

APPROVED  
40-1984

Rockville, Maryland  
August 27, 1984

The Board of Education of Montgomery County met in special session at the Educational Services Center, Rockville, Maryland, on Monday, August 27, 1984, at 8:10 p.m.

ROLL CALL Present: Mrs. Marilyn J. Praisner, President in the Chair  
Dr. James E. Cronin  
Miss Jacquie Duby  
Mr. Blair G. Ewing  
Mrs. Suzanne K. Peyser  
Dr. Robert E. Shoenberg

Absent: Dr. Marian L. Greenblatt  
Mrs. Odessa M. Shannon

Others Present: Dr. Wilmer S. Cody, Superintendent of Schools  
Dr. Harry Pitt, Deputy Superintendent  
Dr. Robert S. Shaffner, Executive Assistant  
Mr. Thomas S. Fess, Parliamentarian

Re: Announcement

Mrs. Praisner announced that the Board would be going into executive session at 8:30 on appeals and would then come back to public session at 10 p.m. on an award of contract on the Montgomery Blair modernization and addition. She noted that Mrs. Shannon was out of town and Dr. Greenblatt was unavailable due to a prior commitment.

RESOLUTION NO. 441-84 Re: Selection Process to Fill Mrs. Shannon's  
Unexpired Term

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

WHEREAS, Odessa Shannon has informed the Board of her intention to resign from the Montgomery County Board of Education effective September 30, 1984; and

WHEREAS, Maryland law provides that in the case of a vacancy on the Board of Education, the remaining Board members will select a replacement for the remainder of the Board member's term; now therefore be it

RESOLVED, That the Board of Education expresses its regret at Mrs. Shannon's departure and wishes her well in her new position.

Re: Selection Process to Fill Mrs. Shannon's  
Unexpired Term

Dr. Cronin moved the following which was seconded by Dr. Shoenberg:

RESOLVED, That the Board of Education adopts the following process

for replacing Mrs. Shannon:

PROCESS FOR REPLACEMENT OF MRS. SHANNON

To select a replacement for Mrs. Shannon, the Board of Education will solicit candidates from the community. In anticipation that many people will reply, the Board will use a nomination and voting process to determine finalists. The Board will interview finalists for the position. A replacement will be selected to be sworn in by October 1. Specific process:

1. The Board invites citizens to apply asking that individuals provide the Board with the following information: Name, address, occupation, civic activities, children (if any) and where enrolled in school, a brief statement of why the individual would like to be a member of the Board of Education, and certification of the applicant's eligibility (i.e., registered voter and resident of Montgomery County).
2. Deadline for applications - one week from announcement.
3. Selection Process:
  - a. Applications received; staff screens to ensure that requested information is included.
  - b. Board screens applications and each Board member nominates two names as semifinalists.
  - c. From list of semifinalists each Board member selects one name.
  - d. Board members develop questions to be asked of finalists in interviews.
  - e. Board conducts interviews including special arrangements, if necessary.
  - f. Board chooses a replacement and new Board member sworn in.

and be it further

RESOLVED, That the public be informed of the Board's action. By consensus, the Board added the words "and professional" after the word "civic" in item 1.

There was agreement by the Board that item 2 should come after item 3.

Re: A Motion by Mr. Ewing to Amend the Process  
for Replacement of Mrs. Shannon (FAILED)

A motion by Mr. Ewing to amend item: b. by starting with three nominations from each Board member failed with Dr. Cronin and Mr. Ewing voting in the affirmative; Mrs. Peyser, Mrs. Praisner, and Dr.

Shoenberg voting in the negative (Miss Duby voting in the negative).

RESOLUTION NO. 442-84 Re: An Amendment to the Process for  
Replacement of Mrs. Shannon

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

RESOLVED, That item c. be amended by adding the following:

If the Board wishes to interview other finalists from the list of  
semifinalists, it may do so by majority vote.

By consensus, the Board added the words "with each Board member given  
an opportunity to ask one question of their own choosing" to item d.

Re: An Amendment to the Process for Replacement  
of Mrs. Shannon

Mrs. Peyser moved the following which was seconded by Mr. Ewing:

RESOLVED, That the Board wait until after the November election to  
select a replacement.

Re: A Substitute Motion by Mr. Ewing to  
Amend the Process for Replacement of  
Mrs. Shannon (FAILED)

A substitute motion by Mr. Ewing to select Mrs. Shannon's replacement  
after the December 1 swearing-in failed for lack of a second.

Re: A Motion by Mrs. Peyser to Amend the Process  
for Replacement of Mrs. Shannon (FAILED)

A motion by Mrs. Peyser that the Board wait until after the November  
election to select a replacement for Mrs. Shannon failed with Mrs.  
Peyser voting in the affirmative; Dr. Cronin, Mrs. Praisner, and Dr.  
Shoenberg voting in the negative; Mr. Ewing abstaining (Miss Duby  
voting in the negative).

Re: An Amendment to the Process for Replacement  
of Mrs. Shannon

Dr. Shoenberg moved the following which was seconded by Dr. Cronin:

RESOLVED, That new item 3 be amended as follows:

"Applications due in Board office on Wednesday, September 5 for  
meeting on September 6 to screen down and meeting on September 10 to  
interview. Selection would take place immediately thereafter at the  
all-day Board meeting on September 11."

Dr. Shoenberg assumed the chair.

RESOLUTION NO. 443-84 Re: A Substitute Motion by Mrs. Praisner on  
New Item 3

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

RESOLVED, That new item 3 be amended as follows:

Deadline for applications - 5 p.m., Thursday, September 6. Staff will contact candidates on Friday if additional information is needed. Materials will be sent to Board members between September 7 and 10 and Board will vote to narrow the candidates and to determine the individuals to interview at the end of the all-day meeting on September 11. Interviews will be scheduled the week of September 17-21 depending upon Board members' schedules and candidate availability. The Board will select a replacement for Mrs. Shannon at the evening business meeting on September 24 with the swearing-in to take place on October 1.

Mrs. Praisner assumed the chair.

RESOLUTION NO. 444-84 Re: Process for Replacement of Mrs. Shannon

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

RESOLVED, That the Board of Education adopts the following process for replacing Mrs. Shannon:

PROCESS FOR REPLACEMENT OF MRS. SHANNON

To select a replacement for Mrs. Shannon, the Board of Education will solicit candidates from the community. In anticipation that many people will reply, the Board will use a nomination and voting process to determine finalists. The Board will interview finalists for the position. A replacement will be selected to be sworn in by October 1. Specific process:

1. The Board invites citizens to apply asking that individuals provide the Board with the following information: Name, address, occupation, civic and professional activities, children (if any) and where enrolled in school, a brief statement of why the individual would like to be a member of the Board of Education, and certification of the applicant's eligibility (i.e., registered voter and resident of Montgomery County).
2. Selection Process:
  - a. Applications received; staff screens to ensure that requested information is included.
  - b. Board screens applications and each Board member nominates two names as semifinalists.
  - c. From list of semifinalists each Board member selects one name.

If the Board wishes to interview other finalists from the list of semifinalists, they may do so by majority vote.

d. Board members develop questions to be asked of finalists in interviews with each Board member given the opportunity to ask one question of their own choosing.

e. Board conducts interviews including special arrangements, if necessary.

f. Board chooses a replacement and new Board member sworn in.

3. Deadline for applications - 5 p.m., Thursday, September 6. Staff will contact candidates on Friday if additional information is needed. Materials will be sent to Board members between September 7 and 10 and Board will vote to narrow the candidates and to determine the individuals to interview at the end of the all-day meeting on September 11. Interviews will be scheduled the week of September 17-21 depending upon Board members' schedules and candidate availability. The Board will select a replacement for Mrs. Shannon at the evening business meeting on September 24 with the swearing-in to take place on October 1.  
and be it further

RESOLVED, That the public be informed of the Board's action.

Mrs. Praisner stated the selection process was not one the Board enjoyed doing because if there was one individual the Board had enjoyed working with and hoped to continue working with, a remarkable individual who she had come to admire and love as a good friend, it was Odessa Shannon.

Re: Executive Session

The Board recessed to executive session and heard oral arguments on Appeals 1984-28 and 1984-29.

Re: Award of Contract for Montgomery Blair  
Modernization and Addition

Mrs. Praisner announced the Board had received a request to speak to the matter from Gerson Kramer, Esquire, attorney for S.B. Construction Company, low bidder on the project, and the Board had granted Mr. Kramer three minutes.

Mr. Kramer thanked the Board for the opportunity to speak to them because, although S. B. Construction Company was low bidder on the project, they had received a telephone call from Dr. Rohr at 3:30 that afternoon saying their proposed bid was non-responsive. Presumably there was a letter missing from their bid package and they questioned that fact. He stated that when bids were opened on August 15 an employee of S. B. Construction was present at the opening; however, that employee was currently on vacation and couldn't be reached, but apparently after the bids were opened only the numbers were read out and no examination was made to see if all of the necessary papers were there because no protest was lodged at that time to their information. He added that S. B. Construction believes

the missing document, a letter from their surety company agreeing to furnish the necessary Performance and Payment Bonds if S.B. became the successful bidder, was misplaced in the twelve days between the day the bids were opened and the day of the meeting since nothing had been said to them until late that afternoon. Mr. Kramer added that there is a distinction in law between non-responsibility and non-responsiveness and that the propriety of furnishing bonds is not a question of the responsiveness of a bid but a question of responsibility.

Dr. Philip Rohr, director of the Division of Construction and Capital Projects, stated that the letter from the surety company was not provided with the bid package when the bids were opened on August 15 and that all bid packages were reviewed immediately after the bid opening. He further stated that it was not their practice to contact bidders to ask them to rectify any missing documents. Dr. Cody affirmed that the school system did not do that. He added that it would be difficult to know where to draw the line and the obligation was to the bidder to have the bid in on time and to have all documents.

Re: Executive Session

Mrs. Praisner announced that the Board had met in executive session to consult with their attorneys.

RESOLUTION NO. 445-84 Re: Montgomery Blair High School  
Modernization and Addition (Area 1)

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

WHEREAS, Sealed bids were received on August 15 for the modernization and addition at Montgomery Blair High School as indicated below:

Bidder	Base Bid	All Alt. No. 1	Add Alt. No. 2	Total Base Bid & Alt. 1*
S. B. Construction Co., Inc.	\$3,226,000	\$23,000	\$31,000	\$3,249,000
Kimmel & Kimmel, Inc.	3,239,000	25,500	33,000	3,264,500
Jesse Dustin & Son, Inc.	3,488,000	23,000	23,000	3,511,000
N.S. Stavrou Construction Co., Inc.	3,562,000	45,000	25,000	3,607,000
S & J Associates	5,498,000	85,000	60,000	5,583,000

\*Indicates acceptance of base bid and Add Alternate 1 only.

Description of Alternates:

Add Alternate 1: New windows to replace existing wood windows.

Add Alternate 2: Masonry infill panels at windows. and

WHEREAS, The apparent low bidder, S. B. Construction Co., Inc., failed to provide the bid security as required by the project specifications, and therefore should be rejected for not being in compliance with the specification; and

WHEREAS, Kimmel & Kimmel, Inc.'s, bid proposal is in compliance with the specifications and the firm has satisfactorily completed numerous capital projects for Montgomery County Public Schools, and sufficient funds exist to effect contract award; now therefore be it

RESOLVED, That the bid submitted by S. B. Construction Co., Inc., be rejected because of non-compliance with the specifications; and be it further

RESOLVED, That a contract for \$3,264, 500 which constitutes acceptance of the base bid and Add Alternate 1, be awarded to Kimmel & Kimmel, Inc., to accomplish the requirements of the plans and specifications entitled "Montgomery Blair High School Modernization and Addition" dated June 12, 1984, prepared by Eugene A. Delmar & Associates, Architects.

Re: Executive Session

Mrs. Praisner announced the Board had met in executive session to consider appeals.

RESOLUTION NO. 446-84 Re: BOE Appeal 1984-12

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

RESOLVED, That the Board of Education reverse the superintendent's decision in Board of Education Appeal 1984-12.

RESOLUTION NO. 447-84 Re: BOE Appeal 1984-16

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

RESOLVED, That the Board of Education affirm the superintendent's decision in Board of Education Appeal 1984-16.

RESOLUTION NO. 448-84 Re: BOE Appeal 1984-18

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

RESOLVED, That the Board of Education affirm the superintendent's

decision in Board of Education Appeal 1984-18.

RESOLUTION NO. 449-84 Re: BOE Appeal 1984-20

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

RESOLVED, That the Board of Education affirm the superintendent's decision in Board of Education Appeal 1984-20.

RESOLUTION NO. 450-84 Re: BOE Appeal 1984-21

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

RESOLVED, That the Board of Education affirm the superintendent's decision in Board of Education Appeal 1984-21.

RESOLUTION NO. 451-84 Re: BOE Appeal 1984-22

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

RESOLVED, That the Board of Education affirm the superintendent's decision in Board of Education Appeal 1984-22.

RESOLUTION NO. 452-84 Re: BOE Appeal 1984-23

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

RESOLVED, That the Board of Education grant request for withdrawal of Board of Education Appeal 1984-23.

RESOLUTION NO. 453-84 Re: BOE Appeal 1984-25

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

RESOLVED, That the Board of Education grant request for withdrawal of Board of Education Appeal 1984-25.

RESOLUTION NO. 454-84 Re: BOE Appeal 1984-27

On motion of Dr. Shoenberg seconded by Dr. Cronin, the following resolution was adopted unanimously (Miss Duby abstaining):

RESOLVED, That the Board of Education affirm the superintendent's decision in Board of Education Appeal 1984-27.

RESOLUTION NO. 455-84      Re:    BOE Appeal 1984-28

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

RESOLVED, That the Board of Education reverse the superintendent's decision in Board of Education Appeal 1984-28.

RESOLUTION NO. 456-84      Re:    BOE Appeal 1984-29

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

RESOLVED, That the Board of Education reverse the superintendent's decision in Board of Education Appeal 1984-29 and that the parents, with the school system, explore the option of other schools with a similar program which are not closed to transfers and, if no other school is found, that the appeal to attend the school indicated be approved by August 31.

RESOLUTION NO. 457-84      Re:    Adjournment

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

RESOLVED, That the Board of Education adjourn its meeting at 1:05 a.m.

PRESIDENT

SECRETARY

WSC:msl