

MUSCOGEE COUNTY SCHOOL DISTRICT
COLUMBUS, GEORGIA
MONDAY, SEPTEMBER 18, 2000

MINUTES

The regular meeting of the Board of Education of the Muscogee County School District was held on Monday, September 18, 2000, 6:30 p.m. in the conference room at the Bradley Library.

The following members were present: Mary Sue Polleys, Chairman, James Walker, Vice Chairman, David E. Ebron, Philip T. Schley, Linda Parker, Fife Whiteside, John Wells, Barbara Pierce, and Brenda Storey.

Others present: James E. Humes, II, Legal Counsel, Fred M. Jones, Treasurer, Billy Kendall, Administrative Assistant, Brenda Dozier, Assistant Superintendent for Student Services, Gordon Stallings, Assistant Superintendent for Instruction, Tom Walters, Assistant Superintendent for Personnel, Myles Caggins, Assistant Superintendent for Business Affairs, Bill Hortman, Associate Superintendent, and representatives from the media.

Mrs. Polleys called the meeting to order with an invocation and pledge of allegiance to the flag led by students from Wynnton Elementary School along with the principal, Mr. Jimmy Motes. Mrs. Polleys recognized visitors in the audience, Mr. Ditchfield representing South Columbus Concerned Citizens, MEEF Board and a board member-elect; Mr. & Mrs. Halouska representing the league of women voters and friends of the libraries, teacher cadets from Columbus High School along with their teacher Helen Kleiber. Mrs. Dozier introduced Coach Bobby Howard who has been recognized as the American Baseball Coaches Association's National High School Baseball Coach of the Year 2000. Mrs. Polleys called on Greg Hudgison representing the Men of Action, Inc. to inform the Board of the organization's desire to mentor and assist in the schools. Mrs. Polleys called on Ms. Tammy Woods who wanted to speak regarding transportation, she was not in attendance.

Upon motion of Mr. Walker, seconded by Mr. Wells, the Board unanimously approved official actions taken at the regular Board of Education meeting on August 21, 2000 and a called meeting on September 11, 2000.

Mrs. Polleys called on Mr. Whiteside who is the legislative liaison for the school board. Mr. Whiteside informed the Board of the need to set legislative priorities and include public input. Mr. Whiteside said the Board needs to talk about the process for forming a legislative agenda. Mr. Whiteside said he has spoken with more than half of the Board about having at least two public forums, inviting teachers and other educators to come and inform the Board as to what they would like modified about the law. Mr. Wells commented that the forums should be set in such a way to accommodate the city with one forum in the south and the other further north to give people an opportunity to come. Mr. Ebron commented that it has been traditional for the Board to meet with the city and it would be beneficial to find out if the city plans on having a public meeting because each year some of the legislators in the south meet with citizens to hear from the public. Mrs. Parker commented that she can support the idea of the agenda being for the teachers and the community. Mr. Whiteside asked that it would be good to schedule the forums at school sites. Mr. Walker asked that the meeting be prior to the October 26th meeting with the city and chamber. Mr. Wells said his suggestion would be for a Tuesday or a Thursday. It was the consensus of the Board that two dates be coordinated to schedule two public forums for the Board to hear from teachers and the community.

Upon motion of Mrs. Parker, seconded by Mr. Ebron, the Board unanimously approved Mr. Nandor Domonkos for the position of Management Information Systems Coordinator in the Construction Department. Mr. Walker asked if this is for the remainder of the construction period. Mr. Caggins confirmed that it would be for the remainder of the construction period.

Upon motion of Mrs. Parker, seconded by Mrs. Storey, the Board unanimously approved for Dawson Elementary to participate in a Fire Safety Olympics Program.

Upon motion of Mrs. Parker, seconded by Mr. Ebron, the Board unanimously the Suicide Risk Assessment Program.

Upon motion of Mrs. Parker, seconded by Mr. Ebron, the Board unanimously approved a group of Columbus High students to travel to Spain during the spring break of 2001. Mrs. Dozier will set forth guidelines for the trip.

Upon motion of Mrs. Storey, seconded by Mr. Walker, the Board unanimously approved two artist grants in the total amount of \$1,925.00 from Alternate ROOTS for the presentation of minority artists/multicultural education programs.

Upon motion of Mr. Wells, seconded by Mrs. Storey, the Board unanimously approved financial statements for twelve months ending June 30, 2000.

Mr. Wells commented that after a lengthy discussion at the Finance Committee meeting regarding GSBA Risk Management insurance, the Finance Committee recommends approval and he so makes the motion for approval, seconded by Mrs. Storey. Mr. Whiteside commented that Robert Culpepper of J. Smith Lanier who attended the Finance Committee is in the audience and would like to speak further to the Board regarding this recommendation. Mr. Wells asked if it is crucial that this item be voted on tonight. Mr. Caggins commented that the process of conversion from one insurance carrier to another to begin coverage on October 1st is crucial. Mrs. Polleys called on Steve Heinen, an insurance consultant hired by J. Smith Lanier. Mr. Heinen said "I have documents from the Georgia Insurance Department. The thing that concerns me most and I have all of these documents from the Georgia Insurance Department's file on this fund is there seems to be a lot of issues that were left unresolved with Mr. Gaby. I want to first address a couple of the written comments that he gave you and he's not clear. First of all the issue of administrator is very key to this Board, because a self-insurance fund as you all know your joints are reliable with every other school board, there's only a million dollars in assets in this fund. The Georgia School Boards, of the fourteen funds that I reviewed down there, I could not find two of the files as the 12th lowest surplus, the least amount of surplus by a multitude of four and five times of the average fund, so there is not much money in the fund. So what you've got to do is rely on the administrator and that's why the Georgia Insurance Department has specific regulations in place that requires employee dishonesty coverage because they are handling your money and requires errors and omissions coverage because they're making the pricing decisions. There's a provision in the regulations that requires them to review each account each year. If they make the decision to keep an account that has an adverse loss ratio and it bankrupts the fund, Muscogee County is joint...liable along with every other county. So who the administrator is on this fund is a key issue. Mr. Wells, I wasn't here, so I don't like speaking for someone but I know you addressed this issue, what was the response you got back from Mr. Gaby." Mr. Wells said that he understood the administrator was Marsh McClendon. Mr. Heinen continued, "I went and got documents that shows that GSBA is the administrator. They are the administrator on record. There is a form called a RMA2 form that they have to file with the Georgia Insurance Department. It's required in regulation 120-2-40. The Georgia Insurance Department has to approve the administrator. The administrator is listed at GSBA. In their by-laws that they give to each member, which I've got a copy of, on page 4, it lists them as the administrator in the by-laws. In the inter-governmental contract that you have to sign to go into this fund, it lists them as the administrator manager, which is semantically, the administrator. So every form and every document that they have filed with the Georgia Insurance Department lists them an administrator. There's a letter again in the file that they filed with the Georgia Insurance Department in 1996 as administrator of the plan. When the Georgia Insurance Department did the audit, they found their E&O policy had some deficiencies and in the letter back to the insurance department they said they were going to correct these deficiencies, what they did in fact was let their E&O policy lapse and have not had an E&O policy since their 96 policy lapsed. My concern if I was sitting on the school board is, you're making a decision to go into a fund with an administrator that does not have employee dishonesty coverage, handling your money which is required by the regulations, does not have errors and admissions coverage. The duties that they perform as administrator would not be covered under Marsh McClendon's E&O policy. The only duty that Marsh McClendon provides is a place to re-insurance and they're called a service provider in the

governmental contract not the administrator. So I think if you review these documents which you didn't have access to last week, you will see that they are clearly the administrator and they are not carrying the coverage." Mr. Wells said all of that was covered in the Finance meeting, E&O, who the administrator was and the conclusion is that the GSBA had been put legislatively in a better position than a private insurance company and this is something Mr. Heinen might want to take up with the legislators next time around. Mr. Heinen said, "legislatively they have regulations they have to adhere to, what I would submit to you respectively to get in writing from GSBA stating...something in writing which they have not given you and I saw their response and in their response they say, we do not believe that the department has cited any deficiencies in our program. I would simply call the simple question, are they the administrator or are they not and get that in writing. There is currently an ongoing exam being done of GSBA. If GSBA gives you something in writing that states that they are not the administrator and that Marsh Mc is, then I think you are o.k. If they state that they are the administrator then you've got to call the question, why don't they have the necessary insurance place to safeguard the school board. The employee dishonesty policy they furnish you was an employee dishonesty policy for their workers' comp. fund which is a separate and distinct fund, has no bearing on the risk management fund that we are addressing here today." Mr. Wells said that the issue of employee dishonesty fund was addressed and they said they had insurance on that. Mr. Heinen continued, "what they submitted to you and which I have a copy is for a separate fund, it is not for the (not audible?) fund that they are providing coverage for in their proposal, so I would just submit to you if you can get in writing and this is a key point for this board, if you get in writing that they are not the administrator and that Marsh Mc is and has the sufficient re-insurance." Mr. Wells asked what it would mean for us. Mr. Caggins commented that, they have a letter from GSBA stating that they specifically state what part they manage, what part Marsh manages and what part the third company manages as well. Mr. Heinen asked, do they state who the administrator is? Mr. Caggins said yes. Mr. Heinen said, "the bearing that it has on you is if they're not making prudent financial decisions and there is a situation, your consultant required the broker's bidding on this to carry E&O coverage. What you're saying is, you want a level playing field. The regulations require them to carry E&O coverage yet they haven't incurred any E&O coverage as administrator." Mr. Wells said that the consultant hired had all of this covered and has recommended it to sixteen or twenty-four school districts across the state already. Mr. Wells said that what they are offering is legislatively acceptable for local school boards. Mr. Heinen continued, "all I want to do and again we could talk about the financials and whether it is adequate and self-insured, you're self-insured along with the other schools not just for your losses but...you could assume that risk as a board but I do think, as a board you need to call the question, in writing on who...he hasn't provided any details I've seen saying they are not the administrator". Mr. Caggins commented that he has that information. Mr. Whiteside commented, "to cut to the chase, what you are really saying is in your opinion the Georgia School Board Association is not operating the self-insurance fund in a way that's compliant with Georgia State Insurance law". Mr. Heinen replied, "that is absolutely correct". Mr. Whiteside continued, "but you didn't exactly say that". Mr. Heinen commented, "I couldn't have said it better". Mr. Whiteside commented, "but that's a pretty serious allegation. Because there are twenty-two different, or twenty-six different school districts that are now getting their insurance through the self-insurance fund and if what you say is true, then every single one of them". Mr. Heinen replied, "absolutely". Mr. Whiteside continued, "what bothers me about what you are saying and I have no reason to dispute anything you are saying, I'm keeping an open mind about this and what you say certainly makes sense. But if there is a situation where they are not compliant with state insurance laws why isn't somebody done something about them"? Mr. Heinen replied, "I can't speak for the insurance department, there's been a lot of turnover in this division, I did the largest market exam for the insurance department three years ago so I've got a lot of expertise in this area. I could tell you when I went down to get these documents, they weren't even in the same file so the examiner didn't even distinguish between...I can't speak for the Georgia Insurance Department but I will say that I think there is a very real chance that they are out of compliance with state law. All I want to do is simply, straightforward, I wish Mr. Gaby was here, is call the question because he dances around it in his letter, the response he gave on the question is, well the Georgia Insurance Department has audit us and we don't believe we are out of compliance is what he says. It's a big issue, there are a lot of repercussions from that issue, Mr. Whiteside and simply put, I'm hoping that this meeting is on public record cause I plan on filing the minutes of this meeting with the Georgia Insurance Department. Because I think really, they're the ones that should do diligence on this. When J. Smith engaged me, my first call was to Joe Byrd as the consultant. I said Joe have you done diligence? Have you

checked to see whether these documents are on place at the Georgia Insurance Department? His response to me was, I rely on the department to do that. So that's why I went down and got these and I've got them all on hard copy for you, to me it's a clear black and white issue." Mrs. Polleys called on Len Mossor. Mr. Mossor stated that, "all the questions that they had regarding compliance have been answered by Mr. Byrd including a memo that states who the administrator is". Mr. Heinen continued, "who is the administrator in my opinion is very important cause they're duties are stated in their agreement. Their job is to handle the billing and collecting of premiums and assessments to handle the fund assist in marketing. They also manage the investments of the fund which is why they have the employee dishonesty provision in there and they also manage the pricing. They're not going and buying insurance here, they're using your money to provide a pool of money so if they under price accounts, keep in mind that Mr. Gaby is a commissioned salesman and every time he sells a policy he's drawing a commission so if he uses your money to under price an account or another account with only a million dollars sitting in the bank, the real opportunity of a assessment it's real. So I maintain that who the administrator is and having the necessary insurance in place is very key." Mr. Ebron commented that Mr. Heinen had already answered his question as to whether he had already filed a complaint with the Georgia Insurance Commission. Mr. Ebron said that the administration is right, our biggest concern had to do with liability and if the Insurance Commission shows that there are some discrepancies then the Board can go back and look at its decision whatever that may be tonight. Mr. Whiteside commented to Mr. Heinen that he was making a very serious allegation. Mr. Heinen said, "absolutely". Mr. Whiteside said it goes to the core of the validity of the coverage the school system will get. Mr. Heinen said, "I feel like if you call the question, he can't answer. I have not yet seen anything in writing". Mr. Whiteside asked if Mr. Humes would comment. Mr. Humes said the records indicate that GSBA is clearly the administrator of the fund. Mr. Humes said that he received a letter and GSBA does confirm what Mr. Heinen is saying that GSBA is the administrator of the fund. Mr. Whiteside commented that, "the problem we've got here is that when all of the bids on the different components of the insurance coverage are tabulated, the GSBA self-insurance fund comes in about \$140,000 less than what the next low bidder comes in. So we are not talking about chump change, we are talking about pretty substantial money. We are faced with a proposition that we've got the low bidder by a \$140,000 and on top of that we've hired a consultant which we've paid money to and he says that's what we ought to do. All of the quantitative type decisions like which is better coverage, which is worst coverage those to me, we've already made those. So the only thing that I am disturbed about is when you make a direct statement that they're operating out of compliance with Georgia State Insurance laws". Mr. Heinen said, "Let me restate something, I don't make decisions for the Georgia Insurance Department. I provided you all the documents". Mr. Whiteside said, "somebody has got to assume responsibility which is what I am getting to. What I'd like to do is ask Mr. Humes if we can vote on the proposal, up or down and if it passes do it on the basis that counsel will make a reasonable investigation and determine whether he believes that they are in compliance or not in compliance and if they are not in compliance then we bring it back to the table".

Mrs. Polleys repeated the motion as agreed to by the change that was made, that the Board votes on this particular proposal which is to confirm the recommendation for GSBA as the insurer with the understanding that Mr. Humes will investigate the allegations that have been made and if in his opinion they are not in compliance with insurance laws, we would have a called board meeting to reconsider the issue. The vote was unanimous.

Upon motion of Mr. Wells, seconded by Mr. Walker, the Board approved the planning by the School District to mass grade the north site projects. The vote was (8) affirming and (1) abstaining, Pierce. Mrs. Polleys said that she e-mailed the Board regarding a letter from Dr. Stanton who was concerned about the trees being cut from the property and has volunteered his expertise. Mr. Wells said that the trees shouldn't be cut unless it is absolutely necessary.

Upon motion of Mr. Wells, seconded by Mr. Walker, the Board unanimously approved a resolution authorizing the Superintendent and Treasurer to transact business through SunTrust Securities, Inc.

Upon motion of Mr. Wells, seconded by Mr. Walker, the Board approved changing the board member health plan from Anthem Health to Blue Choice PPO. The vote was (8) affirming and (1) abstaining, Wells.

Upon motion of Mr. Wells, seconded by Mr. Ebron, the Board approved action to authorize the Treasurer to sell 100 shares of AFLAC, Inc., stock. The vote was (8) affirming and (1) abstaining, Pierce.

Upon motion of Mr. Wells, seconded by Mr. Ebron, the Board approved action to authorize the Treasurer to sell 100 shares of General Electric Stock. The vote was (8) affirming and (1) abstaining, Pierce.

Upon motion of Mr. Wells, seconded by Mr. Ebron, the Board unanimously approved the following action items:

- N. Kersey and Luttrell Architects, P.C. plans for construction at Eastway.
- O. Change order no. 7; \$16,616.08 for construction at Fox/Bibb replacement facility.
- P. Change order no. 5; \$6,482.96 for early site package at East Columbus Magnet Academy.
- Q. Resolution/certificates required by State Department of Education for final payment of State Capital Outlay Fund entitlements for new middle school no. 2, Arnold, Fort and Dimon.
- R. Move two additional portable classrooms to Shaw.

Upon motion of Mr. Wells, seconded by Mr. Walker, the Board unanimously approved a grant award of \$125,000 to the School District from the Georgia Department of Education.

Upon motion of Mrs. Storey, seconded by Mr. Wells, the Board unanimously approved the following consent agenda items:

- Approved Personnel Report. (Appendix A)
- Contracts awarded on food supplies in School Nutrition Program.
- Budget for State funds for Woodall Program, FY2001
- Budget for Federal funds for Woodall Program, FY2001
- Budget GLRS, FY2001.
- Budget for Carver High-Learn and Serve Grant, FY2001.
- Budget for Special Education, FY2001.
- Budget JTPA Grant, carryover Adult Participants in Remediation.
- Budget JTPA Grant, carryover Youth Participants in Remediation.
- Budget Region 9 grant for Peer Helper Conference, FY2001.
- Budget adjustment for revenue from Department of Human Resources for clients at TAP Center.
- Contractual agreement between Muscogee County School District and Columbus Amateur Radio Club for use of the Audio Visual Shop on Buena Vista Road.
- Renewal of system maintenance service agreement for payroll and personnel package software provided by Integral Systems, Inc.

Upon motion of Mrs. Storey, seconded by Mr. Wells, the Board unanimously voted to go into executive session to hear student discipline appeals.

Upon motion of Mrs. Storey, seconded by Mr. Wells, the Board unanimously voted to come out of executive session.

Upon motion of Mrs. Storey, seconded by Mr. Wells, the Board unanimously voted to adjourn the September regular board meeting.

James E. Humes, II
Legal Counsel