

Approved by the Charlotte-  
Mecklenburg Board of Education  
June 10, 2008  
Regular Board Meeting



Charlotte, North Carolina

January 22, 2008

**REGULAR MEETING  
of the  
CHARLOTTE-MECKLENBURG BOARD OF EDUCATION**

The Charlotte-Mecklenburg Board of Education held a Regular Board Meeting on January 22, 2008. The meeting began at 4:38 p.m. and was held in Room 267 of the Government Center.

Present: Joe I. White, Jr., Chairperson, Member At-Large;  
Molly Griffin, Vice-Chairperson, (District 5);  
Kaye McGarry, Member At-Large;  
Trent Merchant, Member At-Large;  
Larry Gauvreau (District 1);  
Vilma D. Leake (District 2);  
Tom Tate (District 4); and  
Ken Gjertsen (District 6)

Absent: George Dunlap (District 3)

Also present at the request of the Board were Dr. Peter Gorman, Superintendent; James G. Middlebrooks, attorney with Helms, Mulliss & Wicker, PLLC, representing the Board; Maurice Green, Chief Operating Officer; and Nancy Daughtridge, Clerk to the Board.

**Upon motion by Ms. McGarry, seconded by Mr. Tate, the Board voted unanimously of those present for approval to go into Closed Session for the following purposes:**

- **To consult with the Board's attorneys on matters covered by the attorney-client privilege, including but not limited to certain real estate matters;**
- **The following litigation matters (a) *Phyllis Little v. Charlotte-Mecklenburg Board of Education*, and (b) *Sugar Creek Charter School, et. al., v. Charlotte-Mecklenburg Board of Education*; and**
- **To consider a personnel matter of an administrative employee.**

**The motion was made pursuant to Section 143-318.11(a) of the North Carolina General Statutes.**

Chairperson White reconvened the Regular Board Meeting at 6:18 p.m. in Room 267 of the Government Center. CMS-TV Channel 3 televised the meeting.

Present: Joe I. White, Jr., Chairperson, Member At-Large;  
Molly Griffin, Vice-Chairperson, (District 5);

Kaye McGarry, Member At-Large;  
Trent Merchant, Member At-Large;  
Larry Gauvreau (District 1);  
Vilma D. Leake (District 2);  
George Dunlap (District 3);  
Tom Tate (District 4); and  
Ken Gjertsen (District 6)

Absent: There were no absences.

Also present at the request of the Board were Dr. Peter Gorman, Superintendent; Regina H. Bartholomew, General Counsel; Members of Executive and Senior Staffs; Carole Love, Manager of Board Services; and Nancy Daughtridge, Clerk to the Board.

## I. CALL TO ORDER

Chairperson White called the meeting to order at 6:18 p.m. Chairperson White welcomed everyone to the Board's second meeting of the month. Chairperson White apologized for starting the meeting late and noted that the Board had been conducting business in Closed Session. He said the Board will be returning to the Closed Session following the end of business for the Regular Board meeting.

### A. Adoption of Agenda

**Ms. Leake moved, seconded by Ms. Griffin, that the Board adopt the agenda as presented,** and a discussion followed.

Chairperson White asked the Board to approve adding additional Consent and Action items to the agenda as a result of business in Closed Session. The items were as follows:

Add Action Item III.B. (Recommend approval of land acquisition for a new southwest elementary school and high school site). Chairperson White said the recommendation includes that the Board (i) approve the acquisition of certain properties for a new southwest elementary and new high school site as follows:

- a) The donation from Green Fields to Charlotte-Mecklenburg Board of Education (CMBOE) or the County of approximately 30.2 acres located on Highway 49, tax parcel numbers 217-101-07, 217-101-06, and 217-101-10 to be used as a joint elementary school/park site, conditioned upon CMBOE and the County relinquishing their rights to acquire an approximately 27 acre parcel reserved for dedication to CMBOE and the County pursuant to Zoning Petition 2001-016(c); and
  - b) The purchase from Rhein Medall Interests of up to approximately 62.44 acres located on Highway 49, portions of tax parcel numbers 217-301-01, 217-013-35, 217-013-34, 217-101-05, for a purchase price of \$45,000 per acre; and
  - c) The purchase from Steele Creek 1997 Limited Partnership for the purchase of approximately 28.9 acres located on Highway 49, tax parcel no. 217-101-04, for a purchase price of \$45,000 per acre; and
- (ii) authorize the Superintendent, with the advise of legal counsel, to (a) enter into a contract with Rhein Medall Interests and Green Fields regarding (i)(a) and (i)(b) above, and (b) enter

into an agreement with Rhein Medall Interests to share costs of certain shared improvements that will benefit the property to be acquired by CMBOE as well as property to be acquired by Rhein Medall Interests.

**Ms. Leake moved, seconded by Mr. Gjertsen, that the Board approve adding Action Item III.B. (Recommend approval of land acquisition for a new southwest elementary school and high school site), and the Board voted 9-0 in support of the motion.**

Add Consent Item II.C. (Recommend approval of land acquisition for a new Mt. Holly-Huntersville Road elementary school site). Chairperson White said the recommendation includes that the Board approve the purchase of (i) approximately 15.55 acres (including a house) located on Mt. Holly-Huntersville Road, tax parcel numbers 031-451-10 and 12, for a purchase price of \$568,700; and (ii) approximately 5.6 acres (including a house) located on Mt. Holly-Huntersville Road, tax parcel number 031-451-09, for a purchase price of \$286,000; and (iii) approximately 1 acre (including a house) located on Mt. Holly-Huntersville Road, tax parcel number 031-451-11, for a purchase price of \$185,420 plus moving expenses of \$5,000, and the Board voted 9-0 in support of the motion.

**Ms. Leake moved, seconded by Mr. Tate, that the Board approve adding Action Item II.C. (Recommend approval of land acquisition for a new Mt. Holly-Huntersville Road elementary school site), and the Board voted 9-0 in support of the motion.**

Add Action Item III.C. (Recommend approval that the Board authorize an appeal to be taken from the lower court's decision in the matter of *Sugar Creek Charter School, et. al., v. Charlotte-Mecklenburg Board of Education*).

**Ms. Leake moved, seconded by Mr. Tate, that the Board approve adding Action Item III.C. (Recommend approval that the Board authorize an appeal to be taken from the lower court's decision in the matter of *Sugar Creek Charter School, et. al. v. Charlotte-Mecklenburg Board of Education*), and the Board voted 9-0 in support of the motion.**

Mr. Gjertsen asked the Board to revisit its vote from the January 8, 2008 Regular Board meeting regarding the boundary change for the Browne's Ferry Subdivision from Hucks Road Elementary School to David Cox Elementary School. He requested this item be added to the agenda as an Action Item.

**Mr. Gjertsen moved that the Board add an Action Item to the agenda regarding amending the boundaries for the Browne's Ferry Subdivision from Hucks Road Elementary School to David Cox Elementary School, seconded by Mr. Dunlap,** and a discussion followed. Chairperson White called upon Regina Bartholomew, General Counsel. Ms. Bartholomew asked what is the purpose of this request? Mr. Gjertsen said this would be a new motion to change the boundary for that area back to Hucks Road Elementary School. Mr. Gauvreau said this would be a motion to amend the agenda to add an Action Item. He said the Board would like to revisit that vote because they have changed their mind. Ms. Bartholomew said if this is a matter of business that has already been voted upon and the meeting in which the vote took place has been concluded, that item cannot not be revisited unless there has been

some significant change in the original motion. If the options voted upon in the previous meeting are still present that item cannot be brought up again in a new meeting. The purpose of this rule is to avoid repetitive revotes on issues that have already been laid to rest by a governing body. Chairperson White asked Mr. Gjertsen if he would withdraw the motion with the understanding that following review with Ms. Bartholomew on proper procedure, he may bring it before the Board at the next Board meeting scheduled for February 12, 2008. Mr. Gjertsen said the Board has previously done this and he would like a copy of the policy referencing this request. Mr. Dunlap said *Robert's Rules of Order* allows for a Board to change its vote and some Board members wish to change their vote on this item. Dr. Gorman said he understands that following the Board vote on this item, Board members heard additional information that has materially changed their position. Mr. Gjertsen said he would be glad to add this item to the agenda for the February 12<sup>th</sup> meeting if it would still be timely. Chairperson White said that would remove any questions regarding following proper procedure but he would add this item to this agenda if the Board desired. Mr. Gauvreau said Mr. Gjertsen is requesting to add an Action Item to the agenda and that should be allowed. Ms. Bartholomew said she stands by her previous statement, a motion to reconsider occurs during the meeting in which you had the original vote. However, based upon the Superintendent's clarification that the Board received clarifying information since the Board vote, it would be proper to revote on this item. Dr. Gorman said for clarification, Board members have expressed concern that the position that staff presented on that subdivision was not accurate based upon the information that they heard following the Board vote. Chairperson White said based upon the attorney's position it would be proper to add this item to this agenda. Mr. Tate said he would vote against adding this to the agenda because there were people who wanted to talk to the Board members about this matter and they do not know the Board will vote on this item tonight, and they may not have had an opportunity to express their concerns. He believes it would be wrong to not allow them an opportunity to voice their desired changes and this motion may not incorporate what they want. Mr. Dunlap said he also had that same concern and he would prefer that this item be added to the next agenda. Mr. Merchant said part of Mr. Gjertsen's sense of urgency is the neighborhood is concerned that they may need to apply for the Magnet lottery and that process ends January 31<sup>st</sup>. Mr. Gjertsen said he would withdraw his motion at this time. Chairperson White said this item would be added to the agenda for the February 12<sup>th</sup> Board meeting.

**Ms. Leake moved, seconded by Ms. Griffin, that the Board adopt the agenda as amended, and the Board voted 9-0 in support of the motion.**

## II. CONSENT ITEMS

- A. Recommend approval of appointment of administrative personnel.
- B. Construction Items.
  - 1. Recommend approval of easement agreements on Charlotte-Mecklenburg Schools' properties regarding City of Charlotte South Park Watershed Enhancement Project.
  - 2. Recommend approval of contract for installation of greenhouse at Myers Park High School.
  - 3. Recommend approval of purchase of five modular units.
- C. Recommend approval of land acquisition for new Mt. Holly-Huntersville Road Elementary School site.

**Ms. Griffin moved, seconded by Mr. Dunlap, that the Board adopt Consent Items A. thru C., and a discussion followed.**

Ms. Leake pulled A. and B.2.

Ms. McGarry pulled B.3.

Dr. Gorman said with the adoption of the agenda, he should have requested that Consent Item B.3. be deleted from the agenda. He said the bid for B.3. was invalid and this item will be presented to the Board at a later time. Dr. Gorman requested that B.3. be deleted from the agenda.

**Ms. Griffin moved, seconded by Mr. Dunlap, that the Board adopt Consent Items B.1. and C., and the Board voted 9-0 in support of the motion.**

The Board discussed Consent Item A. Ms. Leake said she wants the community to know that there are Board members who scrutinize this process and they want the best principals and teachers with the students. She expressed concern regarding the longevity and experience of some of the appointments because inexperience contributes to the failure of students and schools. She also had concerns regarding the placement and transfer of staff. She said it is difficult to change the academic success of students without placing strong leaders at some of those schools. She encouraged the Board to take personnel appointments seriously because there is a process in place to appoint strong leadership in all the schools throughout the district and that process must be fair and consistent. She expressed concern that there are qualified and experienced assistant principals working in the district who have not been considered for principal positions. She would provide Dr. Gorman additional names to be considered.

**Ms. Griffin moved, seconded by Mr. Merchant, that the Board adopt Consent Item A., and the Board voted 8-1 in support of the motion. Chairperson White, Ms. Griffin, Ms. McGarry, Mr. Merchant, Mr. Gauvreau, Mr. Dunlap, Mr. Tate, and Mr. Gjertsen voted in support of the motion. Ms. Leake voted against the motion.**

The Board discussed Consent Item B.2. Ms. Leake said she supports the installation of a greenhouse at Myers Park High School. She said CMS has students who work with woodworking and building such as the students from Olympic High School who helped to build a house for Habitat for Humanity and Phillip O. Berry Academy of Technology has a woodworking program. She hopes those students can be involved in this process and she would like to make this a stipulation of the approval of this item.

**Ms. Leake moved, seconded by Mr. Merchant, that the Board adopt Consent Item B.2. and that the process include student involvement., and a discussion followed.** Mr. Dunlap expressed concern about making Ms. Leake's request a stipulation of the approval because the Board does not know what the details of that request would involve and it could become complicated with contracts and busing students. Ms. Leake said this would be left to the discretion of the Superintendent and she believes this request would provide a great experience for students. Mr. Dunlap said he is concerned that if the Board approves this as a stipulation, the Board is requiring it as opposed to allowing the Superintendent to make provisions for this to happen. Ms. Leake said she would remove the student involvement stipulation.

**Ms. Leake moved, seconded by Mr. Merchant, that the Board adopt Consent item B.2. as presented, and the Board voted 9-0 in support of the motion.**

Chairperson White said Dr. Gorman has requested that Consent Item B.3. be deleted from the agenda but Board members have asked that it be pulled for discussion. Ms. McGarry said she would like clarity on this item because it seems to be poor planning because there are schools that have room. Dr. Gorman said this item is not poor planning and staff would be glad to explain its purpose. There is a presentation regarding this item but staff did not bring it because the intent was to pull this item from the agenda. Dr. Gorman said this item would be brought before the Board after a responsive bidder has been secured. Ms. Griffin said the agenda must be amended to delete this item. Chairperson White said that would require a 2/3 vote.

**Ms. Griffin moved to amend the agenda to pull Consent Item B.3., seconded by Mr. Dunlap, and the Board voted 9-0 in support of the motion.**

Dr. Gorman reviewed the personnel appointments and transfers as follows:

Transfer:

- Sharon Damare principal at the new Lancaster Highway Elementary School. Ms. Damare previously served as principal at McKee Road Elementary School.
- Kathleen Elling named principal at the new Hucks Road Elementary School. Ms. Elling previously served as principal at David Cox Road Elementary School.

Appointments:

- Valoria Ingram named principal at Derita Alternative School. Ms. Ingram has a Master of School Administration and a Bachelor of Science, Middle Grades Mathematics, from Fayetteville State University, Fayetteville, North Carolina. Ms. Ingram previously served as the Alternative Learning Program Director for the North Carolina Department of Instruction.
- Marshall Gore named assistant principal at Davidson IB Middle School. Mr. Gore previously served as teacher at Nations Ford Elementary School.
- Matthew Slota named assistant principal at Southwest Middle School. Mr. Slota previously served as teacher at Hornets Nest Elementary School.

### **III. ACTION ITEMS**

#### **A. Recommend approval of high school assignment for Ardrey Kell High School**

Chairperson White called upon Mr. Gjertsen to present the recommendation.

**Mr. Gjertsen moved that the Board approve changing the boundary for Ardrey Kell High School to include all of the boundary for Community House Middle School (change from South Mecklenburg High School to Ardrey Kell High School), seconded by Ms. McGarry, and a discussion followed.** Mr. Gjertsen said parents in this area have expressed concern regarding the split for this area. A large percentage of this area was assigned to Ardrey Kell High School which is just across the street and a smaller percentage was assigned

to South Mecklenburg High School. That split has created a hardship on the families because the high school feed separates friends and support systems. Mr. Gjertsen said this motion would create a win-win situation because a new middle school is planned to open in 2011-2012 and those students would be assigned to South Mecklenburg High School. This motion only impacts approximately 278 students. South Mecklenburg is scheduled for renovations soon and decreasing its population would be beneficial. Ardrey Kell High School has the capacity to handle these students and when the new boundaries are drawn for the new middle school, these students would be returned to South Mecklenburg High School. Mr. Gjertsen said this would be a win-win situation because it helps those students; eliminates the current split; relieves stress on South Mecklenburg during renovations; and those students would return to South Mecklenburg High School in three years. A discussion with Board members followed.

- Ms. Griffin said this would not be a win-win situation. It would be a disadvantage to South Mecklenburg High School to leave it so underutilized during construction and that would create a loss of faculty. It would be a disruption to students and families to assign them to a school for three years and then reassign them back to their previous school three years later. Ms. Griffin expressed concern that the parents have not been given proper notice to give them an opportunity to voice their concerns. Ms. Griffin is opposed to this motion.
- Ms. Leake agreed with Ms. Griffin. She expressed concern that leaving South Mecklenburg High School underutilized would have a negative impact on the school and that could set the school up for failure. Previously, school boundaries have not been changed to accommodate renovations. She encouraged the Board to be fair in the process.
- Mr. Merchant disagreed with the logic of this motion. He said stability is a major concern in student assignment decisions and temporarily reassigning students would show a lack of stability for those students. Mr. Merchant asked clarifying questions regarding school enrollments, renovations, and placement of mobile units with the current boundaries and changing the boundaries. Staff members responded to those questions. Mr. Merchant expressed concern that approval of this motion would result in the need for additional mobile units sooner at Ardrey Kell High School because that area would grow at a faster rate than South Mecklenburg High School. Leaving the boundary as it is would allow both schools to be slightly over 90% capacity. This motion would cause the school to be instantly overcrowded and he is opposed to the motion.
- Mr. Dunlap agreed with Mr. Merchant. He said the Board has been criticized for its failure to plan for areas in which there was going to be growth and CMS has been criticized for opening schools that were immediately full when it opened. In this instance, CMS took the public's advice and knew that the community was going to grow and the school would naturally fill itself. This motion will immediately fill the seats planned for growth and when that growth occurs, CMS will have to take action to accommodate its capacity. The options would include placing modular units at the school, building another school, or renovating the existing school to increase its capacity which would make that school a very large school which is against the philosophy of some Board members. Mr. Dunlap said this type of split exists in many areas and there has been no effort to change those splits. He expressed concern that should the Board approve this motion it could result in other areas throughout the district seeking a boundary change. Approval of this

motion could cause an inequity in the process. Mr. Dunlap expressed concern that the families would not be receptive to the idea of being reassigned back to South Mecklenburg High School in three years.

- Mr. Gauvreau expressed concern that this community is 1.5 miles from Ardrey Kell High School and they are being bused three times that distance. He said Ardrey Kell High School has plenty of room and the Board should approve this request because it would allow those families to attend the school closest to their homes. He encouraged the Board to approve the motion because it is long overdue and this is the third time it has been before the Board.
- Ms. McGarry said a portion of this area was an unintended consequence of a Board boundary approval and it should be righted. She encouraged CMS and the Board to accommodate the needs of these families. Ms. McGarry encouraged the Board to discuss magnet programs soon because an IB Program at South Mecklenburg High School would strengthen that school and increase its student population. Ms. McGarry expressed concern regarding the cost for placing modular units at South Mecklenburg High School versus utilizing swing space at Ardrey Kell High School. She encouraged the Board to allow families to attend the schools closest to their homes. She said this would be a win-win situation. Ms. McGarry expressed concern regarding the accuracy of the projected numbers and the use of current data. Dr. Gorman said that CMS has been very accurate in projecting its numbers and he believes it is unfair to suggest that all the numbers produced by staff are inaccurate. Scott McCully, Executive Director of Student Placement Services, said the projected numbers are accurate and based upon current data as of the 2007-2008 20<sup>th</sup> day counts. He is confident that the projected numbers are accurate. Ms. McGarry said Mr. Gjertsen's points were valid and the Board should listen to the requests of the families.
- Mr. Tate asked would the renovations and the need for modular units still be necessary if these students were reassigned to Ardrey Kell High School? Mike Raible, Executive Director for Facilities Planning, said the project includes the removal of two buildings and the modular units would be needed in order to replace those classrooms. Mr. Tate asked were the costs for modular units included in the estimated cost of the project? Mr. Raible said, yes. Mr. Tate said this motion would increase the capacity of Ardrey Kell High School to 115%. He asked would mobile units be required to accommodate that capacity? Guy Chamberlain, Associate Superintendent for Auxiliary Services, said, generally, mobile units would not be needed to accommodate a 115% school capacity. Mr. Tate said to reassign students to a different school within a three year span would not be a win-win situation. He expressed concern that this stipulation was not included in the motion because it is a time specific change until South Mecklenburg High School has been renovated. Mr. Tate would not support the motion.
- Ms. Griffin commended staff on providing accurate numbers and information. She believes it would be a bad precedent to make such a significant change to the student assignment plan after the lottery information has been distributed. She believes many families have already made plans and this would be bad timing. She encouraged the Board to listen to all the families throughout the entire school district. She said many families in the district would feel the impact of this change and the Board has not heard from those families.
- Mr. Merchant said not all the families live in close proximity of the school. He is

concerned that this request and comments may reflect negatively on South Mecklenburg High School. He said South Mecklenburg High School is a great school; has a new principal who is doing a great job; the renovations will enhance that school; and there are many students who are trying to get into that school. Mr. Merchant said the conversation on this item both in the meeting and in the media has not help CMS internally or publicly.

- Mr. Gauvreau said the issue is these families want to attend the school closest to their home and the Board should approve that request. These students are being transported three times the distance and must cross Interstate 485 to reach the school.
- Mr. Dunlap expressed concern that approving this motion would set a precedent that families can choose the school they want to attend. Mr. Dunlap encouraged the Board to end the discussion on this item and vote on the motion.
- Chairperson White said several years ago, the Board completed a comprehensive review of student assignment. That process included the Board reaching agreements on student assignment boundary decisions. Those agreements included the Board would review student assignment boundaries only when it involved the opening of new schools. This motion is about doing what The Board said we would not do. Chairperson White expressed concern that if the Board approved this motion, they would also need to open all student assignment boundaries to be fair to the 136,000 students in CMS.

**The Board voted 3-6 and the motion failed. Ms. McGarry, Mr. Gauvreau, and Mr. Gjertsen voted in support of the motion. Chairperson White, Ms. Griffin, Mr. Merchant, Ms. Leake, Mr. Dunlap, and Mr. Tate voted against the motion.**

B. Recommend approval of land acquisition for new southwest elementary and high school site

Chairperson White said items B. and C. were added to the agenda as a result of discussion in Closed Session. They were added to the Action Items because they did not receive an unanimous vote in Closed Session and some Board members wanted to discuss them in Open Session.

**Ms. Leake moved, seconded by Ms. Griffin, that the Board approve the recommendation of land acquisition for a new southwest elementary and high school site, and a discussion followed.**

- Mr. Gauvreau said he is opposed to this recommendation because it is a very complicated deal, the transactions are concerning, and it is a policy issue. Mr. Gauvreau expressed concern regarding acquiring a 116-acre factory government site that will accommodate two schools. He is opposed to placing an elementary school and a high school on the same site. He does not believe approving a land purchase of \$4 million shows fiscal efficiency. He encouraged the Board to not continue to stamp out 60-acre high schools unnecessarily and 30-acre elementary schools at a cost to taxpayers that is too high. He said these site specifications are a policy point from 1998 and the Board should evaluate those recommendations. He believes this acquisition presents a questionable educational environment because it will be another school site that is too large. He is opposed to this motion.
- Mr. Dunlap said CMS buys 60-acres of land for a high school and 30-acres for an elementary school. He agreed that CMS should not purchase excess land that is not

needed because those funds could be used to purchase land for other schools. He said in order to build a school, CMS must purchase a sufficient amount of land to accommodate the school building, parking, playgrounds, gymnasiums, football fields, and all the other amenities necessary to construct a complete school. There are occasions when CMS must purchase more land than is necessary because during the due diligence period the land may include wetlands or other lands that cannot be used. Most land owners want to sell the complete parcel and it is difficult to get a land owner to sell CMS only what they need. Usually, when a land purchase includes unusable land, the purchase price reflects concessions for that portion of the property. He said it sends the wrong message to suggest that CMS unnecessarily purchases too much land for a school site and the school will be too big. Mr. Dunlap encouraged the Board to present the accurate facts to the public.

- Mr. Gauvreau encouraged the Board to save some money and not build an elementary school and high school on the same site. He expressed his concerns regarding the land acquisition and the educational value of putting an elementary and high school on the same site. He encouraged the Board to readdress land requirements for building schools.

**The Board voted 8-1 in support of the motion. Chairperson White, Ms. Griffin, Ms. McGarry, Mr. Merchant, Ms. Leake, Mr. Dunlap, Mr. Tate, and Mr. Gjertsen voted in support of the motion. Mr. Gauvreau voted against the motion.**

C. Recommend approval to authorize an appeal regarding the Charter School litigation

Chairperson White called for a motion to authorize an appeal regarding the Charter School litigation matter.

**Ms. Leake moved, seconded by Mr. Tate, that the Board authorize an appeal to be taken from the lower court's decision in the matter of *Sugar Creek Charter School, et. al. v. Charlotte-Mecklenburg Board of Education*), and a discussion followed.**

- Ms. Griffin said she has recused herself from the discussion of this lawsuit from the beginning because she has a potential conflict of interest and she would abstain from the Board vote on this item.
- Mr. Gauvreau said the Board has conspired against the public's best interest on this matter. He expressed concern regarding the Board's decision to continue this litigation because he believes these schools are entitled to the money.
- Mr. Merchant requested a point of clarification from General Counsel. He expressed concern that this was a continuing Closed Session litigation item and Mr. Gauvreau was repeating confidential information shared in Closed Session. He is concerned that this may affect the Board's ability to litigate this case. Chairperson White asked for a ruling from General Counsel but he believes that Mr. Gauvreau has not shared confidential information at this time. Regina Bartholomew, General Counsel, said the discussion should not infringe upon attorney-client privilege or any information that was shared by the attorney during Closed Session leading to any type of deliberative process of the appeal that would be taken. Ms. Bartholomew said, at this point, Mr. Gauvreau has not infringed upon that attorney-client privilege; however, comments made in Closed Session by Board members should not be privy to public knowledge. The purpose of Closed

Session is to allow Board members to state deliberative comments and that is protected by the attorney-client privilege unless the majority of the Board waives that privilege.

- Mr. Gauvreau said the point is these are local dollars and the public's dollars. These are not funds of the Board. Mr. Gauvreau said charter schools are public schools and by law the Board is suppose to provide them funding. He encouraged the Board to withdraw from this litigation and issue the charter schools a settlement payment.
- Mr. Dunlap said the issue of this litigation is there is a difference of opinion on what CMS should pay to the charter schools. Mr. Dunlap supports the motion for appeal because he does not fully agree with the court's determination on funding for charter schools. He agrees with some of the funding determination but there are some areas in which he believes the charter schools have already received appropriate funding and they want to be reimbursed again. CMS is exercising its right of appeal to ensure that CMS only reimburses charter schools for what they are entitled. This issue is being resolved through legal guidelines of the court system. Mr. Dunlap said CMS will reimburse charter schools the funding they are entitled.
- Ms. McGarry said charter schools are public schools and she encouraged the Board to do the right thing for all families in Mecklenburg County. She supports the court ruling and believes CMS should reimburse the charter schools. She encouraged the Board to end the litigation because CMS should not be using taxpayers' monies to appeal and continue this litigation.
- Mr. Tate said the current budget reflects that CMS is reimbursing the charter schools the funding that is required by law. CMS is doing what they should be doing and it is appropriate for the Board to appeal this court ruling to ensure the law is applied fairly and accurately. It is not appropriate for CMS to reimburse the charter schools for more than what the law requires. Mr. Tate supports the appeal because he believes CMS has appropriately reimbursed the charter schools.
- Mr. Gjertsen said the judges ruled on this and if CMS disagrees with the law, the Board should try to get the law changed. He encouraged the Board to pay charter schools what the law states they owe. He also encouraged the Board to seek changes to the law utilizing the legislative process. He does not support appealing the court ruling.
- Ms. Leake expressed concern that the law regarding this matter has been interpreted differently by those involved in the litigation. She wants to ensure that charter schools hire quality staffing and provide a quality education for all children. She said CMS has followed the law in reimbursing charter schools. She expressed concern that some charter schools are in the business of making money rather than providing a quality education.
- Mr. Merchant said this litigation is about accounting issues and not educational philosophy. He supports the appeal because he believes CMS is right in their interpretation of the items in question. He said the law is evolving and part of that law allows CMS the right to appeal.
- Chairperson White said this law was poorly written and therefore it is open to a variety of interpretations. He supports the appeal because he believes CMS has appropriately followed the guidelines for reimbursing charter schools.

**The Board voted 5-3-1 in support of the motion. Chairperson White, Mr. Merchant, Ms. Leake, Mr. Dunlap, and Mr. Tate voted in support of the motion. Ms. McGarry, Mr. Gauvreau, and Mr. Gjertsen voted against the motion. Ms. Griffin abstained.**

Mr. Gauvreau left the Regular Board meeting at 7:42 p.m.

#### **IV. REPORTS/INFORMATION ITEMS**

##### **A. Equity Report Update**

Chairperson White called upon Dr. Gorman to introduce the report. Dr. Gorman called upon Tyler Ream, Chief of Staff, to present the update on the Equity Report. Mr. Ream provided the Board with an overview of the 2008 Equity Report. The report is a comprehensive assessment of the district's performance in providing all students with equitable educational opportunities in ten specific areas. The report included a comparison of data from the 2006-2007 and 2007-2008 school years. The results found that the district met equitable standards in the five areas of technology systems, audio-visual equipment, library books and media services, instructional programs and course offerings, and teacher-student ratios. Initiatives that helped the district meet these standards were upgraded technology, media center equipment and resources, and smaller class sizes. The areas where CMS is improving but is not yet at standard are facilities, co-curricular activities, and textbooks. The report also found that the district is not meeting expectations in the area of faculty. Recommendations for those areas include developing new initiatives to expand and renovate facilities, increase instructional supplies and materials, and enhance professional development to retain teachers. Mr. Tyler said CMS has shown steady growth in performance. The 2010 projection reflects that CMS should be at 65% of schools at standard. The recent passage of the 2007 Bonds will have a positive impact towards that growth. A historical review reflects that CMS had 33% of its schools at standard in 2004, 37% in 2005, 39% in 2006, and 40% in 2008. Mr. Tyler highlighted the information in each area. He said this information would be posted on the CMS Website. Maurice Green, Chief Operating Officer, reviewed questions related to the Equity Report for the Board's consideration for future discussions. He said the items that are not reviewed at this meeting may be addressed at the Board Retreat scheduled for January 25 and 26, 2008. The information included how to combine freedom and flexibility with accountability with a more centralized standards based "equity" system; what equity items to include in the 2008-2009 budget; how to deal with an "in-put" driven equity system and "out-puts" driven policies; continuing the hybrid system for class size; continuing with the same general equity templates/standards or establish adjustments; the process for schools to enter and exit the Achievement Zone; what equity initiatives should produce achievement gains; continue reporting on the same equity standards; reporting on instructional criteria; and priority of equity standards. Dr. Gorman said these questions are deep and complex, and they could bring about changes for next year. Some of the changes may result in a negative impact on the Equity Report. For example, it will be difficult to reach the faculty numbers at many schools next year because the size of the Teach for America Program will double. These teachers will be added but they do not have advanced degrees; are new to teaching; are going through the licensure process; do not have National Board Certification; and do not have five plus years of education. School staff is very supportive of this program and pleased that this program will double next year.

Board members were invited to ask questions and make comments.

- Mr. Dunlap said the Board has an Equity Committee that presents an Equity Report and staff presents a CMS Equity Report. He said this can be confusing because the two reports are different. He would like the Equity Committee to evaluate this report to understand if it meshes with their findings and incorporates their recommendations. Dr. Gorman said the Equity Committee is involved in the process of this report. Mr. Ream said he presented this information to the Equity Committee and the preliminary findings have been shared. Four Equity Committee members participated on a compilation team and they provided suggestions that guided the clarity of this report. Dr. Gorman noted that the Equity Committee has not blessed or approved this report. Mr. Dunlap said he would like the Equity Committee to evaluate this report. He said the report reflects many Focus Schools are performing less than standard. He expressed concern that these schools are receiving the focus but they are achieving less. Mr. Dunlap asked the following questions:
  - What are the CMS Equity Committee's recommendations?
  - What has been done to meet those recommendations?
  - Does staff review the Equity Committee's recommendations?
  - What has been evaluated or implemented from those recommendations?
  - He previously requested that staff review the League of Women Voters recommendations on staffing prior to the budgeting process because they would have budgetary implications. He asked what is the status of that request?
  - What is the level of achievement in closing the achievement gap or where is CMS in terms of closing the achievement gap?

Mr. Dunlap expressed concern that this report does not address the recommendations of the Equity Committee. He would like to see an analysis of the items that have been implemented based upon the recommendations of the Equity Committee. He said a few weeks ago a student provided a report on the differences between the 4x4 schedule and the A/B schedule. He had some of the same concerns regarding the 4x4 schedule that the student addressed. He asked that staff evaluate the benefits of the A/B schedule versus the 4x4 schedule. Mr. Dunlap said this report reflects classrooms have textbooks and schools have computers, and that is great. He would prefer to know if CMS is closing the achievement gap. He asked what evidence is in the Equity Report that suggests the gap is being closed. Dr. Gorman said the Equity Committee Report and the Equity Report produced by staff are two different reports. This report complies with the Board's Policy ADA (Equitable Educational Opportunities) which is driven by inputs versus outputs in what it contains. He said the Equity Committee, which is appointed by the Board and the Superintendent, is frustrated by this disconnect and the format for this report leads to their concern. The same process is on track for next year unless the policy and standards are modified combined with the fact the Board has never adopted recommendations from the Equity Committee. The Board has also never selected recommendations from the Equity Committee and directed staff to evaluate them for implementation or consideration for policy and budget priorities. Dr. Gorman said last year, staff asked the Board for direction on modifying this Equity Report and recommending budget priorities. Mr. Dunlap said based upon this information, this item should be placed on the agenda for the upcoming Board Retreat and discussed by the Board. Ms. Griffin said this item is on the Board Retreat agenda. Mr. Dunlap said he would like to know the items that create the frustration and disconnect so that the members of the Equity Committee feel like they are

doing the work that the Board asked them to do and that CMS is listening to their recommendations. Dr. Gorman said the Equity Committee does have a separate agenda. Last year, he asked the Equity Committee to help them with movement of staff and they are reviewing certain areas of concern. Recently, the Equity Committee sent an e-mail to the Board members requesting topics for them to review for the coming school year. He asked them to review aspects of Policy ADA and transfer of staff, and how that relates to the Equity Report. He said the Board could choose to give the Equity Committee a specific focus and then staff could dove-tail their work into the work of the Equity Committee.

- Ms. Griffin said she is proud of the growth that has occurred in many of the tracking areas since 2001 when the standards were implemented. She said these are good gains and she does not want to lose those gains but she is no longer sure that these are the best standards to be using. She said of all the standards, faculty is one of the most important. She encouraged the Board to focus more on output and performance instead of input. She expressed concern that a school could meet all the input standards but still have low performance. She said the Board's Theory of Action addresses this and that many decisions are best made at the schoolhouse-level. Our practice is the opposite of that because the format that is in place does not provide the schools a choice. She suggested that the standards have a list of non-negotiables and beyond those allow principals more flexibility because they are the best equipped to decide what their schools need. She said this is a thorough report but she is concerned about the amount of staff time and money that was spent compiling the report. She wonders if that time could have been better spent on closing the achievement gap. She said these items are important but she believes there are other criteria that are more important.
- Mr. Merchant said he appreciates the questions posed by Mr. Green and the comments by the Board members. He said this report is important but we must understand that it is a compliance report. It is important to ensure that the schools are meeting basic standards for textbooks and technology. He believes there are some measures that are irrelevant such as performance against standards because that ensures you are following the course of study. He said the standards were established because there was a time when the standards were not being met. He said CMS should continue providing the Equity Report but the criteria should evolve and mature. He encouraged the Board to review inputs and outputs. He suggested that CMS provide an Equity Report and an Achievement Report. He is more interested in student achievement as opposed to performance against standards results. He suggested that schools and individual teachers be evaluated based upon student learning. Provide a status evaluation of the student on the first day of school compared to the last day of school. Other measurements might include retention and graduation rates. These measurements could be included in a formal report. He said the Equity Committee is evolving and maturing because they have changed their operating method to advocate for specific courses of action in certain areas. He encouraged the Board to move beyond compliance and focus on providing data that is actionable. Dr. Gorman said this report could be combined with the chart for his performance evaluation regarding Strategic Plan Goals which include progression, growth, closing the achievement gap, discipline issues, and overall numbers. Mr. Merchant said an achievement report could inform the inputs for example measure how software compliments the academic program at Focus Schools. This would provide a better

measurement of an equitable input.

- Ms. Leake said the standards were set because CMS did not have the same standards for all schools to ensure an equitable education for all students. The purpose of the Equity Committee was to ensure those standards were being met across the district and the success of all children in the district. The component was supposed to be closing the achievement gap through standards and achievement regardless of where a student attended school. Ms. Leake expressed concern that the same academic rigorous process is not being met across the district. This includes low-performing teachers and principals who are not adequate to run the schools (lack of experience). She expressed concern that there are students in the 9<sup>th</sup> grade who cannot read. They were unable to read in the 3<sup>rd</sup> grade but they were promoted. She asked who should be held accountable for the process of achievement and standards? She asked what is being done to impact reading, writing, and arithmetic in the schools? She expressed concern that the Teach for America teachers will only be with CMS for two years. She believes CMS should focus on hiring good people that will remain in the district. She wants to ensure there is training for staff to be good teachers for urban children. She said she has requested a report on the success of programs in the district. She said there are too many programs and some are not changing the performance level of students but they are being maintained. She encouraged more funding be applied to the Horizon Program for gifted children because that would help those children to be better prepared and academically stronger. She also expressed concern regarding the drop-out rates regarding gender and race for the district. She believes the district should be held accountable for the achievement gap. She discussed the importance of educating all students of the district.
- Mr. Gjertsen said CMS has 167 schools in the district. He asked at which of those schools is it impossible for a student to get a quality education? Dr. Gorman said it is not impossible at any school for a student to not get a quality education but there are situations where students are not succeeding. Mr. Gjertsen said we are providing resources to all of our schools but some schools are not succeeding in the manner that we would want them to succeed. He asked what should we do to reach those students that are not getting an education or what are we not doing? He asked the Equity Committee to answer this question last year and he will continue to ask this question. Mr. Gjertsen said he is not sure that money, balancing teachers, or building new schools will this solve this problem. He is not sure that it is fair to measure the success of CMS on the basis that students are not learning. He said if we know that at every school a student can get a quality education and that is proven by 50% of the students being at grade-level then something is working at that school. He expressed concern that there is something that is not working for the 50% of the students that are not at grade-level. He asked what dramatic action can be taken to reach those students? What can we do to make learning relevant and meaningful to reach those students understanding that education is not important to all children? Equity should be about reaching those children and not about shuffling dollars around.
- Mr. Tate thanked staff for posting the report on the CSM Website. He said the report is valuable because it provides us our current status as well as our status regarding Policy ADA. He expressed concern that Focus Schools are supposed to have a smaller class size than other schools but the Website does not include that information. He would like that information evaluated for the budget process and to know if that did that make a

difference. He believes if that did make a difference than the Board should reevaluate the standards. He said the Core Beliefs and Commitments state that the teacher is the most important person to educate the students. Faculty is the one area in the Equity Report in which the Focus Schools are under-served. He believes equity is not only providing every student an equitable education to get them to grade-level but to also provide the extra resources necessary to ensure that particular student achieves. Equality is getting them up to the playing field and equity is providing them the additional resources necessary for them to achieve. It is not because these students cannot learn or they are different but because they need more. Equity is what we do once the students are there to ensure they learn. He encouraged the Board to do more to provide quality teachers in every classroom. It said the items in this report are important and they should be measured because otherwise we will not know if we are still meeting those standards. He said the Board determined that these are the criteria to be checked every year and that information would be provided in this report. He said the Board has not reevaluated the baseline standards. He said the Board should review the criteria list to ensure those are the most important items that they want measured. He utilizes the Equity Report in the budget process and in determining where the Board should focus their spending. This report is also important because brings together a variety of data by school and district in one report. He would like a report that compares Focus Schools and non-Focus Schools. He said the Equity Policy states we should be providing additional resources to Focus Schools. He encouraged the Board to take ownership of equity and Focus Schools, and to review the baseline standards to ensure they are accomplishing what they want to accomplish as we move forward.

- Ms. McGarry said the Board is a policy and governing Board. It is important to know that Dr. Gorman said this report was based upon CMS Board Policy. She said the Equity Committee is an advisory committee and CMS staff has more of a combined expertise to compile this report. She is pleased that the Equity Committee members provided staff input on this report because that is what an advisory committee should do. She said the Board should provide parameters for the Equity Committee and let them know how they could be useful to the Board and staff. She said this report provides good information and the Board should follow policy. She is interested in seeing the results. She said schools do provide equitable educational opportunities which may not have been the case twenty years ago. Other important factors include qualified teachers, strong principal leadership, safe environment, neighborhood schools, and an excitement for learning. She encouraged the community to make education priority number one. She said students are adults and they should take responsibility to achieve. She would like to understand what is working in Focus Schools because CMS has provided additional funding for smaller classes and that may not be the answer.
- Mr. Tate said the Equity Committee is an advisory committee and its charter is a separate document from the Board's policy. Policy ADA provides that the Board will have an Equity Committee and it includes the basic responsibilities of the Equity Committee which is to help the Board evaluate whether CMS is reaching equity and achievement for students. He said the Equity Committee is scheduled to provide its sixth annual report to the Board soon.
- Ms. McGarry said the Data Dashboard was scheduled to be up by December. Dr. Gorman said the Data Dashboard was extended and that will be forthcoming soon.

- Mr. Dunlap said the Board discussion on this item is very important. He encouraged Dr. Gorman to inform the Board which standards are no longer applicable and recommend a different criteria and why. He wants to take advantage of all the standards that are good and not be penalized by the standards previously set. Dr. Gorman said this is a current up-to-date report and staff will recommend a request for consideration to modify policy which will include other items. Dr. Gorman said there are parts of the standards that must be maintained but they should include more.
- Chairperson White said the “main thing is the main thing” and that is student achievement or outputs. This discussion regards what is the best method to achieve student achievement with greatest impact. Chairperson White said he is still dedicated to moving towards freedom and flexibility because that process has not been given a chance. He believes the principals in the schools working with the students should be making some of these decisions because they know what works best for their students. This is part of the budget process. Last year, this Board changed the budget to reflect a 1:16 teacher-student ratio in the Focus Schools. The budget did not increase and that approval eliminated some good programs. The focus must be on what is the fair balance because equity means providing more for those children that need more to get to that standard we want them to reach. He expressed concern that if one group is given more another group may be given less. Chairperson White said this item will continue to be discussed. Eventually, the Board will adopt the 2008-2009 Board of Education Budget and that will include providing the Superintendent the best direction to meet the goal of reaching student achievement. Dr. Gorman asked the Board members to bring the 2008 Equity Report binder to the Board Retreat and to read pages 99 through 104 which are the policies (Policy ADA: Equitable Educational Opportunities, Policy GCKA: Instructional Staff Assignment and Transfers, Policy IJ: Instructional Resources and Materials, and Policy GC: Effective Teachers and School Administrators). These policies drive what happens and theoretically should drive the budget.

#### B. Report on Community Use of Schools

Chairperson White called upon Dr. Gorman to present the report. Dr. Gorman introduced Mike Raible, Executive Director for Facilities Planning, to present the report on Community Use of Schools. Mr. Raible provided information on the Community Use of Schools Program. The information included a review of Board Policy KF: Community Use of Facilities, contracts and usage summarization, fee schedules, operational costs, and a monetary value. Last year, CMS processed 1,234 applications and 71% of those were approved which equated to 874 organizations utilizing CMS schools for activities. CMS schools were used 27,480 times. The majority of community activities held in schools were for recreational purposes. Other activities included religious purposes, business and civic meetings, cultural educational meetings, and other activities. Last year, the operating costs to utilize the schools for these outside purposes were \$1.1 million in heating and cooling costs and \$795,000 in staff costs for a total of \$1.895 million. Revenue deposited from fees equaled \$711,056. After considering expenses and fees, the total cost to CMS for the program was \$1.18 million. CMS is considering adjusting the fees to outset this deficit. Mr. Raible provided information on other means to use facilities which included extended and joint-use agreements.

Board members were invited to ask questions and make comments.

- Mr. Dunlap said a church is a non-profit organization and the current fee schedule allows them to rent a school for \$140.00 for two hours. He expressed concern that this is a great deal for the church but it is costly to CMS to support community activities because this loss will contribute to an increase cost in per pupil spending. He does not believe CMS should be losing money to provide facilities for the community. He would support an increase in the fee schedule because he does not understand how the facility including staffing could be leased at \$140.00 for two hours. Dr. Gorman said the proposed fee schedule would result in a break-even cost based upon 2006-2007 costs. This new fee schedule would allow CMS to be open to the public and not result in a deficit.
- Mr. Merchant said CMS should not be losing money on the use of facilities. Mr. Merchant encouraged the faith community to be more involved in volunteering with our schools because there are benefits that cannot be calculated and mentors are valued. He expressed concern that there are many worthy organizations that provide activities for CMS students. They also provide uniforms for their leagues and are on a pay what you can basis. He encouraged CMS to provide partnerships with those organizations because they provide mentors and positive role models to our students. He does not want CMS to lose money on this program. He encouraged CMS to be welcoming because there is a community benefit in this partnership that a dollar value cannot be placed.
- Ms. Leake said she requested this report because she wanted the community to understand the services that CMS provides to give back to the community. She expressed concern that CMS also provides In-kind Services to agencies to use our schools during the day and she is not sure those costs are included in this report. These include the extended day and after school tutoring programs. She wants to ensure the community is aware that the district is doing what they should be doing and do not farm their responsibilities out. She would support increasing the costs to break-even on this process. She expressed concern that many schools do not take care of their facilities and she encouraged the principals to pay better attention to the cleanliness of their facilities.
- Mr. Gjertsen supports increasing the costs. He asked Dr. Gorman when the new fee scheduled would be rolled-out. Dr. Gorman said this item did not require Board approval but he wanted the Board to be aware of the costs of the program. Staff is reviewing implementation and the process to move forward. The costs will be monitored annually to ensure that we do not experience a deficit again.
- Ms. Leake asked were the In-Kind Services included in the costs of this report. Mr. Raible said, no.
- Chairperson White said this program is a great service to the community. These costs do not include the amenities that people use that do not incur fees such as tennis courts, tracks, etc. These items also add a great value to the community. Chairperson White said as a past athletic director he has been concerned about the overuse and abuse that the CMS facilities received and the costs associated with that are not included in this report. He said this program includes negative impacts but the positive impacts far out weigh the negative on the value that CMS contributes to the community.

Chairperson White said the Board would now recess the Regular Board meeting to reconvene in Closed Session. The Board will return to the Open Meeting to conduct any business required as a result of business in Closed Session.

**Mr. Tate moved, seconded by Mr. Merchant, that the Board reconvene Closed Session and will return to Open Session following the close of business in Closed Session, and the Board voted 8-0 in support of the motion. Mr. Gauvreau was absent.**

The Board recessed the January 22, 2008 Regular Board meeting at 9:50 p.m.

The Board reconvened the January 22, 2008 Regular Board meeting at 10:23 p.m. All Board members were present except Mr. Gauvreau. Also present were Dr. Peter Gorman, Superintendent, and Regina H. Bartholomew, General Counsel. Ms. Griffin served as Clerk to the Board.

Chairperson White called for a motion to amend the agenda to include a motion to approve changes to the employment contract for Maurice Green, Chief Operating Officer.

**Ms. Griffin moved, seconded by Mr. Tate, that the Board approve to amend the agenda to include an Action Item regarding changes to the employment contract for Maurice Green, Chief Operating Officer, and the Board voted 5-3. Chairperson White, Ms. Griffin, Mr. Merchant, Mr. Dunlap, and Mr. Tate voted in support of the motion. Ms. McGarry, Ms. Leake, and Mr. Gjertsen voted against the motion. Mr. Gauvreau was absent. The motion required a 2/3 majority vote to pass and the motion failed.**

#### **ADJOURNMENT**

**By consensus, the Board agreed to adjourn the meeting.**

The Regular School Board Meeting adjourned at 10:25 p.m.

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Joe I. White, Jr., Chairperson

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Nancy Daughtridge, Clerk to the Board