resolution No. 8-83 Re: Annual Resource Conservation Plan

On recommendation of the superintendent and on motion of Dr. Shoenberg seconded by Mrs. Shannon, the following resolution was adopted unanimously:

WHEREAS, It is the objective of the Board of Education, superintendent, and staff to eliminate waste of energy in all MCPS facilities; and

WHEREAS, Each agency for which the County Council appropriates funds is required to provide an Annual Resource Conservation Plan; now therefore be it

Resolved, That the Board of Education and the superintendent, recognizing the importance of the elimination of waste in energy consumption, do hereby endorse the plan and support its implementation; and be it further

Resolved, That the superintendent be authorized to submit the resource conservation plan to the County Council.

Resolution No. 9-83 Re: Bid 60-83, Secondary School Science Supplies and Equipment

On recommendation of the superintendent and on motion of Mr. Hirsch seconded by Mrs. Praisner, the following resolution was adopted unanimously:

WHEREAS, Funds have been budgeted for the purchase of secondary school science supplies and equipment; now therefore be it

Resolved, That having been duly advertised November 11, 1982, the contracts for the furnishing of secondary school science supplies and equipment for the period of January 12, 1983, through January 8, 1984, under Invitation to Bid 60-83 be awarded to the low bidders meeting specifications as follows:

	Dollar Volume	Line Items Awarded
Carolina Biological Supply Co. Burlington, North Carolina	\$ 815	4
Central Scientific Co. Franklin Park, Illinois	102	3
Fisher Scientific Co. Chicago, Illinois	14,316	115
LaPine Scientific Co. Chicago, Illinois	15,710	112
Parco Scientific Co. Vienna, Ohio	4,977	9
Sargent-Welch Scientific Co. Springfield, New Jersey	7,776	50
Science Kit, Inc. Tonawanda, New York	285	4
Total	\$43,981	297

Resolution No. 10-83 Re: Bid 61-83, Industrial Arts Graphic Arts Supplies

On recommendation of the superintendent and on motion of Mr. Hirsch seconded by Mrs. Praisner, the following resolution was adopted unanimously:

WHEREAS, Funds have been budgeted for the purchase of industrial arts graphic arts supplies; now therefore be it

Resolved, That having been duly advertised November 11, 1982, the contracts for the furnishing of industrial arts graphic arts supplies for the period of January 22, 1983, through January 21, 1984, under Invitation to Bid 61-83 be awarded to the low bidders meeting specifications as follows:

	Dollar Volume	Line Items Awarded
Brodhead Garrett Company Cleveland, Ohio	\$ 1,351	13
John H. Burke & Co., Inc. Baltimore, Maryland	14,309	67
Chaselle, Inc. Columbia, Maryland	5,814	61
Duplicating Equipment Service, Inc. Bladensburg, Maryland	145	3
Meeks Printing Supply Alexandria, Virginia	4,162	28
Multigraphics		

unanimously:

WHEREAS, Funds have been budgeted for the purchase of grounds maintenance equipment; now therefore be it

Resolved, That having been duly advertised November 25, 1982, the contracts for the furnishing of grounds maintenance equipment under Invitation to Bid 71-83 be awarded to the low bidders meeting specifications as follows:

	Dollar Volume	Line Items Awarded
G. L. Cornell		
Gaithersburg, Maryland	\$20,873	1
Gaithersburg Ford Tractor Co.		
Gaithersburg, Maryland	10,583	2
Total	\$31,456	3

Resolution No. 15-83 Re: Bid 75-83, Preprinted Continuous Scan Forms

On recommendation of the superintendent and on motion of Mr. Hirsch seconded by Mrs. Praisner, the following resolution was adopted unanimously:

WHEREAS, Funds have been budgeted for the purchase of preprinted continuous scan forms; now therefore be it

Resolved, That having been duly advertised December 1, 1982, the contract for the furnishing of preprinted continuous scan forms for the period of January 12, 1983, through April 11, 1983, under Invitation to Bid 75-83 be awarded to the low bidder meeting specifications as follows:

	Dollar Volume	Line Items Awarded
National Computer Systems		
Lancaster, Pennsylvania	\$11,648	1

Resolution No. 16-83 Re: Bid 81-83, Radio Security and Two-way Mobile Radio Systems

On recommendation of the superintendent and on motion of Mr. Hirsch seconded by Mrs. Praisner, the following resolution was adopted unanimously:

WHEREAS, Funds have been budgeted for the purchase of radio security and two-way mobile radio systems; now therefore be it

Resolved, That having been duly advertised December 16, 1982, the contract for the furnishing of radio security and two-way mobile radio systems under Invitation to Bid 81-83 be awarded to the low bidder meeting specifications as follows:

	Dollar Volume	Line Items Awarded
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Resolution No. 19-83

Re: FY 1983 Categorical Transfer for the
School Improvement Through the
Instructional Process (SITIP) Program

On recommendation of the superintendent and on motion of Mrs. Praisner seconded by Mrs. Peyser, the following resolution was adopted unanimously:

Resolved, That the superintendent of schools be authorized, subject to County Council approval, to effect the following categorical transfer within the FY 1983 program for the School Improvement Through the Instructional Process from the Maryland State Department of Education in the following categories:

Category	From	To
02 Instructional Salaries		\$310
03 Instructional Other	\$310	

and be it further

Resolved, That the county executive be requested to recommend approval of this resolution to the County Council and a copy be sent to the county executive and County Council.

Resolution No. 20-83

Re: Personnel Monthly Report

On recommendation of the superintendent and on motion of Dr. Greenblatt seconded by Mrs. Praisner, the following resolution was adopted unanimously:

Resolved, That the following appointments, resignations, and leaves of absence for professional and supporting services personnel be approved: (TO BE APPENDED TO THESE MINUTES).

Resolution No. 21-83

Re: Extension of Sick Leave

On recommendation of the superintendent and on motion of Dr. Greenblatt seconded by Mrs. Praisner, the following resolution was adopted unanimously:

WHEREAS, The employee listed below has suffered serious illness; and

WHEREAS, Due to the prolonged illness, the employee's accumulated sick leave has expired; now therefore be it

Resolved, That the Board of Education grant an extension of sick leave with three-fourths pay covering the period indicated:

Name	Position and Location	Number of Days
Wilburn Lewis	Maintenance Electrician	30

Division of Maintenance

Resolution No. 22-83 Re: Personnel Reassignment

On recommendation of the superintendent and on motion of Dr. Greenblatt seconded by Mrs. Praisner, the following resolution was adopted unanimously:

Resolved, That the following personnel reassignment be approved:

Name	From	To
John E. Becker	Classroom Teacher Darnestown Elementary MEQ + 30 L3	Media Assistant Whetstone Elementary Will maintain present salary level January 10, 1983

Resolution No. 23-83 Re: Personnel Appointments

On recommendation of the superintendent and on motion of Mrs. Praisner seconded by Mrs. Shannon, the following resolution was adopted unanimously:

Resolved, That the following personnel appointments be approved:

Appointment	Present Position	As
Alan T. Thormeyer	Acting Principal Edward U. Taylor Center	Principal Edward U. Taylor Center Eff. January 12, 1983
James L. Suit	Per Diem Psychologist Montgomery County Public Schools	Psychologist (Half-time) Division of Head Start Dept. of Interagency, Alternative, and Supplementary Programs Grade G (10-month) Eff. January 12, 1983

Resolution No. 24-83 Re: Citizens Advisory Committee on Family
Life and Human Development

On recommendation of the superintendent and on motion of Mr. Hirsch seconded by Mrs. Praisner, the following resolution was adopted unanimously:

WHEREAS, COMAR 13A.04.01 of the Code of Bylaws of the Maryland State Board of Education requires that each local education agency have a Citizens Advisory Committee on Family Life and Human Development; and

WHEREAS, Montgomery County has had such a committee since 1970, consisting of representatives of various civic associations and religious groups, community members at large, and student

representatives; and

WHEREAS, Membership on the committee is for a two-year term; now therefore be it

Resolved, That the following individual be appointed to represent the respective organization for a two-year term:

Federation of Women's Clubs
Mrs. Stephanie Karsten
8 Old Stage Court
Rockville, Maryland 20852

Re: Board/Press/Visitor Conference

The following individuals appeared before the Board of Education:

1. Mrs. Linda Burgin, Cold Spring Elementary School PTA
2. Mr. Burton Goldstein, Fallsreach Civic Association
3. Mrs. Carol Fanconi, Gaithersburg Junior High School PTA

Re: Student Performance

Board members viewed Drama in the Classroom: Teaching Reading/Language Arts Skills, which involved students from Grade 4, Bel Pre Elementary School.

Resolution No. 25-83 Re: Ethics Legislation

On motion of Dr. Greenblatt seconded by Mrs. Peyser, the following resolution was adopted unanimously:

Resolved, That the Board of Education oppose the proposed ethics legislation and support the positions taken by the Maryland Association of Boards of Education.

Re: School Calendar for 1983-84

Mrs. Praisner moved and Mr. Hirsch seconded the following:

WHEREAS, The establishment of school terms by the County Board of Education is required by state law; now therefore be it

Resolved, That the proposed school calendar for 1983-84 be adopted.

Resolution No. 26-83 Re: An Amendment to the Proposed School Calendar for 1983-84

On motion of Dr. Shoenberg seconded by Mrs. Shannon, the following resolution was adopted with Dr. Greenblatt, Mrs. Peyser, Mrs. Praisner, Mrs. Shannon, and Dr. Shoenberg voting in the affirmative; Mr. Ewing voting in the negative because he preferred starting school on August 31 and retaining the MSTA day (Mr. Hirsch voting in the affirmative):

Resolved, That the proposed school calendar for 1983-84 be amended by making January 2 a holiday and not making October 28 a day of no school.

For the record, Dr. Shoenberg stated that this was to address the problems in the calendar this year and not be a precedent for the future. The superintendent stated that they intended to have a liberal professional leave policy for employees with instruction roles on the first day of the MSTA convention.

Resolution No. 27-83 Re: School Calendar for 1983-84

On recommendation of the superintendent and on motion of Mrs. Praisner seconded by Mr. Hirsch, the following resolution was adopted with Dr. Greenblatt, Mrs. Peyser, Mrs. Praisner, Mrs. Shannon, and Dr. Shoenberg voting in the affirmative; Mr. Ewing voting in the negative (Mr. Hirsch voting in the affirmative):

WHEREAS, The establishment of school terms by the County Board of Education is required by state law; now therefore be it Resolved, That the proposed school calendar (as amended) for 1983-84 be adopted.

Re: Executive Session

The Board met in executive session from 11:55 a.m. to 1:15 p.m. to consult with legal counsel.

Re: Montgomery County Public Schools
Employee Retirement/Pension System

The superintendent reported that the Board audit committee recently had a discussion of some of the assumptions in the local system regarding the unfunded accrued liability and what policy the Board should adopt regarding future funding. The committee thought the full Board should hear the presentation by Mr. George Webb, Meidinger, Inc. Mr. Richard Fazakerley, associate superintendent, explained that one of the long-term objectives was for the staff to develop a proposed policy to give them guidelines to review the program on an annual basis.

Mr. Webb reviewed the contents of the actuarial review. Board members requested additional information on the actuarial loss in the last three years. Mr. Ewing asked that the Board be informed when they could expect to receive a proposed policy from staff. Mrs. Peyser asked that the staff provide the Board with recommendations on how the Board could get an improved rate of return on its investments. Dr. Shoenberg asked for information on expenses as a percentage of year-end assessments in the plan. Mr. Ewing indicated that the Board would return to this topic in the near future when the staff had a policy statement for consideration.

Resolution No. 28-83

Re: Lighting of Athletic Fields

On motion of Mrs. Peyser seconded by Dr. Greenblatt, the following resolution was adopted unanimously:

WHEREAS, On February 24, 1958, the Board of Education adopted a policy that flood lights not be installed on athletic fields on any schools; and

WHEREAS, In almost twenty-five years the demographic composition of Montgomery County has changed from a rural/suburban community to a predominantly urban/suburban community; and

WHEREAS, The economic and social composition of the county has also changed wherein many parents now work full-time and there are many single parent families; and

WHEREAS, Parents want to participate in the activities of their children and support their children's local school; and

WHEREAS, Parents should be encouraged to attend athletic events at a time convenient to their work schedule; and

WHEREAS, Lighting of athletic fields means that team sports should be scheduled during the evening when parents would be available to attend and when students and coaches would not have to miss afternoon classes; and

WHEREAS, Increased attendance at athletic events will assist schools in the financing of interscholastic athletics; now therefore be it

Resolved, That the Board of Education hereby rescind Resolution No. 122-58 on the installation of lights on school athletic fields.

Re: Proposed Changes in Loss of Credit Policy

Dr. Greenblatt moved approval of the following which was seconded by Mrs. Peyser:

Resolved, That the Board of Education amends the Senior High School Policy statement on Loss of Credit (Section II. B.5.) to read: Each student shall attend all scheduled classes and approved educational activities and shall be responsible for completing all assigned work on time. Parents and school personnel shall do everything possible to assure each student's regular attendance. Excused absences from school, which must be supported in writing from the parent (or student, if 18 or over) include: illness of the student, death in the immediate family, court summons, and religious observances. The principal may excuse other necessary absences based on countywide guidelines established by the superintendent, Five or more unexcused absences per semester in any course will result in loss of credit for that course. In addition, the loss of credit will be reflected as an E on the student's report card and in his/her grade point average; and

be it further

Resolved, That the Board of Education amends the policy on Grading and Reporting Student Progress (Section II.F.) to read: For grades 9, 10, 11, and 12, a report form with A through E letter grades will be used. Grades are based on evidence of the attainment of the instructional and performance objectives of the course. The degree to which the student has attained these objectives will be determined by performance on assessment measures. Regular daily attendance is an objective for every course. Therefore, a student who has five or more unexcused absences from a class will receive a Loss of Credit/E for the course. Students who have the written permission of their parents may be evaluated on a credit-no credit basis instead of by the standard letter grades in subjects not specifically identified as required for graduation by the State Department of Education or Montgomery County Public Schools; and be it further

Resolved, That the Board of Education amends the Student Rights and Responsibilities Policy (Section XII, D.) to read: Reduction of grades shall not be used as a punitive or disciplinary measure. A Loss of Credit/E due to excessive unexcused absences is not considered a disciplinary measure since regular daily attendance and participation are requirements for every course;

and be it further

Resolved, That the superintendent will make appropriate changes in regulations to implement these policy changes; and be it further
Resolved, That these changes will become effective September 1, 1983.
Dr. Cronin joined the meeting at this point.

Re: A Motion by Dr. Greenblatt to Amend the
Proposed Changes in Loss of Credit Policy
(FAILED)

A motion by Dr. Greenblatt to amend the proposed changes in loss of credit policy by adding a new Resolved to ask the superintendent to review with the committee the possibility of reducing the maximum number of unexcused absences to two or three failed with Dr. Greenblatt and Mrs. Peyser voting in the affirmative; Dr. Cronin, Mr. Ewing, Mrs. Praisner, Mrs. Shannon, and Dr. Shoenberg voting in the negative (Mr. Hirsch voting in the negative).

For the record, Mrs. Shannon stated that she was not in favor of class cutting as a matter of philosophy, and she would like to see no cuts. However, she maintained that there was inconsistency of application of the policy, and the data she had been given on students losing credit did not give her enough information. For that reason, she could not support the amendment.

Resolution No. 29-83

Re: An Amendment to the Proposed Changes in
Loss of Credit Policy

On motion of Dr. Cronin seconded by Mrs. Shannon, the following

resolution was adopted with Dr. Cronin, Mr. Ewing, Dr. Greenblatt, Mrs. Peyser, and Dr. Shoenberg voting in the affirmative; Mrs. Praisner and Mrs. Shannon abstaining (Mr. Hirsch voting in the affirmative):

Resolved, That the proposed changes in loss of credit policy be amended by the addition of the following:

Resolved, That the superintendent in conjunction with a committee of staff, parents, and students report to the Board in May of 1983 on two aspects:

- a) Whether it is necessary to introduce changes in the definition of unexcused absences.
- b) To propose a reporting regulation process applicable to all schools and all classes

and be it further

Resolved, That by November 3, 1983, the superintendent report whether the resources necessary to implement this policy are in the schools or need to be added.

Resolution No. 30-83 Re: Changes in Loss of Credit Policy

On recommendation of the superintendent and on motion of Dr. Greenblatt seconded by Mrs. Peyser, the following resolution was adopted with Dr. Cronin, Dr. Greenblatt, Mrs. Peyser, and Dr. Shoenberg voting in the affirmative; Mr. Ewing, Mrs. Praisner, and Mrs. Shannon abstaining (Mr. Hirsch voting in the negative):

Resolved, That the Board of Education amends the Senior High School Policy statement on Loss of Credit (Section II. B.5.) to read: Each student shall attend all scheduled classes and approved educational activities and shall be responsible for completing all assigned work on time. Parents and school personnel shall do everything possible to assure each student's regular attendance. Excused absences from school, which must be supported in writing from the parent (or student, if 18 or over) include: illness of the student, death in the immediate family, court summons, and religious observances. The principal may excuse other necessary absences based on countywide guidelines established by the superintendent, Five or more unexcused absences per semester in any course will result in loss of credit for that course. In addition, the loss of credit will be reflected as an E on the student's report card and in his/her grade point average;

and be it further

Resolved, That the Board of Education amends the policy on Grading and Reporting Student Progress (Section II.F.) to read: For grades 9, 10, 11, and 12, a report form with A through E letter grades will be used. Grades are based on evidence of the attainment of the instructional and performance objectives of the course. The degree

to which the student has attained these objectives will be determined by performance on assessment measures. Regular daily attendance is an objective for every course. Therefore, a student who has five or more unexcused absences from a class will receive a Loss of Credit/E for the course. Students who have the written permission of their parents may be evaluated on a credit-no credit basis instead of by the standard letter grades in subjects not specifically identified as required for graduation by the State Department of Education or Montgomery County Public Schools; and be it further

Resolved, That the Board of Education amends the Student Rights and Responsibilities Policy (Section XII, D.) to read: Reduction of grades shall not be used as a punitive or disciplinary measure. A Loss of Credit/E due to excessive unexcused absences is not considered a disciplinary measure since regular daily attendance and participation are requirements for every course;

and be it further

Resolved, That the superintendent will make appropriate changes in regulations to implement these policy changes; and be it further
Resolved, That these changes will become effective September 1, 1983;
and be it further

Resolved, That the superintendent in conjunction with a committee of staff, parents, and students report to the Board in May of 1983 on two aspects:

- a) Whether it is necessary to introduce changes in the definition of unexcused absences.
- b) To propose a reporting regulation process applicable to all schools and all classes

and be it further

Resolved, That by November 3, 1983, the superintendent report whether the resources necessary to implement this policy are in the schools or need to be added.

Re: Proposed Policy on Use of Non-MCPS
Programs/Services for Handicapped Students

The superintendent announced that the purpose of the discussion on the proposed policy was to have a dialogue/worksession/communication, not so much with the staff, but that the draft policy had been widely distributed to the nonpublic providers along with an invitation to attend the discussion, and a number of them were in the audience. He asked the representatives to introduce themselves and interact with the Board. The superintendent explained that he had asked Dr.

Fountain to be present because he and his colleagues were the prime architects of the proposed policy and had had some meetings already with the nonpublic providers and Dr. Fountain could answer any questions the Board might have from a staff point of view.

Dr. Fountain stated that by adopting a policy, the Board will affirm its commitment to educate all handicapped children and by collaborating with the private providers a true continuum of services could continue to exist. He explained that the policy set forth guidelines for that collaboration and the guidelines included three major points: (1) the least restrictive environment, (2) a yearly meeting with the private providers to review the program and the tuition cost, and (3) setting up a monitoring schedule so the Board could be assured it is receiving the services it is paying for.

Mr. Alan Lovell, executive director for the Centers for the Handicapped, stated he was representing not only the Centers for the Handicapped but also Christ Church Child Center, Frost School, Montgomery County Association for Retarded Citizens, and the Treatment Centers. He wanted the Board to know that they, as local nonpublic school providers, had enjoyed a very good working relationship with the Board and the MCPS staff and recognized how valuable this relationship was to their effort to provide quality education to handicapped students. However, they wanted to remind the Board that in determining criteria for cost effectiveness that many items should be considered such as quality and quantity of services, overhead, and the number of students being served, and that the tuition rate per individual student could be reduced in the local nonpublic program by increasing the number of students being placed. The agencies represented by Mr. Lovell strongly believe that decisions on least restrictive environment should be made on the basis of access to nonhandicapped peers, level of services and supports being provided, and individual needs of the students, and at times their families. Therefore, they proposed the following changes to the proposed policy: (1) On page 2 add Section 13A.05.01.26F(4)(a) and (b) of the Maryland Bylaw; (2) On page 4, Section II.A, substitute the word "where" for the words "so that" in the third line of the second paragraph; (3) On page 4, Section II.B.1, add "except for individual cases applicable under Section 13A.05.01.26F(4)(a) and (b)" at the end of the second bullet; and (4) On page 5, Section II.B.2.A.5, delete the words "determine approval of the proposed tuition rate" and after the word "and" add the word "determine."

Dr. Cronin asked if Dr. Fountain had a problem with changing the resolution to add these items, and Dr. Fountain responded that he would have a concern about it because it is a legal issue and the Board should be aware of what that would mean. He added that Mr. Richard Ekstrand was present and would speak to the changes.

Mr. Ekstrand stated that he had been asked to be present on the assumption that the request for changes in the policy made by Mr. Lovell would come up. He said the nonpublic providers had specifically requested, during the preparation of the policy when input was requested from them, that the Board adopt within its policy a specific provision which says that even if there is an appropriate

public school program for a handicapped child, the child may be placed in a nonpublic school if two things exist, the first being that the nonpublic school be within commuting distance and secondly, that the Maryland State Department of Education not have to contribute to the funding of that placement. Mr. Ekstrand stated that he had issued an Opinion that that provision is not permitted by law because, first, there is a statute, Section 8-409, cited in a footnote in the policy, which makes no exception for the two points raised by Mr. Lovell, and the statute always governs the bylaw Mr. Lovell referred to, and, second, in a recent court case involving the Board of Education of Montgomery County as well as the State Board of Education, the Hessler case, the plaintiffs raised the very issue that Mr. Lovell has presented and the question was whether or not the Board as a public body could allow a placement in a nonpublic school even if it were conceded that there was an appropriate public school program. It ultimately went to the United States District Court of Maryland and the court said with regard to that provision of the law and the contracts of the statute, which makes no exception, "The court finds, however, that Section 8-409 prevails over the regulation and the bylaw and as discussed requires a showing as a prerequisite to nonpublic placement that the county or other body cannot provide a less restrictive program allegedly needed by the student." Therefore, a court has interpreted the provision of the statute to control that in all cases there must be a showing that there is no appropriate public education before the school system can consider a nonpublic placement.

Dr. Fountain stated that during the CARD process the first guideline is always where can the needs of the child be met best, within the public sector or within the private sector.

When questioned by one of the nonpublic providers as to the definition of least restrictive environment, Mr. Ekstrand replied that his definition of least restrictive environment was "whenever possible a handicapped child should be educated with nonhandicapped children."

Dr. Fountain stated that, by law, the school system has the responsibility to educate the child and therefore the school system makes the final decision on which program is best for each individual child with due process appeals. Dr. Cronin questioned whether there was sufficient input from both sides when a placement decision was made. Mr. Ekstrand responded that one of the requirements of the process was that the parents have a right to be present and must be given ten days' notice in advance of the meeting. He explained that when there is a possibility for disagreement, it is because the parents have already selected a nonpublic provider and, since the parents have the right to be accompanied by any advocates they like, the nonpublic providers will come to the meeting and present reasons why public placement is not appropriate.

Mr. Ewing asked if the Hessler case is in fact holding that the bylaw is inconsistent with state law. Mr. Ekstrand responded that he thought the court specifically said that if it is inconsistent with

the state law, then the state law would prevail. The current State Board took the position that there was no inconsistency, that that provision of the bylaw, if read carefully, does not say you may place in a nonpublic school even if there is an appropriate public school program; it doesn't say it specifically, so this current State Board said, "One, that is not what is meant and, two, that if it is different then we the State Board must comply with the state statute, and the true resolution to the problem if there is one would be for the General Assembly to change that statute." Mr. Ekstrand said that had been tried once during the 1980 session of the legislature, it was proposed that the bylaw delete the entire reference to the qualification that there be no public school program available, and that bill did not pass.

Mr. Ewing stated the issues were very complex, that it seemed to him the local Board has to determine what areas are subject to its discretion in policy terms and what areas are in fact determined either by state law, federal law or by state bylaws and develop its policy within clear understanding of that and, furthermore, it seemed to him that the Board has some leeway in deciding what it wants to call "least restrictive environment."

Dr. Greenblatt stated that the policy issue is who has responsibility for the education of the handicapped child, and if it is the public school system and only if the public school system cannot provide it or if it is too expensive does it turn to outside providers, then sufficient leadtime should be given to outside providers so they can modify their programs to either accept or reject the students who would be the most difficult to place. Mr. Lovell said he thought that was an important point and the local providers would like an opportunity at a later time for further discussion with the Board on that point because he thought there were areas of concern about determining cost effectiveness of programs, and if one of the decisions to place programs internally would be based on cost effectiveness, the public providers would like to provide the Board with additional information on how they determine their own cost effectiveness based on quality of service.

Mr. Ewing stated that giving local programs a clear statement of what needs the public schools believe they have for the children they serve was certainly a very critical kind of thing to do and he thought MCPS staff does an extraordinarily fine job of providing services to handicapped children, but that the perception fairly widely held by some parents and some providers was that the school system was going about the business of making decisions about what program needs the system has based on a strong bias in favor of doing it themselves with their own staff and their own schools and that was leading to the undercutting and the outright failure of some nonpublic schools to be able to continue to supply. He added that that might be unfair but that was a real perception among parents and among some of the providers and it was important for that to be said, not to exacerbate things but to acknowledge that that was being said and the Board had to come to grips with that as it developed a policy, because if it didn't come to grips with that then there were

going to be a lot of polite exchanges without ever really resolving the issue of how MCPS deals with those private providers in the community. Mr. Ewing wanted the Board to be straightforward about that issue and to acknowledge that it existed and that they had better deal with it. He then thanked the nonpublic providers for coming to the meeting and for sharing their comments with the Board.

Re: Board Alternatives to 15-Year Plan

Mr. Ewing explained that Board members were to propose to the superintendent any additional alternatives they would like to see developed. The superintendent noted that Gaithersburg Junior High School had asked for an opportunity to testify before the Board on changes in feeder patterns, and Mr. Ewing indicated that they would be permitted to testify at the hearing.

For the record, Mr. Ewing asked the superintendent whether it was his intention to develop an option to reduce racial imbalance in the Piney Branch/East Silver Spring area. The superintendent replied that it was because the situation was in litigation. They were also meeting with representatives of the affected communities. He said that after reviewing the situation, he would provide the Board with a paper on this. He also indicated that he would be looking at New Hampshire Estates along with the other options.

Re: A Motion by Dr. Cronin for an Alternative to the 15-Year Plan (FAILED)

A motion by Dr. Cronin that the superintendent give the Board a proposal which would retain Potomac, Seven Locks, Lake Normandy and/or Beverly Farms or Georgetown Hill and which would include also the option of closing Cabin John or Hoover within the next two years failed for lack of a second.

Resolution No. 31-83 Re: Alternative to the 15-Year Plan -
Churchill Cluster

On motion of Dr. Shoenberg seconded by Mrs. Shannon, the following resolution was adopted with Dr. Cronin, Mr. Ewing, Mrs. Shannon, and Dr. Shoenberg voting in the affirmative; Dr. Greenblatt, Mrs. Peyser, and Mrs. Praisner voting in the negative (Mr. Hirsch voting in the affirmative):

Resolved, That the superintendent present an option to the Board which would review the whole Churchill cluster and give the Board a four elementary school option.

Mrs. Praisner assumed the chair.

Resolution No. 32-83 Re: Board Alternative to the 15-Year Plan
(Bradley/Radnor)

On motion of Mr. Ewing seconded by Dr. Cronin, the following resolution was adopted with Dr. Cronin, Mr. Ewing, Mrs. Praisner,

Mrs. Shannon, and Dr. Shoenberg voting in the affirmative; Dr. Greenblatt and Mrs. Peyser voting in the negative (Mr. Hirsch voting in the affirmative):

Resolved, That the superintendent develop an option that would retain the Radnor building on a permanent basis, not proceeding with the renovation of the old Bradley building, and in the course of that option spell out the costs involved both, savings and outlays.
Mr. Ewing assumed the chair.

Re: New Business

1. Mrs. Praisner moved and Mrs. Shannon seconded that the Board rescind the policy requiring Board meetings be opened by student performing groups.
2. Mrs. Shannon moved and Mr. Hirsch seconded that the superintendent come up with a resolution regarding outreach programs for all students to encourage them to participate in all activities and to state a Board position in favor of equal opportunity and equal access to all programs.

Resolution No. 33-83 Re: Block Grants

On motion of Mrs. Praisner seconded by Mrs. Peyser, the following resolution was adopted unanimously:

Resolved, That the Board of Education take a position on block grants which supported the 80/20 allocation and act on that resolution at the January 24 Board of Education meeting.

Re: New Business (Continued)

Mrs. Praisner assumed the chair.

3. Mr. Ewing moved and Mrs. Shannon seconded that the Board schedule the matter of accelerating the Woodfield Elementary capital project.

Mr. Ewing assumed the chair.

4. Mrs. Praisner moved and Mrs. Shannon seconded that the Board reaffirm the position of the previous Board on quality teaching and have several Board members poll the rest of the Board in order to act on this on January 24.

Re: Items of Information

Board members received the following items of information:

1. Items in Process
2. Construction Progress Report
3. Monthly Financial Report
4. Student Participation in Extra Curricular Activities During the 1981-82 School Year

5. 1981-82 Evaluation Report for Special/Alternative Education
In-service Courses and Summer Workshops
6. Annual Reports - Office of Associate Superintendent for Instruction
and Program Development

Resolution No. 34-83 Re: Adjournment

On motion of Mrs. Peyser seconded by Mrs. Praisner, the following
resolution was adopted unanimously:

Resolved, That the Board of Education adjourn its meeting at 6:55 p.m.

President

Secretary

EA:mlw