

# MacRo Report Blog

Board Accused of Violating Open Meetings Act

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Frederick Classical Charter School founders say the Frederick County Board of Education has violated the Maryland Open Meetings Act three times in the past two months.

School board members disagree.

The charter school's founders worry that decisions on issues such as a deadline to obtain a building permit, housing the school in a Frederick County Public Schools building and the merits of their eight-year charter request are being made behind closed doors.

A letter from school board President Angie Fish dated Feb. 2 informed school founders that the board had met Jan. 11 to discuss extending the deadline for the founders to obtain a building permit from March 1 to April 1.

The founders had been previously told via email that the deadline was extended, according to Tom Neumark, Frederick Classical president.

The deadline extension was not an item on the Jan. 11 board meeting agenda, leading the founders to believe the decision was made during closed session.

The original deadline of March 1 was set during the board's regular meeting on Nov. 21.

"They have discussed things that are public business in a closed session without notification to us," said Leslie Mansfield, a member of Frederick Classical's board of trustees.

Fish said the discussions about the charter school contract consisted of advice of counsel regarding negotiations on pending contracts and contract negotiations -- topics that can be addressed in closed session under the Open Meetings Act.

Members of the board follow all legal advice from school system attorney Jamie Cannon and do not believe they violated the act, Fish said.

"We are very conscious of what we discuss in closed session," she said.

The letter from Fish also states, "At that time the Board was unable to identify a place within the system for use by Frederick Classical Charter School."

Neumark wrote in an email, "Please note that this means the Board was discussing the possibility of us using an existing school and extending the building permit in closed session, which is not allowed, and robbed us of the opportunity to have a public discussion of these items."

Mansfield questioned why school founders were not included in those discussions.

"Again there's no meeting where we've seen this as an agenda item," she said.

Fish said this is a nonissue because there is no available facility.

"We either have property available or we don't," she said. "If there was a facility available then we could begin that discussion."

Neumark said Cannon told him that the board had looked at recommendations from the Maryland State Department of Education and a charter school organization regarding Frederick Classical's eight-year waiver request.

"Conversations about recommendations from MSDE and charter school organizations fall into the category of discussing the merits of the issue," Neumark said. "Legal advice from an attorney is allowed to be in closed session, but debating the merits of the waiver request is not."

Cannon said she spoke with Neumark on Jan. 11 after the closed session and he asked for the rationale behind the board's decision not to vote on the waiver request for an eight-year charter.

She said the board was considering information on charter schools from state and national organizations, but that was not a violation because it falls under asking for advice from counsel.

Cannon said the board is extremely knowledgeable about the Open Meetings Act.

"They are very, very in tune with policing themselves," she said.

Assistant Attorney General Ann MacNeille said she could not comment on any issue that may come before the Open Meetings Compliance Board.

She could not say if the examples brought forth by Frederick Classical founders would qualify as a violation without knowing all the details and if any exceptions may have applied.

Board Vice President Donna Crook believes the claims made by charter school foun-

ders stem from their frustration with ongoing negotiations.

Crook personally submitted a complaint to the state attorney general's office in 2006 after she believed the board was discussing -- in closed session -- issues that should have been discussed publicly.

The three examples raised by founders qualify as advice of counsel or negotiation exceptions to the Open Meetings Law, she said.

"I'm not a lawyer, but from my understanding I don't think we violated it at all," she said.

Neumark said school founders will discuss at their Feb. 22 board of trustees meeting whether to file a formal complaint against the board.

School founders submitted a second waiver request Wednesday for an eight-year charter.

Their waiver request will be on the Feb. 22 board meeting agenda, Fish said.

"We want to try and work with them so they can open up at the end of August," she said. "I certainly don't want to delay it any longer."

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