

RESOLUTION

WHEREAS, on September 1, 2005 the Board of Education of Jefferson County School District No. R-1 received a charter school application from the MHS High School steering committee indicating its desire and intent to open a school for the 2006-2007 school year (“MHS”); and

WHEREAS, the Board considered information and analyses by District Administrators regarding the charter school application; and

WHEREAS, the Board held a public meeting with MHS on September 29, 2005 in accordance with the requirements of C.R.S. § 22-30.5-107(2) at which the Board received additional information from MHS; and

WHEREAS, on October 20, 2005 the Board adopted a Resolution denying the MHS charter school application because, for reasons specified in the Resolution, the Board believed that such denial was in the best interests of the District, its students and the community; and

WHEREAS, MHS appealed the Board’s denial of its charter school application to the State Board of Education by means of a Notice of Appeal dated November 8, 2005; and

WHEREAS, at a hearing on January 11, 2005 the State Board of Education made a determination that denial of the MHS charter school application “was contrary to the best interests of the pupils, school district, or community,” remanded the matter to the Board for reconsideration with instructions that: (1) the parties negotiate mutually agreeable contract provisions regarding minimum required enrollment by dates certain in order to successfully open for the 2006-2007 school year; (2) the parties negotiate mutually agreeable contract provisions regarding a time frame for locating, securing, and preparing a facility in order to successfully open for the 2006-2007 school year; and

WHEREAS, representatives of the District met with representatives of MHS on January 26, 2006 to address the matters which the State Board of Education recommended in its remand order, as well as the concerns expressed by the Board in its October 20, 2005 Resolution as reasons for denial of the MHS charter school application; and

WHEREAS, prior to the January 26, 2006 meeting, the District requested that MHS provide current accurate information concerning students who have indicated an interest in attending MHS beginning with the 2006-2007 school year, each such prospective student’s grade as of the 2006-2007 school year, each such prospective student’s school attended and home school in 2005-2006, and copies of any parent surveys conducted by MHS since 2002. No such information has been provided.

WHEREAS, prior to its January 26, 2006 meeting, the District requested certain specific information regarding the sites identified in MHS’s application. MHS provided the locations, square footage, lease rate and parking ratios of several sites but failed to address the other

information requested by the District and acknowledged that it had done nothing more than a paper identification of possible sites.

WHEREAS, Madison has acknowledged in a written response to the District's Post-State Hearing Questions that its testimony to the State Board concerning parent surveys was not accurate, that it has not surveyed parents three times, and that it has not surveyed parents or students since its initial survey submitted in conjunction with its 2002 application.

WHEREAS, MHS has acknowledged in a written response to the District's Post-State Hearing Questions that its testimony to the State Board of Education on January 11, 2006 regarding its prior negotiations for an option school was inaccurate and misleading. Specifically, MHS has acknowledged that, "MHS has never proposed an educational program comparable to D'Evelyn HS. . . . MHS has never asked for a parental control structure comparable to D'Evelyn's. . . .when considering an option school, MHS never asked for absolutes. . . . and it was repeatedly stated that the structure was negotiable. . . . there was never an explicit "promise" made in writing or verbally [concerning a stand-alone option school]."

WHEREAS, MHS has acknowledged in a written response to the District's Post-State Hearing Questions that it intends to delay opening its school until the fall of 2007.

WHEREAS, MHS has failed to adequately address the concerns raised in the Board's October 20, 2005 Resolution; and

WHEREAS, C.R.S. § 22-30.5-108(3)(b) requires the Board to reconsider its October 20, 2005 Resolution and make a final decision regarding the MHS charter school application within 30 days following the State Board of Education's January 11, 2006 remand order; and

WHEREAS, the Board has reconsidered the charter school application; the Charter Schools Act; District policies and regulations; the Comments and Crucial Questions Reports prepared by the Charter School Review Committee and members of the Superintendent's Cabinet; and the information provided by MHS at the public hearing on September 29, 2005; and

WHEREAS, the Board has considered the State Board of Education's January 11, 2005 remand order; has been fully advised regarding the discussions between representatives of the District and representatives of MHS on January 26, 2006, and has carefully considered the information and proposals generated at that meeting; and

WHEREAS, the Board has reconsidered its October 6, 2005 denial of the MHS charter school application as required under C.R.S. § 22-30.5-108(3)(b).

NOW, THEREFORE, BE IT RESOLVED by the Board that denial of the MHS charter school application remains in the best interests of the District, its students and the community, and the MHS charter school application is hereby denied, for the following reasons:

1. Significant testimony that MHS presented to the State Board at the hearing of January 11, 2006, was inaccurate and/or misleading. After reviewing the transcript and minutes of the January 11, 2006 hearing, and statements made subsequent to the State Board hearing by MHS representatives, the Board considers MHS's misstatements and omissions to the State Board to be material. The decision of the State Board to remand this application was therefore unfounded.

2. MHS has not demonstrated that there is adequate current interest of students to attend MHS beginning the 2006-2007 school year. MHS has failed to provide evidence that an adequate number of parents or pupils support the formation of the charter school as required by C.R.S. § 22-30.5-106(1)(c). MHS has also failed to provide, after having been requested by the District to do so, any aggregate information concerning students interested in enrolling for the 2006-2007 school year including the grade levels and schools in which such students are currently enrolled as required by District Regulation LBD-R and C.R.S. § 22-30.5-106(3).

3. MHS has not demonstrated that it is able to secure a viable site and building for its proposed charter school. Matters that have not been appropriately addressed include but are not limited to location of a suitable site for all of their anticipated programs; impact on the local community of using contemplated sites as a charter school; addressing concerns raised by the appropriate land use and planning authority concerning contemplated sites in a timely and responsive manner; method of site acquisition; plan for remodeling, constructing or placing a building on the contemplated sites for use as a charter school; and financing site acquisition and site development.

4. The decision of MHS to delay opening its school until the fall of 2007 constitutes a material change in its application and a tacit acknowledgment is that it is currently unable to address the District's concerns about enrollment and site for the 2006-2007 school year.

5. Jefferson Academy High School is an established and successful charter school operating in the north part of the District that is already providing an educational program and extracurricular activities quite similar to those proposed by MHS. In addition, the Board has approved the establishment of a college prep North Area Option School for grades 9-12 with coordinated humanities as a learning focus, which will open as a "school within a school" in the fall of 2006 at Arvada High School. Approval of the MHS charter school application would result in an unnecessary and unreasonable duplication of secondary choice schools in the north area of the District, and would compromise the economic viability of Jefferson Academy High School, the District's college prep North Area Option School, and MHS.

6. The District currently diverts per-pupil funding from students at some of its non-charter schools to pay for programs and services the Board deems necessary or desirable at other schools. In addition, District analyses and a February 2002 report

prepared by Augenblick and Myers, Inc. establish that charter schools have a fiscal impact on the District in excess of the per-pupil funding that follows students to the charter schools. Approving the MHS charter school application would compromise the District's ability to devote the funds and educational resources it deems necessary to improve academic performance ratings at certain schools based on CSAP assessments; to close the achievement gap for at-risk students, students eligible for free and reduced lunch, students with English as a second language, and other under-served student populations at such schools; and to achieve adequate yearly progress on a District-wide basis as required under the No Child Left Behind Act.

7. The cumulative operational and financial impact on the District caused by declining enrollment, reductions in funding, and capital and staffing needs at existing schools requires the Board to be more selective in granting charter applications, and under these circumstances approval of the MHS charter school application would not be fiscally responsible and would compromise the District's ability to allocate necessary funds (and thus educational resources and support) to schools educating at-risk students, students eligible for free and reduced lunch, students with English as a second language, and other under-served student populations.

In accordance with C.R.S. § 22-30.5-107(4), the District administration is hereby directed to provide a copy of this Resolution to the Colorado Department of Education within fifteen days of its adoption date.

Adopted this 9th day of February, 2006.

JEFFERSON COUNTY SCHOOL DISTRICT

By: _____
Jane Barnes
President, Board of Education

Attest:

By: _____
Scott D. Benefield
Secretary, Board of Education