

Maine Charter School Commission Meeting - May 6, 2014

Minutes

The Maine Charter School Commission held a meeting on May 6, 2014, at the Burton Cross Office Building, 111 Sewall Street, Augusta, ME.

I. CALLED TO ORDER:

Chair, Jana Lapoint, called the meeting to order at 1:03 p.m.

II. ROLL CALL:

The following Members were present: Jana Lapoint, Laurie Pendleton, Mike Wilhelm, John Bird, Nichi Farnham, Ande Smith and Shelley Reed.

Also present: Bob Kautz, Executive Director; Deanne Lavallee, Administrative Assistant.

III. ADJUSTMENTS TO THE AGENDA:

None.

IV. APPROVAL OF MINUTES:

Moved by John Bird; seconded by Shelley Reed and unanimously voted by those present to accept the April 1, 2014 Minutes as written.

V. OFFICERS' REPORTS:

A. Chair, Jana Lapoint:

1. Welcome to Nichi Farnham officially; as the third person from our State Board of Education Member taking Heidi's position on the Commission. Last week I took Shelley Reed before the Education and Cultural Affairs Committee for re-appointment for a three-year term. Shelley was interviewed by the Committee; have received the letter from the Committee stating that they approved Shelley. We are delighted that she will be here for another three years.
2. Enrollment for our Charter Schools for the coming year:

Charter School Enrollment 2014-15 (Max) Waiting List Numbers

Baxter	230	21
Cornville	105	30
Fiddlehead	80	47
Harpswell	120	12
MeANS	72	30

MeANS may be able to increase a little more with the addition of three rooms being approved by the fire commission in their town. The numbers says something about the quality of the schools and the work that we are doing. Finally giving families choice.

3. Jim Rier will be in to see us sometime this afternoon regarding the bill that had come before the legislature that was defeated. I did want to give credit to the Maine School Management Association of the Superintendents and School Boards. They supported recognizing that there needs to be a change in the way the money is funded to the charter schools. It is a tremendous problem for the schools up in the Skowhegan area and SAD 54. They are a rural district and they are being hit extremely hard. The hope of the bill was that they could spread this out throughout the state so that it wouldn't be impacted on any given area especially in our rural areas. There were reports that came out saying that it was going to hurt the public schools. The message is that we are a public school as well. Sharing the expenses across the whole state is a far better way of going than the way it currently is. We will interrupt whenever he gets here.

4. The Year-End Reviews – Team of three assigned to each one of the schools:

Baxter	June 12
Cornville	May 29
Fiddlehead	June 10
Harpswell	June 5
MeANS	July 22

5. Today there will be a celebration of National Charter School Week with Maine Association of Charter Schools.

B. Vice Chair, Shelley Reed:

Improved Monitoring Process

- Data - Reports provided prior to meeting;
- More "on the ground" meetings with staff, students, parents;
- Questions for every monitoring team for each of the schools for reporting on each of the schools and will strengthen our capacity to monitor - a standard format to compare apples to apples.

C. Executive Director:

1. Legislative update: LD 906 An Act to Permit a School Administrative Unit discretion concerning participation of students from charter schools in school extracurricular and interscholastic activities.

No schools have contacted us saying they have been given a difficult time to participate.

2. Retention Policy Update – Nothing to report at this time.

VI: UNFINISHED BUSINESS:

A. Proposed Chapter 3 Procedures for Charter School Renewal

Review Rule and process.

The Public Hearing is scheduled for May 19th from 9:30-10:30 a.m.

B. Contract for Maine Connections Academy Status

Motion by Ande Smith; seconded by John Bird; for the Commission to adopt and execute a charter contract for Maine Connections Academy.

Discussion: Contract allows for flexibility in enrollments beyond the floor and the ceiling that were originally required. So can they adjust the numbers for fewer students?

The 10%, with any of the charters, if they exceed or are less-than, they have an opportunity to file a material amendment that the Charter Commission could consider and in the past discussions about that – we talked about that we would want to see a change in the budget, etc. to show how it would affect them and how they would address that effect on them.

Baxter was asked to come in with a new set of numbers and a whole new budget and all of the teaching staff that would accompany that change and that is what they did. No others to date.

What criteria would the Commission use with fewer students than in the original contract?

It is a difficult question to answer because you cannot predict what every one of the scenarios might be, but, in general, with the experience with Baxter and conversations in regard to that – we have talked about their ability to sustain and succeed. Showing evidence of how they would sustain with less numbers originally proposed – what it would do to the program. Would they still be able to provide essentially the educational program and the commitments that were made in their application, which is part of the Contract. Same criteria used when they present their application to the Commission.

With the charter, etc., being approved on the basis of the application, the application is always going to have to be the first consideration as to what they had proposed to achieve in that school was still something was feasible with the change in numbers.

No other discussion. Call for the vote:

A.

Member	Vote	Member	Vote
Mike Wilhelm	yes	Laurie Pendleton	Yes
John Bird	yes	Ande Smith	Yes
Shelley Reed	Yes	Nichi Farnham	Abstain
Laurie Pendleton	Yes	Jana Lapoint	Yes

The Vote is 6 yes, 0 no and 1 abstention for the Commission to adopt and execute a charter contract for Maine Connections Academy.

VII: NEW BUSINESS:

A. Consideration of a Request for Reconsideration of Charter Commission action by Maine Virtual Academy.

Statement read by Jana Lapoint, Chair:

The issue before us today is the reconsideration of the MEVA application. At the March meeting of the Commission, the MEVA application was defeated by a vote of 4/3. MEVA asked for a reconsideration of that vote on March 5, 2014, based on what they believed to be misunderstandings, errors, or omissions by the Commission from the application and interview process.

Reconsideration of MEVA's application was placed on the April meeting agenda. Immediately prior to that meeting, the Commission had received the resignation of Commission member Heidi Sampson; Commission member Michael Wilhelm was unable to be present. With Roberts Rules as our guide, it was determined that a motion for reconsideration could only be made by a member of the prevailing vote which fell to Michael Wilhelm and Shelley Reed. With only one commission member present, Shelly Reed, who could make the decision for reconsideration she determined she was not ready and the commission decided to place the potential motion for reconsideration on its agenda for the May meeting.

There are very specific guidelines for the Charter School Applicants concerning the Review Team interview process which are provided to each applicant. These include: Team attendance of proposed board members, preparation that all members of the team be thoroughly familiar with the proposal and may not provide any new documents at the interview. The questions are not scripted but should provide an opportunity for the applicant to show they have an understanding of the challenges of opening a new school.

The Commission received additional information from MEVA on April 29, 2014 which was not part of the original application and has not been distributed to all Commission members. Our attorney has recommended we consider carefully whether to accept unsolicited additional information from an applicant after a decision whether to approve their application has already

been made, and is the subject of a potential motion to reconsider. The Commission has an application cycle that has a deadline for the submission of a complete application—receiving additional information in this manner has the potential to turn that application into an initial proposal subject to modifications small and large based on the Commission’s reaction to it. The applicant has further suggested that the submission of additional information makes this a consideration of a different application (that is, a new matter) for the Commission rather than a reconsideration of its initial application. If an applicant wants to change the substance of their application in response to the Commission’s feedback, our attorney’s view is that under the Commission’s current application process the time to do that would be in a subsequent application cycle. It is up to the Commission to decide how to proceed.

Discussion must be to consider the new information or whether to treat the matter as a motion to reconsider. Again, the only people who can vote for reconsideration of the MEVA application are Shelley Reed and Michael Wilhelm.

Statement read by Shelley Reed:

I am not interested in putting forth MeVA for re-consideration. After reviewing materials, I did not find that the applicants’ rebuttals to the findings of fact by the review team changed my mind.

More troubling was the email that was sent by MeVA governing board chair to all the Commission members. Under Chapter 2 of our rules all correspondence between the applicant and the commission must go through the executive director once the application has been filed all the way to contract signing. The content of the email sent to all members was to me ethically wrong as it contained methods of how to use Robert's Rules of Order to circumvent the parliamentary process of re-consideration that the Commission had chosen to follow in an attempt to put things in what must have been perceived to be more in MeVA's favor.

Statement from Mike Wilhelm:

Based on the advice of legal counsel, which I tend to follow, I would think it would not be wise to reconsider it. Because I think it establishes, as legal counsel points out, a dangerous precedent that would allow any applicant whose application was denied to continue to process into the future ad infinitum.

I think the Charter Commission Rules are clear. This is my perspective.

Therefore, because there is no motion for reconsideration, we will go on to C. with the dates for the RFP for 2015.

B. With approval of VII. A. Commission discussion and action on reconsideration of Maine Virtual Academy.

Not applicable.

C. Dates for RFP 2015 – Timelines

June 18th meeting: Shelley Reed, Jana Lapoint – anyone is welcome.
Purpose is for people to come in and raise questions for clarification.
Document questions and response from the Commission plus written questions sent in to the Commission – all questions and responses have to be published on the MCSC website.
Create a subcommittee to develop a process for the informational meeting.

Completeness review – does it have all the sections that are supposed to have in the application; how good those sections read or how well they address, that is the purpose of the rubric and the reviewers.

D. Harpswell Coastal Academy Material Amendment – RE: new Board Member, David Eldridge.

Material changes to the contract, need to come to the Commission to be approved. New members only take office after approval of the Commission.

Side note-Jana: Education and Cultural Affairs Committee has requested that when we bring a new member forward that we submit to them a list of all of our Commission members and their background. They are looking for the balance of skills and expertise on the Commission.

A criticism of public charter schools is that the boards are not elected. This is one level of review insofar as people being on the governing board that otherwise they could appoint – stack it with this or stack with that and we have responsibility for those schools having a fair opportunity to succeed. One level is do they have proper representation for the community it is serving and the skills, etc. that they need.

They need the capability of raising funds by people on that board who know how to do it. You have to question – what are they going to do; are they going to be able to make it. Schools will rise and fall by their governing boards. Once the school gets into the hum of this, it is going to be strictly pro-forma.

Motion by: John Bird; seconded by Shelley Reed and unanimously voted to approve David Eldridge for the Harpswell Board.

In the future, will we get a list of their current board members and would we get a list of their current skill sets? Yes, received this request today.

E. Harpswell Coastal Academy Material Amendment – RE: Revised Assessment Plan and Performance Indicators.

A lengthy discussion ensued by Commission Members.

Moved by John Bird; seconded by Ande Smith and unanimously voted to send a certified letter to Harpswell Coastal Academy stating: *You are in material non-compliance of the charter. At risk of losing your authority to operate and we expect by June 5 to have delivered a metrics we see as acceptable.*

F. Reviewed - 2013-2014 UPDATED Calendar with Year-end Visit Dates for the five operating public charter schools.

G. 2014-2015 Maine Charter School Commission Calendar Approval.

Calendar amended to change November 18th date to November 13th for the business meeting eliminating the in-person interviews / public hearings for the dates of November 3 and 4 to accommodate for the public comment period.

Move Fiddlehead End-of Year Visit 2015 to June 9; State Board of Education Meeting June 10.

Moved by Mike Wilhelm; seconded by Shelley Reed and unanimously voted to approve the 2014-15 MCSC calendar with amendments.

VIII: OTHER:

A. Commissioner Jim Rier –

Regarding the method currently being used for the funding of Charter Schools – there were questions from the Commission as to what the Legislature did or did not do. Jim will clarify this for us.

As designed originally the funding coming from local districts who have students at charter schools has been a growing concern not only for the school districts that would pay with quarterly payments in the original law and, to be quite honest, the department having to work with more charters and more importantly with 50+ school districts who have some students in charters. My finance team having to work with all of those school districts plus the charter schools trying to help them design invoicing and how that will work. Last session we proposed a more predictable funding – a fairly extensive piece of legislation that the Education Committee considered. Not a bill that we proposed, but we did write all the language for the one they finally considered.

One option, troubling from our point of view, would have a separate line in our budget for charter schools – Governor vetoed. Others experience, New Hampshire, the legislature would go in and cut those lines over time causing more chaos.

Our proposal – would charge the Department with creating these allocations for any charter school that had students, we would collect the enrollments as we would for anybody else. We do estimates on enrollments in the Spring and finalize them like the law requires. This funding approach wouldn't have changed the way we calculate the allocation, but could change in the future, but we would have calculated the allocation for June the same way.

We would essentially create a school administrative unit for each of those charter schools and then calculated schools a subsidy print out, a 279 it is called; posted just like everybody else's is – fully transparent so people could look to see how many students they had, free and reduced lunch, those kinds of things would have been posted.

As we progressed through this session, there seemed to be more and more support. My calculation early on was to not propose a Governor's bill to try to do it. I felt it was more productive to get legislators to engage and be part of that. Brian Hubble had worked a lot with me; we had gone through all this detail back early in the session to try to prepare a piece of legislation he was going to put forward. The only change from the bill last year, I thought was a compromise, instead of putting a separate line in the budget, that would have been subject to legislative adjustments; I agreed to instead create information we are required to for school districts anyway by February – we create a summary showing all of the funds that were being allocated based on residence to charter schools just like we do for public and that way, if it were the case of understanding what kinds of student populations – were getting for allocations – it would all be there just like it is for public school.

Rep. Brian Hubble and Senator Langley both had a sense that it would be taken up as a bill. Had a reasonable amount of support, I thought, because it would have taken the burden off this coming year. It was structured in such a way that I would have had to bring forward and do it, if they passed it, without adjusting everybody else's subsidy to account for it. That was a challenge on our part, but we were willing to work through that.

Ultimately, as you are well aware, there were so many bills last session and this session challenging charter schools – it should have been just a matter of time before they tried to hook it on to one of those bills, which is what happened. LD 995 which was a moratorium charter bill from last session that held over – that is what it got attached to and, unfortunately, not able to go forward on its own merit to be approved by the legislature and have time to go through the details of how the funding would work. This complicated things even more.

Ultimately, I would have still been optimistic that somehow would pass because I thought there was a lot of support coming from the Superintendents' Association, School Boards Association and obviously from charter folks and, not surprisingly, from the public school system which were being impacted and knew very well how much they were going to be impacted – especially this coming year.

Unfortunately, the politics got to it at the very end of it. The bill ended up – I believe there was a motion to postpone. I had Deb working on this a little bit before I came down – trying to find out what happened at the end – and I am still not sure. All I know is that it is dead; part of the political maneuverings that go on at the end of a session.

Where we go from here, I am not sure. I expect it will be an issue that will come up next session. There will be legislation proposed again not at the last minute like it turned out this time, but where we will have adequate opportunity to discuss and review. I know that there was contention that this was last minute; people couldn't understand it was the same as last year. I will expect it to come back again because there will be a lot of folks who will be adversely impacted this coming year 14-15 with the costs associated with, not only what they have been dealing with, there are going to be some expanded enrollments in charters that currently exist and the first virtual school going forward. There are likely to be a fair number of students associated with that – that will need funding as well. Funding is all going to have to come from local units where the students come from.

Out of 185,000 students it is not a dramatic population. I understand how some will feel that it could expand dramatically beyond that, but I think the near future will be what has been provided for – it doesn't seem to be reasonable to continue to impact ...it is not just the funding that has to flow from school districts to charters. It is the uncertainty of them building budgets. Not any way they can do it except to over-budget for an anticipation of how many students they might have and really puts their budgets at risk because if things expand much beyond what they might have thought they would be, they have got to be able to provide those funds during the year.

The advantage of the proposal we had made was not only to take the burden off local districts for the funding, but all these quarterly payments and all the burdensome process they have to go through – both ends – the public schools paying and the charter schools invoicing and collecting and all the uncertainties around enrollments during the year and how the law applies to them and all of that. It is very burdensome for us and for charter schools to manage that funding piece for a full year.

We are working very hard at the moment to look to refine somewhat, within current law. We are going to take some aggressive approaches this summer to help school districts and charter schools with the laws to be more descriptive about they deal with it. Help them even more with templates so they can estimate what things are going to happen. Have a much better resource for them to go to – to help them understand what they do when this happens or that happens because there is always questions dealing with student arrives on Sept 5 – do we count them mid-October or late-October? What do we do? How do we invoice and what responsibility does the local district have. Different kinds of questions occur they just don't end because there is always some kind of unique thing that is happening and the charters and the publics need answers to those things.

We have a team that is already stretched thin with what we already doing – let alone having to be able to manage that effectively. We had a discussion recently to prepare ourselves for the approach this fall that will, hopefully, be more attentive to charter questions from the schools and from the public schools.

B. Regular RFP and Rubrics approval

Grammatical changes to the rubrics only.

Motion by Shelley Reed; seconded by Ande Smith and voted unanimously to approve the Rubrics with the grammatical changes.

Motion by Mike Wilhelm; seconded by Laurie Pendleton and voted unanimously to approve the Regular and Virtual RFPs to be issued June 11, 2014.

Pre-opening Plan had some changes to Special Education – Peg Armstrong corrected for the 2015 RFP; technically approved by prior motion approving the RFPs.

Motion by Ande Smith; seconded by John Bird and voted unanimously to approve the Pre-Opening Plan for 2015 RFP as amended.

C. Ande Smith – Putting on the table will have two step-children attending Fiddlehead; will abstain from voting on Fiddlehead School of Arts and Science.

D. Executive Director and Administrative Assistant Contract Amendments for fiscal year 2014-2015.

Administrative Assistant includes a \$2.00 increase in salary, plus \$.34 for payroll services, which brings the position in line with the salary scale this position was based upon in 2012.

Motion Mike Wilhelm; seconded by John Bird and voted unanimously to approve the payroll services contract amendments for the executive director and administrative assistant as written.

IX. ANNOUNCEMENTS:

- A. Turn in Expense Account Vouchers at the end of the meeting.
- B. Next regularly scheduled meeting: June 3, 2014

X. PUBLIC COMMENT:

Judith Jones – This is National Charter Schools' Week. Data has been confirmed that there are about 2.5 million students who are enrolled in charter schools with about 6,500 (15%) in rural areas in the United States. The waiting list nationwide has hit over 1 million students.

A congressional bill to fund the federal charter school grant program is working its way through the House and may actually be voted on this week or next week; trying to increase money for the federal charter school grant program from \$148 million to \$200 million.

There are a number of very interesting proposed changes to the kinds of groups that can apply for the money and kinds of programs.

Roger Brainerd – You are all invited over to our celebration at 11 King Street.

XI. Adjourn

Moved by Laurie Pendleton, seconded by Shelley Reed and voted unanimously by to adjourn at 3:53 p.m.