

**Reference: Approved Minutes – April 5, 2007 Public Charter School
Commission Meeting**

**PUBLIC CHARTER SCHOOL COMMISSION MEETING
THURSDAY, APRIL 5, 2007
AMERITEL INN BOISE TOWNE SQUARE, TABLEROCK ROOM
7965 WEST EMERALD STREET
BOISE, IDAHO**

A meeting of the Public Charter School Commission was held on Wednesday, April 5, 2007 at the Ameritel Inn Boise Town Square, 7965 W. Emerald, Boise, Idaho. Chairman Goesling presided. The following members were present:

Alan Reed	Esther Van Wart	Ann Souza
Gayann DeMordaunt	Joe deVera	Paul Powell

Chairman Goesling called the meeting to order at 9:00 a.m.

1. Commission Work

Newly appointed Commissioner Gayann DeMordaunt introduced herself to the Commission.

The Commission considered minutes submitted from the February 8 and February 22, 2007, meetings.

M/S (Powell/deVera): To approve the minutes from February 8 and February 22, 2007, as submitted. *The motion carried unanimously.*

The Commission considered a date and time for the regularly scheduled meeting to follow the May 24 and July 19 meetings.

M/S (deVera/Van Wart): To set September 27, 2007, as the date and Boise, Idaho as the location for its regularly scheduled meeting. *The motion carried unanimously.*

2. White Pine Charter School Transfer Petition

Robert Black, WPCS board member; Peggy Sharp, WPCS administrator; and Anita Ogden, WPCS founder, introduced themselves.

Mr. Black said WPCS is petitioning to transfer authorizing authority from District 93 to the Commission. He said the school broke ground on its new facility about two weeks ago.

Commissioner Van Wart asked staff whether there are any outstanding issues with regard to the WPCS charter.

Ms. Baysinger said the petitioners are still working on some issues and progress is being made.

Commissioner Reed asked staff how close the charter is to completion.

Ms. Baysinger said that would depend on the amount of time the petitioners can put into working on the charter. She said their efforts are focused on two important sections of the charter: Educational Program and Measurable Student Educational Standards.

Ms. Sharp said the timeline would depend on staff's reaction to the school's most recent submission.

Ms. Baysinger said she anticipates the charter will be finished prior to the next regular Commission meeting.

Commissioner Powell said he would like to see documentation of the school's history with regard to enrollment by grade level, financial actuals and projections for the next several years, and student achievement data to assist the Commission in determining the health of the school.

Ms. Ogden said some of this data has been submitted. She described the school's current financials and enrollment, noting that the school offers two classrooms each for grades K-5 and will eventually offer two classrooms per grade K-8.

Mr. Black said the independent auditor for the school's most recent fiscal audit declared the school in excellent financial health. He said the school's waiting list for enrollment is currently at 280.

Commissioner Powell asked what the annual debt service would be on the new school facility.

Ms. Ogden said the annual projected debt service is \$225,000, as compared to the current \$120,000 spent annually on modular buildings. She said that increased enrollment during expansion into higher grades will increase the school's income. She also described White Pine's academic achievement and strong standardized test scores.

Commissioner Souza asked why, beyond the renewal requirement, White Pine wishes to transfer to the Commission.

Mr. Black said the school would like to stay local but feels it is a burden on the local school district. He explained that the five-year renewal requirement creates difficulty in obtaining facility financing.

Commissioner Souza asked legal counsel whether the five-year renewal requirement was allowable under the law.

Jennifer Swartz, Commission counsel, said statute does not address the issue of whether charters drafted under the old law, which allowed renewal requirements, must still undergo the renewal process. She said the legal matter must be decided between each charter school and its authorizer.

Commissioner Souza asked whether White Pine has spoken with their attorney about the renewal requirement.

Mr. Black said the matter has been discussed but the White Pine board has elected not to spend money on a legal battle when transfer to the Commission is available as a more fiscally sound option.

Commissioner Powell said that, in his opinion, the legislature's intent in eliminating the renewal clause from statute was to give charter schools the opportunity for increased stability. He said he felt that continuing to require renewals was inconsistent with the law.

Ms. Swartz said the only way for White Pine to challenge the district's interpretation is through a lawsuit. She noted that her opinion or that of any other state attorney was irrelevant, as the matter would need to be decided by a court.

Commissioner deVera asked about the state of White Pine's relationship with the Bonneville Joint School District, and why White Pine believes it will be better served by the Commission.

Mr. Black said there is an advantage to the Commission's focus on and understanding of charter schools.

Ms. Ogden said the district allowed two extensions on the submission of renewal-related paperwork, but encouraged the school to transfer. She said White Pine contracts with the district for some services, and the district has incorporated a number of services offered by White Pine.

Commissioner Powell asked whether White Pine or the Commission could request an attorney general's opinion on whether renewals may still be required by authorizers.

Ms. Swartz said that only legislators and officials in similar capacity may ask for attorney general opinions. She said the Commission may ask her opinion, but

she cannot advise another party nor would her opinion would not be binding on another party.

Commissioner deVera asked staff what potential risks are involved in approving a transfer.

Ms. Baysinger said the risks include the possibility that White Pine will need to pay more for contracted services should the district no longer wish to provide them. She said many schools succeed very well under the Commission.

Chairman Goesling noted that the Commission also needs to consider its own capacity to oversee an increasing number of schools.

Commissioner Powell said he is willing to consider approving the transfer pending additional financial and academic history, and revision of some sections of the charter.

M/S (Powell/deVera): To hold the decision of the White Pine Charter School transfer until the next meeting; and to direct staff to continue work with the petitioners on revisions to the charter.

Commissioner Powell asked what difficulty White Pine might encounter if a decision on the transfer is held until the next meeting.

Ms. Ogden said White Pine cannot risk waiting for a decision because the district's renewal process needs to be completed immediately if the transfer is unsuccessful.

Commissioner Powell asked staff how quickly the outstanding issues in the charter could be addressed.

Ms. Baysinger said that because the issues were qualitative rather than quantitative, and both the White Pine board and Commission staff would have to coordinate reviews and responses, she could not predict how long the revisions might take.

Ms. Ogden said she is confident that the board can comply with Commission standards.

Amended Motion (deVera/DeMordaunt): To approve the transfer of White Pine Charter School contingent upon submission of historical financial data, historical student achievement data, and revision of the Measurable Student Educational Standards section of the charter. *The motion carried unanimously.*

3. Palouse Prairie School Petition

Nils Peterson, Palouse Prairie School board chair, introduced the proposed Expeditionary Learning School and addressed a number of concerns cited by Commission staff in a written review of the charter.

Commissioner deVera asked why the petitioners believe Moscow's population will be sufficient to provide adequate enrollment for a second charter school.

Mr. Peterson said that Moscow Charter School has a waiting list, but enrolling a sufficient number of students for Palouse Prairie may prove difficult.

Linda Sterk, Palouse Prairie board vice-chair, said the petitioners have experienced much community support for an ELS school.

Commissioner deVera asked why the petitioners withdrew their petition from consideration by Moscow School District.

Mr. Peterson said the process was, from the petitioners' perspective, confused and untimely. He said the district's concerns about the petition were first heard by the petitioners in public meeting, and written comments were not received until two weeks thereafter.

Bill Rivers, Palouse Prairie treasurer, added that the Moscow School District board members proved uncommunicative regarding the proposed charter school.

Commissioner deVera expressed concern about the lack of facilities information included with the charter.

Mr. Rivers said a key component of Palouse Prairie's ability to recruit students will be the attraction of a very different program to that offered by other schools in the area.

Commissioner Van Wart asked why the term "ELS" is being used.

Mr. Rivers explained that Expeditionary Learning Outward Bound changed its name to Expeditionary Learning Schools. However, the educational model has not changed.

Commissioner Van Wart asked how students will be transported for field work.

Mr. Peterson said Palouse Prairie would like to use district busses and the district has expressed willingness to work with the school in this manner.

Commissioner Van Wart asked for additional explanation of the facilities problem facing the petitioners.

Mr. Peterson said Moscow's zoning code does not have a by-right option to locate a school of any kind. Therefore, Palouse Prairie will need to obtain a Conditional Use Permit to put a school on a given property, facing potential opposition based on neighbor concerns, traffic and parking, and other planning and zoning issues. He said he is confident that Palouse Prairie will be able to find an acceptable site, possibly outside the city limits, though that option would result in transportation-related difficulties.

Commissioner Van Wart cautioned the petitioners that facilities expenses nearly always exceed budgeted amounts, and not knowing where the school will be located is likely to exacerbate this issue.

Commissioner Goesling asked whether there was a relationship between Palouse Prairie School and Washington State University, and whether Mr. Peterson's job at the university was related to the charter school.

Mr. Peterson said the university offers its faculty the opportunity to do outside consulting work with a percentage of university-paid time. He said his employer approved the use of four hours weekly for development of the Palouse Prairie School.

Commissioner Goesling asked what ELS provides for the \$45,000 Palouse Prairie School would pay annually.

Ms. Sterk said ELS will provide a school designer to train staff initially, as well as ongoing professional development.

Commissioner Goesling asked about the relationship between Palouse Prairie and Idaho Distance Education Academy.

Ms. Sterk said that although she is employed by IDEA, there is no relationship between IDEA and the proposed Palouse Prairie School and she sees no potential for conflict.

Commissioner Powell said he, too, is concerned about the lack of facilities information in the petition. He noted several other budgetary concerns, including apparently low teacher salaries and understated lease expenses. He said he would not be comfortable approving the petition without additional work on facilities and finances.

Mr. Rivers explained that the school plans to hire teachers with lower levels of education to keep costs down.

Commissioner Van Wart said the school may need some more highly trained teachers for upper grades. She asked for more detail about Mr. Peterson's work on the charter during WSU time.

Mr. Peterson clarified that WSU considers his work on the petition to be part of his job.

Commissioner deVera asked whether the lease numbers in the budget were based on market actuals.

Mr. Peterson said it is difficult to know because of the limited number of properties on the market.

Chairman Goesling said he believes the Moscow School District has made significant inquiry into the cost of renovating the 1912 building for use as a school and may be able to provide additional information. He also suggested checking with other small schools in the area to evaluate their cost per square foot.

Commissioner DeMordaunt asked legal counsel whether Mr. Peterson's compensation by WSU for time spent developing Palouse Prairie School created a legal problem.

Ms. Swartz cited Idaho Code 33-5204(5) and stated her opinion that Mr. Peterson should either cease receiving compensation for work related to the charter school or resign from the Palouse Prairie board.

Commissioner Reed said it appears that the proposed number of students per class is too low to provide enough revenue for the school.

Commissioner Powell noted that ANSER Charter School succeeds with class sizes under 20, but depends heavily on fundraising. He said that class sizes under 25 tend to result in an extremely tight budget.

Donald Wilkensen, Palouse Prairie board member, noted that Moscow Charter School operates, by choice, with class sizes of about 16.

Commissioner DeMordaunt said she would like to see more emphasis on external academic assessments that mean something outside the ELS system.

Ms. Sterk said Palouse Prairie students will participate in required standardized testing, and this is reflected in recent petition revisions.

Ms. Baysinger said these revisions have not yet been submitted to staff.

Commissioner Van Wart advised the petitioners to include more in the petition regarding a programmatic audit, which is different from the annual review provided by ELS.

Chairman Goesling invited Candis Donicht, superintendent of the Moscow School District, to comment on the Palouse Prairie School petition.

Ms. Donicht said most of her comments were included, in writing, in the Commission's materials. She said Renaissance Charter School was closed by the Moscow School District at her recommendation; however, the Palouse Prairie petitioners had nothing to do with the substandard governance at Renaissance. She expressed approval of Moscow Charter School's program.

Ms. Donicht said she believes it is critical that all students be transported in yellow school busses. For Palouse Prairie students to participate in the district's bussing system, the charter school would need to be centrally located. Unfortunately, the CUP process in Moscow is time consuming and difficult for public schools, and the zones in which public schools may be located are limited. She said the 1912 building would cost more than two million dollars to renovate.

Ms. Donicht said she feels interactions between her board and the petitioners were amenable and in accordance with proper procedure. Her staff spent considerable time and effort reviewing the petition. She commended the petitioners for their work in addressing many of her concerns.

Commissioner Van Wart noted that public busses may be an option for student transportation.

Commissioner Powell said he would like to see detailed facilities information including budgetary details, planning and zoning complications, and letters of understanding with regard to several site options.

M/S (Powell/Van Wart): To hold a decision on the Palouse Prairie School petition until the next meeting to allow the petitioners time to address concerns raised by the Commission, and to and direct staff to work with the petitioners to further develop the petition. *The motion passed unanimously.*

4. Garden City Community School

Barbara Gaston, Garden City Community School board chair, updated the Commission on changes to the charter school board and the school's financial status. She said progress has been made in reaching a lease termination agreement with Pacific Mobile. It appears that GCCS will pay Pacific Mobile approximately \$20,000 over two years. Ms. Gaston said GCCS sent a "counter-

offer” this week in response to the March 7, 2007 letter from landowner Bob Jones’ attorney to GCCS.

Ms. Gaston said enrollment is currently at 82, and the school is advertising for the upcoming lottery with an enrollment goal of 150-210 students for the 2007-2008 school year. She described a recent fundraiser and other activities organized by the GCCS Community Council. Ms. Gaston also updated the Commission on staffing changes, particularly the recent resignation of administrator Linda Vermette.

Commissioner deVera noted that, based on the most recent cash flow information submitted by GCCS, it appears the school is going to run out of money.

Ms. Gaston said the school will have to tap into its line of credit this month, and that funds received from the state in May will be used to repay the borrowed funds. She said the school is seeking a different kind of loan that will not require personal guarantees.

Commissioner deVera questioned whether GCCS’s facility can accommodate class sizes sufficient to generate adequate income for the school. He also asked whether low enrollment will be an ongoing problem for the school.

Ms. Gaston said the facility will accommodate 25 students per class. She said the school may restructure its grade combinations to save money.

Commissioner Reed noted that tapping into a line of credit will not solve GCCS’s financial problem.

Ms. Gaston agreed that using the line of credit will only serve to shift the problem to a later date. She said the school is seeking grants and long-term loans to alleviate the problem. Increasing enrollment to 125 will ease the school’s financial crisis, but GCCS may experience ongoing recruitment problems due to the demographic of its attendance area.

Commissioner Van Wart asked how long GCCS will remain solvent if the school is unable to meet its student recruitment goal.

Ms. Gaston said if that occurs, GCCS will have to trim its budget, possibly by reducing staff and facilities.

Commissioner Van Wart said it appears GCCS does not currently have a viable budget. She asked whether the school intends to freeze salaries and whether GCCS will be able to pay its teachers.

Ms. Gaston said a salary freeze is possible. She also said GCCS will offer half-day, rather than full-day, kindergarten next year.

Commissioner Van Wart asked whether GCCS has considered dropping the upper grades due to low enrollment.

Ms. Gaston said most of the currently enrolled sixth graders will move on into seventh grade, so enrollment will increase. GCCS's current seventh and eighth grade classes comprise only five students.

Commissioner Van Wart asked whether GCCS has an action plan for resolving its financial crisis.

Ms. Gaston said there is an action plan in place. Two people are working on tightening the budget while others focus on recruitment, testing preparation, and staffing.

Commissioner Van Wart asked how GCCS feels about the fact that it has broken two leases and been delinquent in payments.

Ms. Gaston said Pacific Mobile has been extremely generous and the school is very grateful. She said she believes GCCS will be able to meet its obligations.

Commissioner Van Wart asked what the school's plan is should it be unable to make payments on schedule.

Ms. Gaston said GCCS will ask the lessors to delay the first payment due dates until August or September 2007. She said if a delay is not possible, the school will do its best to make the payments, then proceeded to clarify that the school is breaking two leases: one for the land, and the other for the portable classrooms. She said the GCCS board was surprised to receive the March 7 letter from landowner Bob Jones' attorney explaining that the amount due is \$35,000.

Commissioner Van Wart asked how GCCS will meet its obligation to Mr. Jones.

Ms. Gaston said GCCS has asked Mr. Jones to decrease the amount due to reflect improvements GCCS made to the land. GCCS has asked that the amount due be revised to \$2,718, to be paid over a three month period.

Commissioner Van Wart asked why the attorney's letter cited an amount due of \$35,000.

Ms. Gaston said that amount was in accordance with the early termination clause in the lease.

Commissioner Van Wart asked what will happen if Mr. Jones holds GCCS to the terms of the lease.

Ms. Gaston said the school would have to find other financing to pay Mr. Jones. She said she understood this could result in the closure of the school.

Commissioner Van Wart asked why GCCS chose to break the two leases.

Ms. Gaston said GCCS broke the leases due to the school's inability to afford the site preparation cost of \$400,000 that would have been required for putting portables on the land. She said the school had researched site preparation costs but the estimates they received proved inaccurate.

Commissioner Powell verified with Ms. Gaston that the \$52,000 line of credit will be required to pay GCCS' April 2007 expenses. He asked how much income GCCS expects from the state in May 2007.

Ms. Gaston said the school expects a disbursement of approximately \$85,000. She doesn't know what percentage of that money will be transportation funding.

Commissioner Powell said it appears the state funding to be received in May will be sufficient to repay the line of credit, but further expenses will continue to be incurred. He expressed concern that the school will be unable to survive financially until the beginning of the 2007-2008 school year. He suggested that GCCS provide Commission staff with documentation demonstrating that the school will be able to remain solvent through summer 2007. He also requested that GCCS continue to provide monthly financials to staff.

Commissioner Powell said GCCS's financial situation will likely limit the school's ability to obtain additional financing.

Ms. Gaston said it appears that any loan the school might receive would be based on planned receivables, and that GCCS would need to demonstrate solid enrollment.

Commissioner DeMordaunt verified with Ms. Gaston that the school is still in the process of determining how many of their currently enrolled students will be retained.

Commissioner deVera noted that GCCS's credit with regard to the terminated leases will affect the school's ability to obtain additional financing. He said school management will also affect financing possibilities and asked about the current status of management at GCCS.

Ms. Gaston said the board is beginning the process of seeking a new administrator and may restructure to split the position between two employees.

Commissioner deVera said it appears to him that GCCS will require a large infusion of cash that does not need to be repaid in order to regain financial stability.

Commissioner Reed asked staff about the Commission's level of responsibility in closing a school in the interest of the children enrolled.

Ms. Swartz said the Commission has the responsibility to issue a notice of defect in the event that one of the five conditions cited in statute occurs. She said one of these conditions is failure to meet generally accepted accounting standards of fiscal management, and noted that this phrase is open to interpretation by the Commission. She described the charter revocation process, which is lengthy and offers the school many opportunities to correct the defect.

Commissioner deVera said he hopes Ms. Gaston's decision regarding whether to use the line of credit she personally backs for the school will lead to resolution one way or another. He said that to issue a notice of defect could preclude any chance of the school obtaining additional financing.

Commissioner Van Wart requested an updated 2006-2007 budget and a draft 2007-2008 budget, to be received by Commission staff no later than April 30. She said these budgets should reflect realistic numbers based on the April 20 lottery, not lofty recruitment goals.

Ms. Gaston explained the difficulty of drawing up a budget based on the school's current, low enrollment. She said to do so would not be realistic because applications will continue to come in after the lottery.

Commissioner Van Wart said the budgets could include realistic assumptions based on the rate at which GCCS usually receives applications.

Commissioner Powell said he believes it will be a stretch for the school to enroll 125 students by next fall, but the budget could be based on that number and later revised. He asked whether the GCCS board has discussed at what point they will elect not to attempt to operate next year.

Ms. Gaston said the board has considered this question but has not come to any conclusions yet.

Commissioner Powell suggested that the GCCS board establish a minimum enrollment with which the school could open next year. He noted that the Commission may not be forced to action if the school's board shows itself willing to set realistic boundaries.

Ms. Gaston asked if it would be helpful for GCCS to submit to Commission staff, by April 30th, budgets based on realistic enrollment goals in addition to worst-case-scenario budgets reflecting the minimum possible enrollment with which GCCS could operate.

Commissioner deVera said it is apparent that GCCS needs a large infusion of cash that does not need to be repaid in order to remain solvent.

Commissioner DeMordaunt asked what the school is doing differently this year than it did last year in order to improve enrollment numbers.

Linda Vermette, GCCS administrator, explained that about forty students left the school this year due to the school's frequent site changes. She said that this will not be a problem next year, so retention should improve dramatically.

Commissioner DeMordaunt asked for what grants GCCS intends to apply over the next six months.

Ms. Gaston said she isn't able to give a list today, but the school does have a grant writer. She offered to include a plan for increasing cash, including the grants for which GCCS will apply, with the budgets submitted by April 30.

Commissioner Van Wart asked for the name of GCCS's grant writer.

Ms. Gaston said Laurel York O'Dell has done grant writing before, as has Debbie Every. She said Stacy St. Amnon has also offered to work on grant applications.

Commissioner Van Wart asked whether GCCS anticipates significant teacher attrition, and if so, why.

Ms. Gaston said the school has already experienced much attrition over the course of the current school year but she doesn't anticipate an increase.

Ms. Vermette added that the teachers are very dedicated and although they are concerned about the school's financial state, they will wait until the last minute before deciding to leave.

Commissioner Powell asked what grants the school has received this year.

Ms. Gaston said the Albertsons Foundation has provided a \$50,000 grant in addition to the \$100,000 grant received by many charter schools in Idaho.

Commissioner Powell cautioned that although the Albertsons Foundation has been the primary grantor to Idaho's charter schools, GCCS is unlikely to receive additional funding from Albertsons due to the school's financial status.

M/S (DeMordaunt/Souza): To require Garden City Community School to submit to Commission Staff by April 30, 2007, realistic and worst-case budgets for 2007-2008, a list of grants being worked on, and lottery results and detailed enrollment numbers.

Chairman Goesling noted that a special meeting will likely need to be held shortly after April 30 to consider the information submitted.

Commissioner Van Wart asked when letters of intent for teaching contracts will go out to teachers.

Ms. Vermette said the letters will go out by May 15.

Amended M/S (deVera/Reed): To require Garden City Community School to submit to Commission Staff by April 30, 2007, realistic and worst-case budgets for 2006-2007 and 2007-2008; a list of grants being worked on; lottery results and detailed enrollment numbers; and continued correspondence with regard to lease termination agreements with Pacific Mobile and landowner Bob Jones. *The motion passed unanimously.*

Ms. Gaston clarified with Chairman Goesling that lease termination details would be required as part of the motion, as they will be necessary for the establishment of realistic budgets. She said this may prove difficult because the lessors have not proven responsive to requests for correspondence.

Commissioner Powell suggested that, if GCCS is unable to obtain documentation of alternate agreements, the school base its budgets on worst-case numbers.

5. Vision Public Charter School

Lee Hannah, Vision board chair, said Vision is requesting approval for a temporary and permanent change of facilities location to a site in the Middleton School District. The developers of a subdivision have offered free, temporary use of a five-acre site with an option to purchase the site later. Ms. Hannah showed the Commissioners the site on a map and said the attendance area and resulting enrollment would not change.

Chairman Goesling said the Commission made clear at its last meeting that Vision's charter was approved for location only in the Vallivue School District, and that the Commission would not approve a location in the Middleton School District unless different legal reasoning could be provided.

Ms. Hannah said she felt Vision's legal counsel had expressed the opinion that the Commission could approve a change of location across districts because the Vision petitioners were originally referred to the Commission by Middleton. She said neither Vallivue nor Middleton protests the change of location.

Commissioner Powell said the parties would have to “agree to disagree” about legal interpretation of the issue. He suggested that Middleton accept a transfer of authorizing authority, perhaps to be followed by a transfer back to the Commission.

Ms. Hannah said Middleton expressed no interest at all in a transfer, even temporarily.

Wendy Oldenkamp, Vision administrator, asked whether the Commission’s legal counsel could share her findings on the issue.

Ms. Swartz said her opinion has not changed.

Ms. Hannah asked Ms. Swartz to repeat her opinion.

Ms. Swartz said her opinion is that the Commission does not have the authority to approve a change of location across district lines.

Commissioner DeMordaunt asked legal counsel’s opinion of Commissioner Powell’s suggestion regarding a transfer of authorizing authority to Middleton, then back to the Commission.

Ms. Swartz said she did not see any legal problems with such a scenario.

Commissioner Van Wart said she was not comfortable setting a precedent of allowing charter schools to change districts.

Ms. Hannah said Vision would approach Middleton again, but they have already asked about the transfer option and been denied. She said the Middleton School District is frustrated by Vision’s persistent requests.

Chairman Goesling said that at the special meeting in February, the Commission moved unanimously to indicate to Vision that the Commission would find them in violation of their charter if they chose to locate their school outside Vallivue School District boundaries. He said the Commission’s job is not to recommend solutions to the school’s problems; rather, it is to ensure the school operates in compliance with its charter.

Ms. Hannah said the school hasn’t actually opened a school in the wrong district yet.

Chairman Goesling said the school has clearly stated its intention to establish a facility in the wrong district.

M/S (Powell/deVera): To deny Vision's request for a change of location to a site located in the Middleton School District.

Ms. Baysinger noted that school funding will be sent to Vision in late July if the school's charter is in effect at that time. She said that if the charter were revoked or rescinded after funding went out, those monies would likely be used to meet Vision's financial obligations although no school would open.

Commissioner Powell expressed confidence that Vision will be able to find a different way to solve the facilities location problem.

Commissioner Souza said she would like to see the problem resolved one way or another before funding is sent out.

Commissioner Powell said he would be unwilling to issue a notice of defect because, in his opinion, Vision has not yet violated the charter.

Chairman Goesling said it is his opinion that Vision is in defect.

Ms. Hannah said Vision has not signed a commitment to lease a particular piece of land. They do have a verbal agreement to lease portable classrooms from Pacific Mobile. She said Vision has contingency plans for location since the Middleton site option has been denied.

Chairman Goesling asked why, if Vision had other options, they did not pursue those rather than the one option the Commission had already indicated would not be approved.

Ms. Hannah said Vision asked Superintendent of Public Instruction Tom Luna for help, and he recommended the school ask the Commission again to approve the change of district. She said that now Vision understands it is time to choose a contingency option.

Commissioner Souza expressed concern about the precedent that would be set by allowing Vision to change districts.

Commissioner Van Wart asked whether it would be possible to have portables fully set up at Vision's contingency site in Vallivue prior to the beginning of the school year.

Ms. Oldenkamp said the old Thomas Jefferson Charter School temporary site could be ready in time for the 2007-2008 school year. This site is in the Vallivue School District but outside Vision's primary attendance area. She explained that Vision cannot afford to have sewer lines run to the part of Vision's primary attendance area that is located in Vallivue.

Chairman Goesling asked why Vision hasn't proposed a change in their primary attendance area boundaries.

Ms. Hannah said Vallivue School District is already unhappy about Vision being located within their boundaries, and Vision did not want to damage its relationship with Vallivue by expanding the attendance area. She also said Vision does not want to encroach on Thomas Jefferson Charter School's attendance area.

Commissioner Powell noted that statute does not require a charter school's facility to be located within its primary attendance area. He asked whether Vision is willing to locate at the old Thomas Jefferson site if other options fail.

Ms. Hannah said Vision is considering the feasibility of the Thomas Jefferson site and believes that it is a viable option for a temporary site.

Ms. Oldenkamp said she has many positive relationships with developers in the area and is confident that within a few years, Vision will be able to obtain a permanent site within Vallivue and the primary attendance area.

Commissioner Powell said it is possible Vision could locate temporarily at the old Thomas Jefferson site while continuing to pursue a transfer to Middleton School District so the school might locate in Middleton in the future.

Ms. Hannah pointed out that the Middleton developer will not be able to hold the proposed site in Middleton if Vision doesn't open there in August 2007.

Commissioner Van Wart said she feels Vision has violated the Commission's trust and repeatedly failed to respect the Commission's authority by not following Commission direction and withholding information until forced to reveal it. She said she believes Vision has a good charter, but she cannot trust the board because of their past actions.

Commissioner Powell said that he is also frustrated, but Vision is unusually organized and competent, with the exception of the site issue.

Commissioner Van Wart emphasized that the Commission has "bent over backwards" help Vision.

Chairman Goesling agreed and noted that, despite Commission direction to do so, Vision has repeatedly failed to communicate fully with Commission staff. This compromises his confidence that Vision will follow Commission direction in the future. He said Vision's choice to meet with Superintendent Luna without notifying Commission staff put him and staff in an embarrassing position.

Commissioner Souza called for a vote on the motion.

The motion passed unanimously.

M/S (Souza/Van Wart): To direct staff to issue to Vision Public Charter School a written notice of defect on the grounds that the school has committed a material violation of a condition set forth in the approved charter.

Commissioner Powell said that the information Vision presented with regard to the old Thomas Jefferson site gives him confidence that the school will be able to remain in compliance with their charter, and he does not believe a material defect has taken place.

Commissioner Souza clarified with Commissioner Powell that the Vision petition was approved to locate in the Vallivue School District over the protest of Vallivue, and Vallivue no longer influences the decision.

Chairman Goesling said he believes the notice of defect should be issued and reminded the Commission that Vision will be given a reasonable amount of time to correct the defect.

Commissioner deVera said that to issue a notice of defect would add difficulty to Vision's attempts to secure a site.

Commissioner DeMordaunt said she hopes the Commission's relationship with Vision will be positive and communication-based. She said she does not believe a defect has been committed, though Vision clearly intended to enter into a contract that would have been put them in violation of their charter.

Commissioner Reed said any Commission action will have some form of impact on the school in question, and he believes the Commission should not base its decision on potential impact. He asked staff for clarification as to whether there is a time limit within which a school must open after the charter is granted.

Ms. Baysinger said charters do not have an expiration date, but the State Board of Education authorizes each approved school to open in a particular year.

Commissioner Reed said it is the Commission's duty to ensure the law is upheld. He expressed frustration with the situation but said it is not clear to him that Vision is in violation of its charter.

Commissioner Van Wart asked whether Vision is willing to work with the Commission to solve problems, and whether the Commission can trust the Vision board. She added that she doesn't believe Vision has committed a violation of

the charter because no written commitment has been signed for a site in Middleton.

Commissioner Souza asked the Commission how long it was willing to wait for Vision to obey the Commission's repeated direction.

Commissioner deVera said he is willing to wait as long as it takes for Vision to correct the problem.

Commissioner Souza noted that Vision's indeterminate delay could result in a different charter school's inability to open.

Chairman Goesling pointed out that the Commission needs to bear in mind its fiduciary responsibility. He asked legal counsel for comment.

Ms. Swartz said it is up to the Commission's discretion to determine when a defect has occurred. She noted that similar principles apply between charters and contracts. In contract law, anticipatory breach of contract is treated the same as breach of contract in the event a party declares its intention not to fulfill its obligation under the contract.

Chairman Goesling asked Ms. Swartz what she believed to be the legislature's intent when building lengthy steps into the notice of defect and revocation processes.

Ms. Swartz said the process is detailed more in administrative rule than in statute. She said revocation is not to be done on a whim, but the school is allowed several opportunities to correct the problem. Also, nothing requires the Commission to revoke a charter at any point.

Commissioner Powell said he felt obligated to give Vision an opportunity to follow up on their contingency site plan, and both sides should acknowledge and set their frustration aside.

Commissioner DeMordaunt suggested that a motion be made to indicate to Vision the timeframe in which the Commission expects a firm facility plan.

Chairman Goesling called for a vote on the motion.

The motion failed 5 : 1 with Commissioner Souza voting yea.

Commissioner Goesling asked the Vision representatives about their plan of action for the next 30 days.

Ms. Oldenkamp and Laura Knothe apologized for Vision's inappropriate actions.

Ms. Hannah said Vision would comply with the Commission's requests for increased communication. She said the school would approach Middleton School District again about the possibility of a transfer and would get a contract in place for the old Thomas Jefferson site.

Ms. Oldenkamp said Vision faces deadlines with regard to their application for a Special Use Permit for the old Thomas Jefferson site.

Commissioner Powell expressed his desire to help facilitate Vision's transfer proposal to the Middleton School District.

Commissioner DeMordaunt asked staff what expectations the Commission might set for Vision's communications with the Commission and staff.

Ms. Baysinger said ongoing, frequent communication as events occur would be helpful.

6. Rolling Hills Public Charter School Update

Doug Varie, RHPCS board chair, updated the Commission on the school's successful move into its new facility and extensive community support. He emphasized the importance of a charter school board having several contingency plans for major decisions. He also said a charter school board must include members with special expertise, such as contracting and education.

Commissioner deVera asked whether RHPCS has progressed on the suggested improvements to the measurable student educational standards in the charter.

Ms. Baysinger said that both board member May and Dr. Mauer, RHPCS administrator, are more familiar than Mr. Varie with staff's requests in this regard.

7. Commission Education

Ms. Baysinger updated the Commission on the Virtual Schools Report recently submitted to the Joint Fiscal Appropriations Committee by the Office of Performance Evaluations.

The meeting was adjourned at 3:10 p.m.