



RESOLUTION NO. 404-85 Re: JOHN T. BAKER INTERMEDIATE SCHOOL -  
REROOFING (AREA 3)

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

WHEREAS, Sealed bids were received on August 22 for reroofing the John T. Baker Intermediate School as indicated below:

BIDDER	BASE BID
1. R. D. Bean, Inc.	\$236,170
2. J. E. Wood & Sons Co., Inc.	238,815
3. Orndorff & Spaid, Inc.	245,550
4. Darwin Construction Co., Inc.	595,000

and

WHEREAS, The low bidder, R. D. Bean, Inc., has performed satisfactorily on other MCPS projects; and

WHEREAS, Low bid is within staff estimate and sufficient funds are available in account 999-42 to effect award; now therefore be it Resolved, That a contract for \$236,170 be awarded to R. D. Bean, Inc., to accomplish a reroofing project at John T. Baker Intermediate School, in accordance with plans and specifications dated August 9, 1986, prepared by the Division of Construction and Capital Projects.

RESOLUTION NO. 405-85 Re: CHANGE ORDER - GAITHERSBURG HIGH SCHOOL  
CLASSROOM ADDITION (AREA 3)

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

WHEREAS, School personnel, representatives from the Gaithersburg community, and school facilities staff have identified additional needs for the main entrance-way to Gaithersburg High School that will improve traffic patterns and increase student safety; and

WHEREAS, The project architect, Thomas Clark Associates, prepared a set of drawings dated July 24, entitled "Alternatives to Gaithersburg High School; and

WHEREAS, Both general contractors on the project, Jesse Dustin & Son, Inc., and Patrick Quinn, Inc., submitted quotations and the low quote was Jesse Dustin & Son, Inc. for \$44,900 which is consistent with the staff estimate; now therefore be it

Resolved, That a change order for \$44,900 to Jesse Dustin & Son, Inc. be approved to accomplish the necessary construction at the main entrance of Gaithersburg High School.

RESOLUTION NO. 406-85 Re: CLOVERLY ELEMENTARY SCHOOL - RESCIND

DECISION TO CONVEY

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

WHEREAS, On November 19, 1981, the Board of Education took action to close Cloverly Elementary School effective July 1, 1983, and to convey the building and grounds to the county government as soon thereafter as possible; and

WHEREAS, The closed facilities to date has remained unconveyed and vacant; and

WHEREAS, It has been determined through deliberation and action on the Update of the Facilities Plan that the building may be needed for educational purposes; now therefore be it

Resolved, That the Board hereby rescinds its prior determination that the school is no longer needed for school purposes; and be it further

Resolved, That the Board hereby rescinds its decision to convey Cloverly Elementary School to the county government; and be it further

Resolved, That the county executive, state superintendent of schools, and the Interagency Committee for Public School Construction be made aware of this action.

Re: BOARD/PRESS/VISITOR CONFERENCE

Mr. Roscoe Nix, president, Montgomery County Chapter, NAACP, appeared before the Board of Education.

\*Mrs. DiFonzo joined the meeting at this point.

Re: ANNUAL REPORT OF THE FAMILY LIFE COMMITTEE

Mr. Edward Masood introduced Dr. Ronald Greger, chairman of the Citizens Advisory Committee for Family Life and Human Development, and Dr. Rene Barrett, vice chairman. Dr. Greger reported that this year they were able to review a substantial amount of material and, toward the latter part of the year, begin to focus in on a more advisory capacity. They spent time on the offering and the utilization of the semester course in family life and human development. As parents and citizens, they all felt that this was a very important topic and that there was a very definite need to allocate more time to get more students involved with this. The Catch 22 situation was that if there were not enough students the course would not be offered, but the students had no way of knowing that a certain number signed up which would permit the course to be offered. Many schools did not offer the course, and at schools that did, only a small percentage of their students participated.

Dr. Barrett commented there was a perception that there was a hidden bias to put those courses on the shelf. The courses were in the curriculum guide but were not promoted, and students and parents were not aware that the courses could be offered in their school. A major concern of the committee was how they could use their support to promote those courses.

Mrs. Praisner was glad that the committee had raised this issue. She had sent a memo on this issue and thought it would be appropriate for them to get some information as to the number of schools offering the courses this coming year and the number of students who were enrolled. This was a Category 2 course, and if 15 students register the course would be given. However, if students were told as part of registration not to put that course down because it would not be offered, she wondered how they could get 15 students to register for the course. She also asked how courses changed from year to year to meet student needs. She asked about the process in each school as far as registering. This was an implication for all sorts of courses.

Mr. Ewing agreed that they ought to be in a position to make students and parents aware of the availability of the course. He worried when they had courses like this one, which did not seem to generate a lot of student enrollment, that they did not put the staff in a position of being hustlers for courses. There was a fine line between being able to give students opportunities and giving them information and doing a super salesman kind of job on students to persuade them to take a course when it might not be in their best interest. Dr. Greger pointed out that in Wheaton where the course filled nicely, it was because of word of mouth, peers communicating with peers.

Dr. Shoenberg asked whether the course was not offered because of the reluctance of principals to schedule the course or an absence of people who wanted to teach the course. Dr. Greger replied that the staff training program for teaching the course was a sellout every time the training program was offered. Mr. Ewing requested the staff to provide information on this topic and share it with the committee. Dr. Barrett said that the Board had created the procedures to guide evaluation of materials. The committee would like to review the process and make suggestions. Some of them questioned the need for requiring six readers to evaluate a supplementary text because that process might take as long as a year. The committee was attempting to look at how they could reduce some of the paperwork and expedite the evaluation process. At present it took four to six months for materials to be evaluated.

Mrs. Praisner asked whether there was an area where they found a lack of materials or where problems were more acute. Dr. Greger replied that they would review films where they might say this was less than optimum but was commercially available and would approve it. Mr. Masood commented that part of the problem with the process was there was not a teacher health evaluation and selection committee for family life and human development. The health committee did these

reviews which slowed down the process. Dr. Cronin remarked that the history of the committee had also dictated some excessive caution. He suggested that as they reviewed the procedures they might leave in there some protection. Mr. Ewing thought it was important that the process be reviewed periodically and looked forward to getting some recommendations for streamlining. In the past people thought that the system was moving too quickly to approve material, and that the committee was being utilized by the staff in order to get things approved that were improper. He suggested that as they consider any changes they should make certain that the public felt it was not without some opportunities to participate in this review in a way that would assure that the materials were being appropriately and properly reviewed.

Dr. Shoenberg thanked the committee for their continuing good work.

RESOLUTION NO. 407-85 Re: PERSONNEL APPOINTMENTS AND TRANSFER

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

Resolved, That the following personnel appointments and transfer be approved:

APPOINTMENT	PRESENT POSITION	AS
Flora E. Cary	Coordinator, Inter. ARTS Program Dept. of Aesthetic Ed.	Principal Glenallan Elem. Effective 8-27-85
Cheryl H. Wilhoyte	Acting Director Magnet Programs	Special Asst. to the Supt. Office of the Supt. Effective 8-27-85
TRANSFER	FROM	TO
Thomas E. Robinson	Asst. Principal Magruder H.S.	Asst. Principal Cabin John Jr. Effective 8-27-85

For the record, Mr. Ewing noted the fine job Mrs. Eoline Kukuk Cary had done as the coordinator of the Interrelated ARTS.

RESOLUTION NO. 408-85 Re: PROCEDURE FOR PUBLIC HEARINGS (OTHER THAN FACILITIES HEARINGS)

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

WHEREAS, The Board of Education holds public hearings to receive the views of citizens on educational matters of widespread interest or

concern; and

WHEREAS, To ensure that these public hearings proceed in an orderly and efficient manner it is desirable to have guidelines for participation in public hearings; now therefore be it

Resolved, That the Board of Education adopts the following guidelines for public hearings:

The Board of Education schedules public hearings on issues it determines to be of widespread interest and concern.

In addition to special public hearings, the Board holds hearings on its annual capital and operating budgets. General guidelines for these public hearings are as follows:

1. Whenever possible, a public hearing will be scheduled one month in advance of the hearing date. The subject and date of the hearing will be publicized through the Board's customary communications channels and by a release to the news media.
2. The public may sign up to speak beginning on the day three weeks prior to the hearing. The agenda for the hearing is closed when the maximum number of speakers is registered (hearings begin at 7:30 p.m. and conclude at 11 p.m.) or at the close of business the day before the hearing.
3. The following time limits for testimony apply:

Countywide organization representatives	6 minutes
Municipalities	5 minutes
Local organization representatives	4 minutes
Individuals	3 minutes
4. The order of speakers at the hearing is determined by the order in which they sign up. Elected officials are given the courtesy of being placed at the time of their choice on the agenda. Only one speaker will be registered for any organization unless the Board provides otherwise.
5. Speakers are encouraged to provide a predetermined number of copies of their statements at the hearing for distribution to Board, staff, and press.
6. Public hearings are tape recorded, and arrangements can be made to listen to the recording at a later date, if desired.
7. If the speakers are not present at their designated time, every effort will be made to accommodate their testimony prior to adjournment of the meeting.
8. To expedite the hearing, Board members and the superintendent will limit their participation solely to asking clarifying questions of speakers.

and be it further

Resolved, That Board Resolution No. 833-79, September 24, 1979, be rescinded.

Re: HANDBOOK FOR BOARD MEMBERS

Dr. Shoenberg asked whether it was necessary for the Board to adopt a handbook for use by its own members. Mrs. Praisner suggested that there was information within the handbook that was for the public's right to know. As far as acting on the handbook, she pointed out that they would be adopting those procedures and she thought it was appropriate for them to take public action. Dr. Shoenberg agreed that public discussion was appropriate but wondered whether they had to adopt the handbook. Mrs. Praisner replied that the content of the handbook dictated that there should be Board action because these were the guidelines under which the Board would operate. Dr. Shoenberg agreed that they did need action in terms of any resolutions which were modified or withdrawn.

Mr. Ewing said that adoption of the handbook could not do any harm and might be helpful because people wanted to know how the Board of Education operated. This was a convenient document to make available to the public, to the media, Board members, and staff of the school system. He thought it was a good idea to adopt the handbook.

Dr. Shoenberg pointed out that if they adopted the handbook then it would be necessary to vote on any modifications to it. Mrs. Praisner explained that the process for reviewing the policy handbook called for them to review documents periodically and to make minor changes. She said that it was not that they would take action but that they not take a lot of time making minor modifications. She thought the handbook required Board action. Dr. Floyd said that by adopting the handbook it became an official document of the Board and, while it was called a Board handbook, it was designed to inform far more than just Board members.

Mr. Fess pointed out that the Board had adopted ROBERT'S RULES OF ORDER, NEWLY REVISED and had an option of adopting a manual which would be standing rules of the Board of Education.

It seemed to Mrs. DiFonzo that by adopting the handbook they were formalizing in one package all the things that this Board or other Boards before them had already formalized in another fashion. She had raised a question about the item on commencements because some youngsters did not receive diplomas. She asked whether the words were mandated by state law or whether they could change the words to include provision for youngsters receiving certificates.

Mrs. Praisner pointed out that this was a discussion item and asked if there were any other issues people wanted to raise. Mr. Ewing suggested that there should be a short paragraph on the ethics panels. In regard to the subcommittee on research and evaluation, he said this was creating an ad hoc subcommittee without a definite life span. Unless the Board wanted to create this committee, there was no

reason to include it in the handbook, but on the other hand there was no reason to exclude it. Mrs. Praisner suggested that they needed a reference to the kinds of financial disclosure forms filed by the Board members, Board candidates and staff.

Mr. Fess suggested that they needed to add something about the Board's not being able to enter into a contract without the participation of the superintendent. The second omission was the practice that reorganizations within MCPS did come to the Board of Education for approval. In regard to rules of procedure, he explained that the suspension of the rules under a special meeting required the unanimous agreement and all members being present because under the special call for the meeting they could not add something to an agenda. This somehow was getting translated into the policy area. A policy was on the table for a minimum of a week, but it could be taken up if four members agreed. Under ROBERT'S there were rules protecting absentees. In 1981 a question had been raised in regard to a substitute motion, and the Board's attorney had stated that the Board had statutory authority and the responsibility to determine countywide educational policy. The Board had adopted a rule on policies, and it was the ruling of the chair that the substitute motion was not out of order. Therefore, there was no legal basis on which the proceedings should not stand. He said there were reasons why they had two sets of regulations. Mr. Ewing agreed that it was important to protect the members of the Board who were in the minority and those who were absent.

RESOLUTION NO. 409-85 Re: EXECUTIVE SESSION - SEPTEMBER 10, 1985

On recommendation of the superintendent and on motion of Dr. Cronin seconded by Mrs. DiFonzo, 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 beginning on September 10, 1985, at 9 a.m. 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 to comply with a specific constitutional, statutory or judicially imposed requirement protecting particular proceedings or matters from public disclosure as permitted under Article 76A, Section 11(a) and that such meeting shall continue in executive closed session until the completion of business; and be it further

Resolved, That such meeting continue in executive closed session at noon to discuss the matters listed above as permitted under Article

76A, Section 11(a) and that such meeting shall continue in executive closed session until the completion of business.

RESOLUTION NO. 410-85 Re: MINUTES OF JUNE 26, 1985

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

Resolved, That the minutes of June 26, 1985, be approved.

RESOLUTION NO. 411-85 Re: MINUTES OF JULY 1, 1985

On recommendation of the superintendent and on motion of Mr. Foubert seconded by Dr. Cronin, the following resolution was adopted unanimously:

Resolved, That the minutes of July 1, 1985, be approved.

RESOLUTION NO. 412-85 Re: DAY CARE SPACE

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

Resolved, That the Board consider requesting of the County Council and county executive, given their increased interest in access to day care, that they provide funding for day care space in school construction projects.

RESOLUTION NO. 413-85 Re: PLAN FOR CAPITAL PROJECT SUBMISSION TO GOVERNMENTAL AGENCIES

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

Resolved, That the staff bring a plan to the Board for MCPS major capital projects for submission of plans and information to appropriate agencies.

RESOLUTION NO. 414-85 Re: BOE APPEAL NO. 85-12

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

Resolved, That the Board of Education adopt a decision and order affirming the decision of the superintendent of schools with a written decision to follow.

Re: REACTION FROM MONTGOMERY COUNTY  
PLANNING BOARD ON SUBDIVISION REVIEW  
METHOD AND RESOLUTION ON ADEQUATE  
PUBLIC FACILITIES ORDINANCE PLAN

Dr. Shoenberg stated this was a matter that had been pending before the Board for some time now. This was a method for determining when

the public schools available in a particular area would not allow for further housing development. Staff of the Board and staff of the Maryland-National Capital Park and Planning Commission had been working on this. The Board had been scheduled to act on this at its last meeting but had found there were still some matters which were unresolved. The Board had postponed action until it could get a reaction from Park and Planning. Park and Planning had discussed the Board's most recent proposal and had given the Board notes on this, and it was felt it would be best if Park and Planning could meet with the Board. Mr. Christeller and Mrs. Krahnke were present.

Mr. Christeller recalled that they were looking for a method for administering the Adequate Public Facilities Ordinance with regard to schools. There were three alternatives. One would be for the Planning Board to exercise independent judgment on the advice they received from MCPS with regard to each subdivision. This was what they were doing now, and no one was happy with that procedure. The second was for the County Council to set some kind of development limit based on what the CIP would permit. This could be done annually or every six months. The third was that the Planning Board deal with the subdivisions individually, accepting whatever finding the Board of Education made as to the adequacy of school facilities. They believed that could only be done if the method for doing it was mandated by the Council. The basic proposal was that the Council would take legislative action to prescribe the methodology to be used by the Board of Education and to mandate to the Planning Board that the Planning Board act on the basis of this. He assumed this would include periodic legislative review by the Council. This assumed that there would continue to be decisions made in the CIP and the budget to assure an orderly and reasonable basis for the Board to accept students coming out of new developments.

Mr. Christeller stated that they did not have the right to prevent people from using their property indefinitely. They did have the right to try to constrain the use of that property in terms of timing to coincide with the public's ability to provide the facilities to support it. The amount of constraint was something that the courts never told them in advance.

Mr. Christeller said that one issue was the problem of defining the capacity of the schools which also involved defining the method for estimating the number of children that would result from different types of developments. If the method for determining capacity was not something that was incorporated in the Council's resolution, they had serious doubts that the system could be sustained in the courts. With regard to determining capacity for the purpose of telling them whether or not a subdivision would overcrowd the schools, he said the Council would have to agree with whatever method the Board used.

Dr. Shoenberg asked what was meant by method. He asked if they were talking about defining the area they would look at as the high school area or if they were talking about the way they determined the capacity of any individual school. Mr. Christeller said he was talking about the way in which they determined that any individual

school would or would not be overcrowded and unable to accept additional students. They had to resolve the issue of whether or not they were counting portables in that capacity. They had to resolve the issue of whether they were talking about 90 percent of state-rated capacity or some other measure of capacity. The Council would have to define what it was that Park and Planning was accepting from the Board of Education. Park and Planning would say to the applicant for the subdivision that they were legislatively mandated to accept the school Board's finding, but that the legislative mandate would state the way the Board had to do this. This must be defensible in court. The Council could make a legislative judgment which the courts tended to accept. Mr. Christeller explained that the method for defining capacity ought to come from the Board, but they would need to explain this to the Council. The concern was that they get something they could both live with.

Mr. Christeller said that another issue was deferral or denial of subdivisions. The county executive had raised this issue because he thought that this would put him under a major pressure to provide facilities. He explained that the difference between deferral and denial was a relatively minor difference in the courts. Their attorney had told them he could defend a denial only if it were temporary. If there wasn't action in a reasonable time period to be able to accept the development of that property, the courts would reverse the action to deny. He said that the Planning Board looked on the word "deferral" in a different sense. He noted that they did have a six-year capital improvements program. If in the fourth year of the CIP a school came in which would enable them to accept the students from the development, they should be able to defer the subdivision so that the timing coincided with the availability of the school facilities. He remarked that at present it was not clear that they had that authority. If it were going beyond the six-year CIP, they had no problem with saying that would be a denial as long as everyone understood that the property owner could come back in a year or two and request it again. If it were again denied, the property owner could go to the courts and would probably win.

Mr. Christeller was worried that the methodology not be so rigid because the courts might say they were denying there was flexibility in the school system. He thought the present proposal was too rigid regarding the JIM and high schools. He suggested that they discuss the capacity issue.

Dr. Shoenberg stated that in bringing the determination of the capacity formula to the County Council for their approval it seemed to him they were giving up their statutory authority to an agenda which might not, in law, have the right to take it over. He said that this was a serious problem for the Board. Mr. Christeller explained that he was only talking about the determination of the capacity for purposes of determining whether a subdivision could be approved. He said this authority was clearly the authority of the Council and was in state law. He said that Council would need to legislatively say to them accept these if the school system was determining school capacity for this purpose in this manner. Dr.

Shoenberg stated that to separate this purpose from other purposes did not have much meaning. They would be establishing capacity formulas for educational purposes, and they would be asking the Council to approve that formula. The formula used for the APFO would be no different from the one for educational purposes.

Mrs. Krahnke reported that the issue came up in terms of future planned programs which were not budgeted for personnel and where facilities were not yet available. She thought that the problem in capacity came in existing schools. When they were going to construct a new facility, the Board of Education determined the capacities it wanted. If they were to decide to have all-day kindergarten in every existing elementary school and it was not funded, she said the issue was could they turn down a subdivision because in the future they would need an empty classroom for all-day kindergarten. She said that the issue was how to count school facilities. In regard to roads, they dealt with facilities, but in schools they had facilities as well as new policies that created a need for more capacity. The County Council would have to determine for the basis of approving development whether capacity could be reserved for an unfunded program.

Mr. Ewing commented that one of the things that was worrisome was that the Council might take the opportunity afforded by this proposal to make decisions in advance of budget time about what level of program activity the Board could propose. He was uncomfortable with the notion that they would commit themselves in advance to decision making about programs limited by available facilities. He pointed out that the Board could be precluded from pursuing the objective of all-day kindergarten if there were a determination on the part of the Council that in high growth areas there would never be an opportunity to set aside space for that purpose. At present those decisions were made through the capital and operating budgets.

Mr. Christeller suggested that maybe the answer was to go back to the old system where the effect of new subdivisions on the school system was not considered. He did not agree with Mr. Ewing's analysis that the Board was precluded from making its case for a change in program. When they made their case for a change in program, they would have to be upfront about facility implications of that program. Mrs. Krahnke explained that the intent was to have the Council adopting capacities which they thought reflected the judgments that had already been made which was what the APF was supposed to do. She thought the Board of Education would be hearing from the development community on their program and facility decisions. The intent was to have the Council adopting a method applying decisions already made in the budget and CIP to the development process.

Dr. Cronin asked if the capacity of roads was legislated by the County Council. Mr. Christeller explained that the capacity of roads was different because there they were talking about an end-use capacity which was generally accepted by the engineering fraternity. They were not talking about a change in capacity by virtue of some

administrative policy decision. Park and Planning had legislated this under its authority from the County Council.

Dr. Cronin asked if there would be a way for the Council to legislate to Park and Planning that any method the school Board determined for its capacity would be used by Park and Planning. Mr. Christeller agreed that it could be done, but he pointed out that the Board would be subject to challenges from the developers. For example, if they set aside capacity for a new program which had not been funded, he did not think they would sustain this in court.

Dr. Cronin asked whether subdivision approvals counted in reserve capacity. Mr. Christeller said that an analogy was the road situation where they were counting all of the future traffic from the approved subdivisions. Mrs. Krahnke explained that this was why there had to be an agreement on how they calculated the base capacity because they would have to count future students from previous approvals. Dr. Cronin asked whether the school system could say it had a program it would like to put in four years from now and reserve that capacity. Mr. Christeller did not think so. He explained that they would say that a developer had a right to build and that capacity would be reserved for the developer which was not subject to any other governmental action.

Mrs. Praisner pointed out that they received permission to build a school based on the zoning and building permits. She asked why they could not estimate their needs for kindergarten or for special education because they were both building on anticipated needs. Mr. Christeller did not think they could sustain that in court unless the legislative body agreed to it. Mrs. Krahnke thought that everyone was willing to come up with a system that would defer some development or stop some development in some areas, but everyone had to understand the basis for this.

Dr. Floyd stated that he would have no problem with the Council's saying to the Planning Board "yes, you can use this" or "no, you can't." He did have a problem with the Council's telling the Board of Education what they could or could not do. Mr. Christeller replied that if they did not reach something that could be defended in court, they would be back to approving subdivisions and the school Board's having to figure out how to handle the students when they did arrive. Mrs. Krahnke suggested that they might end up with the Council's telling the Planning Board to accept the Board of Education's figures and make the following adjustment to them. This would not be telling the school Board what to do but rather telling the Planning Board how to interpret those figures.

Dr. Shoenberg asked about the legal difference between the ITE standards for road capacity and the state-rated capacity for schools. Mr. Christeller replied that there was no difference, and the Council could easily tell them to use the state-rated capacity. Dr. Shoenberg asked why the Council had to do this when the Planning Board had decided to use the ITE standards. Mr. Christeller thought this would put them back in the situation of accepting what MCPS

advised them without a legislative judgment. He pointed out that almost every subdivision the MCPS had recommended be deferred or denied had, in fact, been approved. He did not think they wanted to continue that. Dr. Shoenberg asked why the Planning Board was willing to accept the ITE formula and not state-rated capacity. Mr. Christeller said that when they received a recommendation from MCPS it was not just a recommendation on state-rated capacity it was a recommendation that said they expected so many children in this year and expected to be at 105 percent of state-rated capacity and did not recognize any way of avoiding an overcrowded situation. Therefore, the application should be denied. If three Planning Board members thought there were other ways to deal with that, the application would be approved. Dr. Shoenberg said it was the matter of determining the capacity of any individual school and the Council's involvement in that which was the sticking point. Mrs. Krahnke explained that they had a whole process by which they looked at transportation systems for subdivisions and the Planning Board had adopted it. It was very complex and had been defended successfully. The Council was comfortable with their using this process. For example, if a subdivision generated less than 50 trips it did not have to go through this very tight review. She said that there were people on the Planning Board who said that when they divided students down by grade there was not a big deal of difference because they were not going to come at once.

Dr. Cronin pointed out that in a number of school closures they had been to the State Board of Education on appeal, and the Montgomery County Board of Education had been found to have reasonable standards. He asked why this procedure would not withstand the same test as the road procedure. Mr. Christeller explained that that procedure withstood it because they had gone through due process.

Mrs. Krahnke said that if they told someone they couldn't develop property, the Board of Education would be regulating land use. Mr. Christeller said he had no question that the Council was going to tell them to rely on what the Board of Education said was the school capacity as long as they had some definition of what that was. However, they were going to say it had to be something that was a fixed system, and if it were changed, it would be changed in a public process. He did not think they would have a system which changed because of policy objectives which were adopted by the Board and not yet funded.

In regard to class size, Dr. Shoenberg said that it was not fiscally possible for the county to go from Level A to Level B all in one year. This would take three or four years, but the money had not been appropriated. It seemed to him that Mr. Christeller was suggesting that in the time they took to get from Point A to Point B that the determination of school capacity would not take into account the class size level they were working toward. However, by the time they got to Point B there might be enough subdivisions approved so that the capacity of the schools would not enable them to get to Point B. Mr. Christeller replied that he was not suggesting that at all. He was suggesting that the Board get the Council to agree to

use Point B. Dr. Shoenberg pointed out that the Council would not make a commitment of budgetary dollars that far in advance. Mrs. Krahnke thought the Council might be willing to phase in a major change like that in terms of relating facilities to development.

Mr. Christeller explained that where there was a crossover between the operating and the facilities requirements the Council had said in its Adequate Public Facilities Ordinance they wanted those to be reflected in development decisions. He said that one of the alternatives was to say that they could not do it, and the Council might say forget about trying to relate subdivisions to schools. Dr. Shoenberg noted that this would get all of them accused of bad fiscal planning. Mrs. Krahnke said that the Planning Board recognized that the school Board through its 15-year plan could also change capacities and make grade shifts.

Mrs. DiFonzo asked what would happen if a year from now they got a new public law similar to 94-142 which would affect school capacity. Mr. Christeller replied that it would affect facilities needs. If this was a mandate from the federal government, they would have to face up to it and provide additional facilities in some fashion. This might take the form of new schools, portable classrooms, or increased class size to create more capacity. He said the Council might say to them the capacity they used would be based on the latest approved pupil-teacher ratio. The Board had the objective of going to an improved ratio in four years. He explained that each year when the Board came in with its budget asking for improvement, the budget would have to contain a component to provide additional money for more facilities because they had allowed subdivisions to come in under a different ratio.

It seemed to Mr. Ewing he was saying that when the Council legislated on this it ought to legislate in such a way as not only to agree with the methodology but it also ought to build in a process which would alter the instructions to the Planning Board when the Board of Education operating and capital budgets had been approved. He said that the obvious possibility was that the Council would deal with the proposals for improvement and fail to give new instructions to the Planning Board. Mr. Christeller did not think these were new instructions. He said the initial instructions might be that capacity would be determined as follows and take into account whatever was in the CIP. Mr. Ewing pointed out that it was more than the CIP. It was also the operating budget and the fifteen-year plan. Mr. Christeller thought they would have to have periodic review by the Council.

Mrs. Krahnke said that as they were for all-day kindergarten they would have to adjust capacity for the schools receiving all-day kindergarten. Mr. Ewing stated that this got complicated because as they expand all-day kindergarten, they expanded it where they already had space. They would reach a point soon where they would be wanting to place it in new, renovated, and existing buildings where there was overcrowding.

Dr. Cronin was concerned about a definition of capacity which also included the potential for portables. Mr. Christeller explained that they had assumed that the core facilities could handle some small amount of additional portables without great strain on the system. He was also concerned with some assumptions that they could add an infinite number of portables. He was saying lets assume they could add portables equal to 10 percent of the number of classrooms in a school. The Board of Education was now saying they would use a capacity of 90 percent of the state-rated capacity. There were two areas of flexibility. He agreed they needed some margin for error, and the 90 percent figure allowed for error. It seemed to him the flexibility was either in saying some percentage of state-rated capacity or saying 100 percent of state-rated capacity with 10 percent flexibility with portables. He thought they would have a hard time persuading the public that the capacity should be 90 percent and no portables.

Mrs. Praisner pointed out that state-rated capacity was not good because 30 students per classroom was inappropriate. She also pointed out that a portable would become permanent portable once it was there and once counted in the capacity. Mrs. Krahnke said they would like the Board of Education to address the difference between a portable and modular construction. They agreed that institutionalizing portables was not a good idea, but to turn down development because for three years they might need portables might be a problem.

Dr. Shoenberg stated that they had to have a system that was humanly workable. They did not want a system with so many permutations and combinations that not only would it be impossible to deny any suggested development but also would involve their staff in a set of calculations that would be endless and continuous. This would get them involved in constant flux and change of boundaries in ways that the community would find absolutely unacceptable.

Mr. Christeller said that on the elementary space they had a three-step process. He asked which JIM space they would look to if elementary school was adequate. Mr. Bruce Crispell replied that they would look to the one in the original cluster. Mr. Christeller commented that this process was not saying this was where these students would be assigned. The process was saying that somewhere they would be able to take care of these students. He thought they probably had only one JIM school in the cluster and would look to see whether there was another one within a mile. He thought this was very limited flexibility. Mrs. Krahnke said the question was whether that subdivision had to be within a mile for some other junior high school or intermediate to be considered.

Dr. Shoenberg suggested they look at a subdivision application in the middle of a high school cluster. They might say they would approve the subdivision because another subdivision near the boundary could be moved to another cluster. There would be a direct connection in the minds of the people involved between the approval of the

subdivision and their being redistricted. Mr. Christeller pointed out that redistricting was not their only choice. He also said that even with a large subdivision they were not talking about a large number of students. He explained that when they went to court they would be talking about the effects of only the one subdivision. He felt they needed to say they did not restrict the deferral because of just one school. He saw this as a weakness in the present proposal in the case of JIM schools. Mrs. Krahnke asked if they would review the one mile restriction and look at the maps and see how much of the county that excluded. Mr. Ewing felt that they should take another look at the developing areas of the county.

Dr. Shoenberg indicated that the Board would not take action and asked that this item be rescheduled. Dr. Cronin inquired about the timing of this issue. Mr. Christeller said they were concerned because every subdivision that came in was being acted upon under the present system, and the votes were to approve the subdivision. The County Council had before it a text amendment on the Adequate Public Facilities Ordinance that establishes that the system will be enacted by Council resolution after a public hearing. The Council would like to move on this during the fall and had a public hearing scheduled for September 19.

Mrs. Praisner said the Board had raised some questions about the Council's role in determining methodology and process. She suggested that they might attend the hearings or convey their concerns about that part of the process prior to or at the hearing. Mr. Christeller suggested that the Board send a letter to be included in the public record. Mr. Ewing agreed that they needed to be in touch with the Council, and he felt that they needed legal advice, both from their own attorneys and from the state.

Re: COMPENSATION TASK FORCE REPORT

Dr. Shoenberg expressed the Board's appreciation to Jess Graham for his work in following up on the task force report. He said there were two major categories. One was the statutory powers of the Board of Education and things that were reserved to it. The second was the disregard of the report for the negotiations relationship with the Board's employee organizations. Dr. Cody said they would ask their attorneys to provide them with an analysis of Maryland law and negotiations law. Mr. Graham added that some Council members had concerns about this and had scheduled a session in October to discuss negotiations.

Mrs. Praisner recalled that they had started to make the point to the Council about the Board's commitment to good faith bargaining and to the bargaining process. However, the task force report did disregard this concept. She suggested they needed to go back to the Council and repeat comments about good faith bargaining.

Mr. Ewing thought they ought to take the opportunity to ask the Council to sit down with the Board and discuss concerns. He said

that one of the things that was troubling about the report was the assumption that everything should be "neater" and that all agencies should do the same thing all the time. People working at similar jobs should have similar wages and benefits. He commented that there were a lot of other virtues in the American government system including checks and balances and separation of powers. He noted that both the Council and executive seemed to feel that if only they were in charge, all would be well. He believed there was a purpose in the way things were arranged, and the Board should make it clear that their interest was not necessarily the same as the Council's interest.

Dr. Cronin was concerned about how the task force defined the competitive market. He wondered whether they would be willing to use major corporations at a half billion dollar budget level with 150 plants. He asked if they would be willing to look at salaries paid to executives in those corporations and use that as the competitive market.

Dr. Shoenberg stated that the report also failed to take into account that salary was not the only basis on which one made comparisons of job payoff. Dr. Cronin noted that the report talked about moving toward a common job evaluation system. He wondered how they would have a common system on the evaluation of teachers, for example.

Dr. Shoenberg suggested that they needed a list of specific problems that MCPS would encounter if a system such as that proposed by the Compensation Task Force were implemented. Mrs. Praisner added that they should include legal constraints. Dr. Shoenberg pointed out that there was a whole list of statutory problems. There were problems in the area of negotiations and the in the notion of comparability. Mrs. Praisner suggested that by going through all the steps this should not mean they agreed with the goal.

Mr. Ewing said that he had read a fair amount of the report, and a lot of the analysis was extremely valuable. He thought that the task force had done a good job of analyzing the problems and issues. This information would be valuable as the Board looked at budgets in the future and as they looked at collective bargaining issues. He suggested that this be communicated as well.

Dr. Cody pointed out that one of the recommendations had to do with health insurance for retirees. The Board had included a request for \$150,000 in its budget which was denied. However, one Council member said she would welcome this item back again. He gathered that in terms of the whole report the Council was not going to move with any dispatch. He suggested that they consider the timing of their request for the \$150,000 for retirees. He agreed that they would take the next step of consulting with their attorney and analyzing the report. Dr. Shoenberg agreed that they should have good, specific points they could use for illustration.

Re: BOARD MEMBER COMMENTS

1. Mr. Ewing stated that he was impressed with the findings in the Preschool Evaluation Report. He hoped that those results were widely shared within the school system. The report showed that they really did know how to make a difference for young children through that project. One of the most encouraging aspects of this was the gains were largely not affected by race.

2. Mrs. Praisner reported that the Task Force to Examine the School Construction Program held a public hearing last week. Two of the counties testifying asked the state to change the state-rated capacity for schools.

3. Mr. Ewing said that he had brought back material from the Maryland Association of Counties Meeting. He had attended sessions on personnel issues and had provided the materials to Mr. Fess. Dr. Cronin added that he had collected papers on the GARCIA case and had turned them over to Mr. Cooney. Dr. Shoenberg asked about the impact of the decision of not using public school teachers in religious schools, and Dr. Cody replied that he had provided a memo on this subject. A component of the Chapter I program was not in compliance with the Supreme Court decisions and discussions were underway with the Archdiocese.

Re: NEW BUSINESS

1. Mr. Ewing asked if they were going to have the QIE Annual Report on a future Board agenda. Dr. Cody replied that this could be scheduled.

2. Mr. Ewing noted that they did not normally discuss the Nonresident Tuition Waiver Report either. He would like them to schedule this. He indicated that he would submit his questions and thought it would be useful for the Board to discuss this.

3. Mr. Ewing moved and Dr. Floyd seconded that the Board schedule a meeting with the Citizens Minority Relations Monitoring Committee to discuss with it its recent report to the community.

4. Dr. Shoenberg suggested that questions on QIE and Nonresident Tuition be submitted in memos to the staff. The staff would consider whether or not it would be useful to have a public discussion.

Re: ITEMS OF INFORMATION

Board members received the following items of information:

1. Report of the Office of the Board of Education
2. Annual Report - Child Abuse and Neglect Policy
3. Annual Report - Nonresident Tuition Waivers
4. QIE Annual Report
5. Classifying and Serving Preschool Handicapped Children:  
A Statewide Survey
6. Preschool Evaluation Report: Year 1 Report

Re: ADJOURNMENT

The president adjourned the meeting at 11:20 p.m.

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President

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Secretary

WSC:mlw

