

APPROVED  
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Rockville, Maryland  
July 29, 1985

The Board of Education of Montgomery County met in special session at the Carver Educational Services Center, Rockville, Maryland, on Monday, July 29, 1985, at 7:45 p.m.

ROLL CALL         Present:  Dr. Robert E. Shoenberg, President  
  in the Chair  
  Mrs. Sharon DiFonzo  
  Mr. Blair G. Ewing  
  Dr. Jeremiah Floyd  
  Mr. John D. Foubert  
  Mrs. Mary Margaret Slye  
                  Absent:  Dr. James E. Cronin  
  Mrs. Marilyn J. Praisner

Others Present:  Dr. Wilmer S. Cody, Superintendent of Schools

Re:  BLUE RIBBON COMMITTEE ON THE PLANNING  
      PROCESS, SUBCOMMITTEE ON PUBLIC  
      FACILITIES AND OTHER INFRASTRUCTURE

Dr. Edward Andrews, chairman of the subcommittee, reported that the county executive had established a 20-member commission which, in turn, divided itself into six subcommittees. This subcommittee did not include roads or transportation problems or private sector issues. The subcommittee was dealing with the planning process related to schools, public libraries, fire stations, and other public facilities. He said the subcommittee had received copies of the superintendent's memos to the Board and a copy of Mr. Scull's proposed amendments to the Adequate Public Facilities Ordinance. He explained that they would like to hear any problems the Board had with the process and any proposals they would like the subcommittee to consider. He said the Board had received the minutes of the last committee meeting and knew about the debate between the county attorney and the Park and Planning attorney. In addition, the committee heard a presentation from Jacqueline Rogers of the county executive's staff. She had made comments about the Board of Education and its role in the process.

Dr. Shoenberg stated that the Board had not had an opportunity to prepare any sort of response; therefore, the subcommittee would be hearing individual responses. He said the Board recognized some awkwardness about the timing of facilities decisions and the submission of the capital budget. Facilities decisions were made in March, but the capital budget for state submission for new construction had to be done in November. However, the CIP to the County was a little better timed in terms of the facilities decisions. The Board had under consideration some changes in that timing, but there were a number of difficulties involved in moving facilities decisions back to the fall. There was the problem of securing community responses during the summer, and the problem of waiting to have September enrollment figures before decisions were

made.

Dr. Andrews asked whether more time on the other end would help. For example, the County Charter required the county executive to have a proposal to the County Council by January 1 with regard to the capital budget. Dr. Shoenberg thought it might help if the operating budget schedule were changed to a later date because they could not do facilities and operating budget at the same time.

Dr. Cody reported that this issue was on the Board's agenda for the August all-day meeting. He said that even a month could make a big difference on the capital budget. He explained that to have solid recommendations for community review and Board consideration by January 1 was really pushing them. He thought that February 1 would make a big difference.

Mrs. Gloria Cole inquired about using the September enrollments to make decisions on facilities. Dr. Shoenberg replied that there were two processes. There was a capital budget projected six years ahead. They also had decisions to make on school facilities having to do with boundary changes, opening schools, and closing schools. Those decisions were made in late February and early March. The problem was that the facilities decisions had an impact on the capital budget which had to be submitted before the facilities decisions were made. These, in turn, affected the operating budget.

Dr. Cody reported that they had received notice that a request for capital funds from the state must be submitted in November. He said that forecasts for capital projects were based on history, and if they had to make decisions in the fall they were using one-year-old data. He explained that in the last year or two there had been major swings in population in the county and in enrollment in the schools. Mr. Dean Gibson said they had been focusing on the CIP; however, the Planning Board had a comprehensive planning policy to set staging in October. If schools became a limiting factor along with roads, it might force the schools to have data a bit earlier. Dr. Cody said their task was not just to forecast the enrollment for the school district but rather to make decisions about 150 schools. He indicated that the information they used to determine facility needs was the September enrollment data. If they started doing things the previous year, it built in the likelihood of more error.

Mr. Ewing asked whether the subcommittee was aware of efforts the Board was making with respect to reaching agreement with the Planning Board on the APFO. Dr. Cody stated that school system and planning board staff had been working for several months to develop guidelines the school system would use to determine capacity of schools in terms of commenting about a subdivision request. This item would be back on the Board's agenda for their concurrence.

Dr. Andrews suggested they spend some time on the issues of capacity and projections. He noted that there were amendments floating around for the APFO which stated that the Board would have to develop

capacity figures based on some formula approved by the County Council. The subcommittee was trying to sort out roles in this process. It seemed to him it made sense to have the Board of Education and Planning Board agree on how to determine capacities. However, the Planning Board had said the Council had to take some action. Dr. Cody thought they were talking about the Council's clarifying the authority of the Planning Board.

Dr. Shoenberg commented that a number of Board members were very uneasy about a situation in which the Council would pass legislation binding the school Board, although the legislation would really be binding on the Planning Commission. Dr. George Fisher reported that there were a few points where there was some concern. One question was whether they looked outside of a high school cluster as a standard process or by exception depending on the location of the subdivision. They were agreed on the general concept of looking at a subdivision in a regional area.

Dr. Shoenberg said that the process of working together with the Planning Board had been a good one. In the course of a couple of meetings with the Planning Board, there had developed mutual understanding of each Board's problems. There was a concern about the relationship with the County Council and what kind of precedent the legislation would establish. He felt that in order to protect itself and its schools the Board felt somewhat constrained to allow the Council to do that.

Dr. Andrews explained that they had to wrestle with the question of what made the most sense. Some people suggested that the Board of Education take its class size goals and make them the basis on which school capacity was assessed. However, in one example provided, there was a 20 percent drop in capacity in a Gaithersburg area school. He thought the real issue was the overall role of the School Board, the overall role of the Planning Board, and the overall role of County Council. He said that the question was whether the Council could and would adopt a resolution on how the school system should figure school capacity. Dr. Cody thought the Council might have jurisdiction over the Planning Board as to what kind of guidelines to follow. He commented that currently they used the state formula of 30 children per elementary classroom. They applied percentage figures to say that any school over 90 percent utilized was overutilized. He noted that 90 percent of 30 was 27. They were now planning buildings as if they had up to an average of 27 per classroom. Actually schools were staffed at an average of 22.5 which is 75 percent of the state's 30. He said that a lot of schools at 80, 85 and 90 percent of utilization were really overutilized. They had been talking about a different formula. They were also concerned about whether to calculate capacity factoring in all-day kindergarten. All-day kindergarten was an objective of the Board of Education and needed to be built into any kind of facility update and planning that was four or five years out. Their preliminary estimate using the new formula was that they would not have to go out and

build more classrooms. Whether they had a new formula or not, if they went to all-day kindergartens they would have to provide some space.

Dr. Shoenberg added that the state capacity figure talked about students while the new formula was concerned with operating capacity of the school. The new formula took account of what was required to run a program in that school in rooms rather than students. This would necessitate a revision in the facilities policy because they would be talking about capacity in an entirely different way.

Mr. Ewing commented that the Board wanted to reflect its long-term educational program goals in its facility formula which he thought was highly desirable. They should know the programs they wanted in the schools and build the buildings to fit that. As they had made renovations, they had informally taken account of the need for additional spaces for art and music but had not addressed the issue of changing the formula. In regard to roles and responsibilities, Mr. Ewing thought it was incumbent on the Board as a public body to do their very best to collaborate with the Planning Board, the Council, and the executive in finding ways to reach agreement on how to make both the timing of the process and the calculations used in determining capacity a matter of mutual agreement. If the mutual agreement was reflected in legislation, that would not bother them so much as if before they reached agreement, legislation was adopted. He explained that the Board of Education was created under state law but funded, in part, by the county government. According to their attorney, the Board was a state agency not totally subject to county government authority. Dr. Rogers seemed to think the Board of Education was a county agency. He hoped that Mr. Scull was going to propose something that created a mechanism for this mutual agreement between the Planning Board and the School Board to take effect, and he hoped that Mr. Scull would not try to write the formula itself into the legislation.

In regard to the comments made by Dr. Rogers, Mr. Ewing recalled that when the Board was closing schools Dr. Rogers and the county executive were telling the Board they should close more schools or they would not get money for capital construction. The Board did close schools, but at the same time they did not get much support from the county executive for new construction up-county when it was needed. Now the county executive was saying through Dr. Rogers that the Board of Education did not act as a thoughtful deliberative body. He did not think this was a fair statement. He also did not think the description of the planning process provided by Dr. Rogers was accurate.

Dr. Cody quoted from a statement made by Dr. Rogers: "OMB has not been able to get the BOE to understand that what is programmatically ideal is not always affordable or fundable, which makes the executive's decisions very complex." He said this was right. They were very complex and so were the Board's. They went through six months of being told that the requests for up-county schools were much more than could be funded, and, in fact, this would be done. He stated that they would not do what Dr. Rogers said which was the

problem.

It seemed to Mrs. DiFonzo that the calendar and the timing of the various events was part and parcel of the issue, but she felt what was needed was a referee. They had three groups of people (the Board of Education, the County Council, and the Planning Board) indulging in name calling, and she suggested they needed someone to get the groups and the individuals to be able to communicate together and to get them to believe the other people were not being arbitrary. She commented that they were all in this together and had to do what had to be done for the best good of the county. She thought a lot of it had to do with the tone, style, communication, and attitude towards one another. She suggested that the issue was how to change this attitude.

Mrs. Slye stated that a lot of what they were doing had to do with growth and development. She inquired about the county executive's economic development policy and philosophy which served as a driving mechanism for a lot of the service delivery needs. She agreed that they needed a referee and an identification of the force driving these needs to share with the other agencies what it was aiming for and in what time frame. She commented that it was not by accident that they had the high tech development along the I-270 corridor, and she asked how long ago they began to seek that type of business in Montgomery County. She asked how much was planned in the future. She thought those guidelines needed to be made very clear to the agencies that had to deal with these things, and she thought that responsibility rested with the county executive and the office of management and budget. They should put forward a series of budget perspectives and try to determine what level of growth would be entertained and how the delivery of services would be phased in to accommodate that growth. Dr. Andrews thought the executive's response would be that he had nothing to do with the development of the plan for the zoning and that the Planning Board developed these for approval by the County Council and the executive branch was frozen out of those things. He did have an Economic Development Department but had to come in through the back door with regard to the planning process.

Mr. Gibson noted that one of the proposals was to shift the subdivision review into the executive's department. At present the Planning Board was responsible for master plans plus subdivision review, and the executive did not get into this until the building permit. Mrs. Slye explained she would not want to support the removal of any checks and balances but what she was looking for was not authority but rather a clear statement of purpose and intent. She viewed this as the responsibility of the county executive. In regard to the redefinition of capacity, she did not want to leave the impression that they were only seeking to define new programs they hoped to implement. In working with the capacity redefinition, they were trying to deal with the reality of changing program needs. They had educational services that had to be provided such as English for Speakers of Other Languages, the integration of special education

programs into the regular school building setting, and reading problem solutions without getting children involved in special education. They were finding that these program needs were highly dependent upon space availability for success. It was almost impossible to run a successful ESOL program in the back corner of a classroom where other instruction was going on. The Board did not view these programs as options or luxuries; these were growing realities for the Board of Education. In addition to having long-range plans for where they would like to be, they were also defining where they were in terms of program.

Dr. Cody thought they were working out good guidelines with the Planning Board. If the authority rested with the county executive's office, he would like to think they would have a process of working this out with the executive. Dr. Shoenberg could see some advantage in having an independent Planning Board. He explained that one reason they got crosswise with the executive and Council Council was that, like the executive and Council, they were elected officials representing a constituency. The needs and interests of that constituency were not necessarily congruent with the constituency that the executive and Council represented. They realized there had to be some compromises based on what the county could afford to do. Dr. Andrews commented that the executive branch of the government felt it was in a position not just with regard to schools, but primarily with regard to the private sector development of having someone else decide it was going to be done and what was going to be done and then having to find ways to pay for it. There was a non-elected Planning Board appointed by the Council making recommendations to the Council. For example, there were 45,000 more approved housing units out there in the upper county. These were all approved by the County Council on the recommendation of the Planning Board. He asked whether there wasn't a way when a zoning decision was made that there was also a recognition of the need for roads, schools, libraries, etc. He said that if they were going to solve this they had to find ways of people working together as well as making the commitment to provide public services when housing was approved.

Dr. Cody reported that the guidelines for the school system commenting on subdivision approval under the APFO would have them doing the calculations for three years from now. He recalled that in major areas of the county subdivision approvals were not being granted now. Mr. Gibson explained that this "brake" would ease up when more roads were approved in the Germantown and Shady Grove area. Dr. Shoenberg remarked that Dr. Andrews' question led to the question of what it meant to have a county executive. He said that the county executive was obviously something more than a county manager, but in some respects the law made him somewhat of an employee.

Mrs. DiFonzo commented that it was not sufficient to have a road on a piece of paper because when they were building houses there were real children with real needs in those houses. Now only did they have to plan roads, they had to process out when the roads were going to go

in. They were playing "catch-up" which was compounding the problem. Mr. Gibson thought that in the last few years this had been tightened up. Mr. Scull's bill would require 100 percent contract signed before road capacity could be counted. Mr. Gibson wondered how they would compare road capacity and school capacity to get a common unit of adequacy of facilities. He wondered whether they would have to have 100 percent of school capacity if the approach would be to have 100 percent of road capacity.

Mr. Ewing commented that economic development was an appropriate role for the county executive. It was also appropriate for the county executive to have a mechanism to take account of the consequences of that. He said with the present process they got a lot of encouragement from the county government for economic development and for growth but not much support when it came time to build schools. This year the Council was supportive, and the executive was not. They had a big problem with the bonding capacity issue in part because the county executive did not use all the bonding capacity available to him for a number of years. Therefore, in the coming years they would be behind the eight-ball for many years to come if they were stuck with the existing bonding capacity estimates no matter what growth took place. They had to look at not only who does what in a procedural sense but how things were structured so they could get a handle on the relationship between the growth and the necessary facilities. They used to be able to depend on the state for some help but that was less and less. From his point of view, they did not want to end up with schools that were overcrowded as a result of this process.

Dr. Andrews explained that the subcommittee was trying to find a way to make adequate public facilities a part of the subdivision approval process. He felt that if schools were treated as importantly as roads, it would not put the school system in the position of saying there could not be any more development. Dr. Cody explained that this was built into the guidelines that had been developed. If there were no capacity three years out, a development would remain in that not recommended status until they had money in an approved CIP. Dr. Kenneth Muir commented that subdivision approvals were given in perpetuity, and in Germantown they were building on some subdivisions approved in 1971. When builders could not sell, they did not build. It would be impractical to build schools when there were no students or roads where there was no traffic. When the economic situations changed, the builders started up again and could build faster than roads and schools could be constructed. It seemed to him that one solution would be not to approve subdivisions in perpetuity. They could approve subdivisions for a three, four, or five year period, and if they didn't build in that period the developers would have to reapply.

Mr. Gibson commented that part of the problem was the permits approved in 1971 when there was a very lax administration of the APFO. In 1982 they started requiring that 80 percent of the roads be built. He explained that the Council did not get involved in subdivision approval but approved master plans. Now the Council was

saying they wanted more of a piece of the action and the county executive was saying he should have more input on the staging. Dr. Andrews remarked that the Board and superintendent were not so much worried about who was doing it as to some way of making certain that the schools were there when they were needed.

Dr. Shoenberg indicated that the Board was anxious to participate in the planning process and to cooperate. Dr. Cody thought that the role of the schools in the APFO needed to be articulated much more strongly, not only in terms of approval of subdivisions but tied to future funding so that areas stayed closed until there was funding for schools in that area. Mr. Ewing noted that an important factor to consider was past history of construction in that the roads had always slipped and the schools had not. When they had been given an opportunity to build a school, they had built it within the time frame they expected to build it in.

Dr. Andrews asked that the Board keep the committee and the subcommittee informed. The committee was scheduled to report to the county executive on September 30, and there would be a work session on Saturday, September 7, to put the report together. Mr. Gibson explained that the September 30 date was needed to get any recommended legislation to the Delegation. Mr. Ewing asked that the subcommittee be furnished with a schedule for the Board's discussion and action on the APFO and school capacity formulas. Dr. Andrews thanked the Board for their comments, and Dr. Shoenberg thanked the subcommittee for the opportunity to comment.

Re: ADJOURNMENT

The president adjourned the meeting at 9:10 p.m.

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President

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Secretary

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