



Wednesday, November 28, 2018
Bellows Free Academy Union High School
South Building, Performing Arts Center
71 South Main Street
St. Albans, VT 05478

November 28, 2018

Strategic Goals: (1) Ensure that Vermont's public education system operates within the framework of high expectations for every learner and ensure that there is equity in opportunity for all.
(2) Ensure that the public education system is stable, efficient, and responsive to changes and ever-changing population needs, economic and 21st century issues.

Draft Minutes

Present:

State Board of Education (SBE): Krista Huling, Chair; William Mathis, Vice Chair; Mark Perrin; Peter Peltz; Kyle Courtois; John O'Keefe (joined at 9:27 a.m.); Callahan Beck (via phone); John Carroll; Oliver Olsen (joined at 9:17 a.m.); Stacy Weinberger, Dan French, Tom Little.

Agency of Education (AOE): Donna Russo-Savage, Ted Fisher, Emily Simmons, Maureen Gaidys.

Others: Lisa Durocher, NWTC; Jay Nichols, VPS/Berkshire; Elizabeth Trail, The Chronicle; Michael Frett, Messenger; Nicole Mace, VSBA; Tracy Wrend, LSSU; Cara Zimmerman, SSD; Alan Ouellette, Stowe; Erica Loomis, Stowe; Josh O'Gorman, Stowe Reporter.

Item A: Call to Order/Roll Call and Introductions/Amendments to Agenda

Chair Huling called the meeting to order at 9:00 a.m. and asked members to introduce themselves. Chair Huling announced that Courtois was at his locker and that Olsen and O'Keefe were still on the road and a bit delayed. She asked if there were any amendments to the agenda; there were none. She introduced Superintendent Dirth and thanked him for his hospitality and how gracious he was to come forward and host a group this size and to include a student performance as part of the day.

Item B: Welcome from Superintendent Dirth

Dirth welcomed the group to St. Albans and B.F.A. and shared some history. He shared that that BFA was a private school until 2004, when it became a public union school. The building was built in 1930 and was funded by Hiram Bellows, a railroad stock owner, who gave money to both St. Albans and B.F.A. He gave 250 shares of the Hudson Railroad to St. Albans to create this school. When the Performing Arts Center was renovated six years ago it required a bond of only \$700,000 because there was still money left over from 1930.

Item D: Public to be Heard

The following people addressed the Board regarding Act 46:

- Jay Denault, Franklin, VT
- Alan Ouellette, Stowe, VT

- Erica Loomis, Stowe, VT

Mathis asked for a copy of the petition that was created by Loomis. She didn't have one, but Chair Huling said that it was emailed to Board members.

Item E: Adoption of Default Articles of Agreement

Chair Huling introduced the item and asked if there was a motion to be entertained.

Perrin moved that the Board adopt the Default Articles of Agreement, prepared in connection with the Board's Final Report of Decision and Order and as presented to this meeting (November 28, 2018), with all edits made during the course of the meeting, issued pursuant to Act 46, Sec 10(b). This motion was seconded by Weinberger. Chair Huling opened it up for discussion and invited Russo-Savage to address the Board.

Peltz had a question on a local concern and the authority to close schools within the first two years or thereafter. Russo-Savage explained that there were protections in place for the first two years and after that any such decision remained with the local community. Russo-Savage further explained that after two years statutory law kicks in unless the articles of agreement were amended.

Olsen asked for clarification on local meaning the town or the entire district. Peltz clarified that he meant towns. Russo-Savage then explained that the statutory default will be to the voters of the entire district to amend the articles of agreement. Russo-Savage explained that is the normal procedure for amendments and the Act 49 procedure for amendments.

Russo-Savage spoke about the 90-day process and deadline - and that the deadline is addressed in the draft articles. A transitional body has the authority to warn meetings until the initial board is elected. The transitional body produces the beginning of a budget that will be presented to voters. If a group is created by representatives of the merging districts (the amendment committee), that body would meet with the public and decide whether and in what ways to present any amendments, then the transitional board is required to warn that meeting with a vote for the entire electorate. If all this is done within the 90-day timeframe, then the amendments could take effect on July 1 or earlier.

Mathis asked how this intersects with the VSA/VSBA looking at the rules that should be voted on by the public and those that should not. Russo-Savage explained that it doesn't intersect at all, it reflects current law and Board members wishes/input. Chair Huling called the vote. The vote passed unanimously.

Chair Huling decided to skip the scheduled break since the agenda was ahead of schedule and moved on to Item F.

Item F: Approve Final Report/State Plan Report and Orders

Chair Huling introduced the item by revisiting the process. She explained at the last meeting there was a rough draft of plans and counsel worked to put the report together. Everyone had a draft plan by Saturday and gave feedback to counsel over the weekend. There were contradictory ideas, so not all are incorporated. This full draft came out last night and the plan

was to review the plan page by page today. She invited Little to address the Board and gave Board members time to read through the most recent draft report and organize any questions that they might have.

Peltz asked about Act 60 in an introduction of a prior version. Chair Huling explained that the plan is to stick to the process of the State Board and how it is interpreted. Olsen concurred and stated that the Board must make sure that the document is tightly focused on the charge. Weinberger questioned the word “idiosyncratic” because it has many meanings and is vague and broad. Olsen asked for some help with sound/echo that was causing some hearing difficulties for folks on the stage. Adjustments were made and Chair Huling asked Board members to speak loudly and enunciate. Weinberger repeated her concern on using the word idiosyncratic; Olsen and others agreed to strike the beginning of that sentence.

Huling clarified that we would start with the introduction. Mathis asked for Little to discuss the major changes; Little said there were many and great care was made to not change any decisions or the substance of the narrative, but that there were some changes with tone, being more precise, ensuring that the format is consistent, and consolidation of some sections for readability.

Olsen thought that Beck had a question. Chair Huling asked if she was on the phone. She was on the phone but had no question.

Chair Huling moved to the “Overview of the Act.” Little explained that this moved away from origins and spoke to the background. Little explained that the plan was to start with the goals of Act 46, that there are bullets on preferred and alternative structures. Chair Huling asked Olsen to speak to AGS. He spoke about some miscommunication around AGS being an alternative put forth by a community that doesn’t want to merge and that this is not the case. He continued that an AGS is essentially a supervisory union with two or more member school districts and that it is important to understand this and that this was made clear in the document. He spoke about preferred structures specifying that you have to have the fewest number of member districts as is practicable – and that “preferred structure” could refer to the legal sense or to the alternative governance structure. Little directed the Board to page 5 and the carryover sentence, that addresses this.

Carroll expressed concern for the top of page 4, on calling this a two-part process, using the words voluntary and involuntary and where the statute uses the word involuntary. Carroll continued that the Legislature never used the word involuntary and that distinctions can be made in other ways. Carroll suggested using “alternative” as an option and that to call all this involuntary was inaccurate. There was discussion on how to re-word this section. Little offered that the word involuntary is used five times, and he asked if they wanted all of these replaced and the word voluntary replaced as well. Huling asked for an example; Little directed them to page 5. Olsen agreed that to remove involuntary doesn’t change the essence of what is said, and that the intent was to differentiate between what happened and what came before the Board. Perrin referenced Section 9 – “structures that are different from preferred structures” – and suggested referring to them as un-preferred structures.

There was further discussion on the word “abandon” on page 6, page 4 and following pages where two categories are set up – preferred and alternative structures and that the law says either is a proper procedure, particular biases towards preferred structures, priority order not provided for in the law. Chair Huling said this would be revisited.

Chair Huling spoke to page 6, second paragraph and read this section. Carroll spoke about being less specific, what is made of the opposition to merger, acknowledging that the Board struggled with this, and referencing opposition to this instead of voluntary/involuntary.

Chair Huling asked about other areas of the report that needed discussion.

Little had a question about uniformity and references in the draft to Secretary’s plan vs. Acting Secretary’s plan. The Board agreed to use “Secretary.” Chair Huling directed the Board to section III and she read aloud the beginning of this section. Little made note of footnote #4 on page 7 and that it appears again on page 5 and offered that that would be cleaned up. Huling asked if the Board was comfortable with page 7 and read parts of this page and asked if there were any questions. Chair Huling moved on to page 8 and read parts of this page. Olsen noticed a misplaced footnote (page 4) that needs to be moved to Arlington. Huling moved on to page 9 and Carroll suggested using “conversely” instead of “similarly.” Mathis asked to revisit old territory, practicable and possible, that was only given one-half a sentence on section 10(a)2. Chair Huling read this section (page 19).

There was discussion on if a merger was not practicable or possible, then something else needed to be developed, the five goals, what trumps what, the section amended by Act 49, that an AGS needs to have the smallest number of districts, how the Board has gone about their business together and followed the dictates of the law. Chair Huling continued with changes to page 9. Carroll expressed appreciation for the general structure of the plan and that it was much more useful than a linear listing.

Chair Huling continued by asking the Board to look at page 10 through page 12. Olsen spoke about the confusion around boards that submitted a section 9 proposal, and that there were other submissions that contradicted the section 9 proposal and cautioned use of the term “section 9 proposals” and suggested using “proposals” instead. Olsen asked for clarification on Dummerston and Vernon. There was continued discussion. Huling asked if there was consensus on changing this language around Section 9 proposals and instead referencing “feedback or letters and Section 9 proposals.” There was more discussion on the topic as well as the importance of understanding who did and didn’t submit a section 9 proposal. There was discussion on formal and informal proposals, complying with the law, ambiguity and using “inputs or comments.”

Chair Huling moved on to page 11. Little spoke about it being prudent wherever there has been substantive discussion on the rationales and reasons beyond the October 17 meeting, that they add the November 28 meeting and other meetings where there were substantive discussions.

Carroll spoke to page 11, second paragraph, last line and said that he would feel more comfortable to say that the Board “concurred with the Secretary’s proposal” instead of accepting it as a strong case. O’Keefe suggested saying “absent Sheldon.” There was further discussion about creating an SD, the distinction between Vernon and Sheldon, and moving these districts into an SD, absent Sheldon. Carroll referenced Act 46, section 8 and that it obliges the Board to affirmatively find that an SD meets certain requirements. There was discussion on North Country, concurring on a finding with North Country SU, that the Secretary encouraged the Board to hold off on the reconfiguration conversations, that this requires more study, the reference to 8A and 8B, geographic isolation and the confusion around this.

Chair Huling called a break at 10:31 a.m. to resume at 10:45 a.m. Chair Huling called the meeting back to order at 10:49 a.m. Chair Huling explained that copies of the Final Report of Decisions and Order were being produced and would soon be available to the audience. She thanked Maple Run for assisting with copies.

Mathis asked to put a placeholder in for Missisquoi on page 11 in the 4th paragraph. There was discussion on it being language from the last meeting and it needing to be discussed when they get to adoption of the plan. There were no (other) questions on page 11. Chair Huling moved on to page 12. Olsen said that he conferred with legal counsel during the break and that the language is squishy and something submitted could be understood as a Section 9 proposal. Olsen retracted his suggestions to rename the Section 9 proposals more specifically as the language is vague and does not support this. O’Keefe noted a hanging period on page 15.

Carroll commented on the time and the goal to wrap up this work and have a general discussion, being mindful of the time, understanding that some editorial details can be brought up at Friday’s meeting, or in the interim. There was further discussion on if the November 28th meeting was the last chance to comment, suspending the section-by-section review, that the Friday meeting is a placeholder and not a certain meeting, that the hope is to have a report today that just needs editing, using the November 28th meeting for big discussions, recognizing the ways that the Board communicates and keeping time so that the process moves along, anchoring around the big decisions and filling in later. Chair Huling offered to have a high-level discussion for the next 30 minutes and that she would not keep time, but asked Board members to self-moderate and share the air time. Chair Huling acknowledged that this has been a very long process and that it was important for everyone to have a voice in this conversation. She offered for Carroll to go first.

Carroll shared his comments and distributed a document. He spoke to valuing the privilege of working with this Board and referenced the “will of the people” part of his document. He spoke about the Board’s order disregarding the voters, that this should matter, that it’s hard to square up these two parts of the law, the question of whether this was what the Legislature had in mind when they wrote this law, guessing that the Legislature didn’t intend or foresee this, guidance issued to the districts, that the AOE and the Board has unintentionally taken a dismissive attitude towards AGS, that the Legislature never wrote anything that implied an AGS is inadequate, that the process has been influenced by a perspective from the language of the Board two years ago, from that there are always unintended consequences with policy changes, and the need to balance the scales. Carroll continued that there is too much in this plan

that he feels uneasy about and he proposed tabling the proposal. He said that he didn't want to kill the plan but said that as a matter of conscience he was uncomfortable and thinks the process can be improved upon and that there are some proposals (10-15) that could be revisited. He said that he thought they relied excessively on recommendations of the Secretary and didn't do enough of their own analysis/homework and he encouraged the Board to step back, even though it would have an impact on the deadline, but that at this point, he sees no other way forward.

O'Keefe spoke about going back to the President of the School Boards Association (Hartford meeting) and the comments he made. He spoke about his comments forming a lot of the foundation of what he has been working on through this process. He spoke about his own neighboring communities not getting along well and that there was a public argument that if communities don't act, then the State will. He talked more about the need to look at all these towns, and the towns that made the tough decisions, the towns that got the carrot, increased opportunities since his own merger, whose votes count, and sticking up for the communities that made the tough decisions around Act 46.

Perrin spoke about bringing perspective to each of their roles, that they are not political, and his perspective that Act 46 is about opportunities for kids and that the more fragmented the governance structure, the less chance of having increased opportunities. He spoke about the need to be a system as we are connected as a state, and that the Board's role was to improve opportunities for *all* students and that looking at individual towns and understanding that they are neighbors and could reap the rewards of governance changes. He said that the Board wants the ultimate opportunities for all our students in Vermont and if someone was doing that well, then it should be shared and that this was the best thing the Legislature could do to entice schools to work together on a governance level.

Mathis distributed an example titled, "Montgomery and the Rebuttable Assumption." He explained that a rebuttable assumption must be proven if it was rebutted - that if you raise a challenge it must be answered. He spoke about the burden of proof, Montgomery's 84-page AGS proposal, that it answered what was requested, that their test scores are high, that countering facts were never presented, that the Board was working with inadequate information, that maybe there is a flaw in the process, and that if we teach anything to the children, it should be that we do things right.

Peltz spoke about the historical perspective and that the State has a role in students having access to education, that Act 46 addresses equity of access to education, that the Board was delegated to do this, that the voluntary mergers needed a date certain, that there is no final solution to the best education as it is always a work in progress, that changing demographics need to be evaluated and that there are tremendous changes in what one town can do well and what the neighboring district can't do well, that there is a lot of talk about local control, but not enough focus on what is in the children's best interest, and that he feels strongly that they are on the right road and trying to be collaborative and deliberative, and that it is messy, but if the Board can provide quality education with equal access, then the Board has done a good job.

Weinberger spoke about some comments that referenced that not much time had been spent on homework and the false assumption that people did not do their homework – that hours have been spent reading the proposals, reading the law, reading all public comments and emails. She continued to speak about how community is defined, and how changing the line that defines that was what was being asked. She shared the example of Burlington, and that by enlarging the community circle that they are *all* our kids.

Olsen recognized and thanked Carroll and Mathis for their thoughtful comments and shared words of wisdom that no momentous decision was made by unanimous consent. He continued that he was supportive of the path that the Board is on, that tremendous public comment was received and that was very helpful, that some of the public had asked for their experience, that many of these issues are important to him and shaped his thinking. He spoke about growing up in a very impoverished community and that because of his parents he had opportunities that many of his peers did not have, struggles and population declines in rural communities, receipt of emails and phone calls from parents in these small districts and the fear of some to speak up because it is such a small community, the need to be mindful that there are a lot of voices that are not heard in this process, and they are first and foremost our children.

Chair Huling summarized that there was surely a lot more reflection from everyone and that she is very happy with the direction that is being taken and that the Board is not closing small schools but needing to ensure that they provide the opportunities needed. She spoke about the changing demographics, that her daughter's age group is the lowest birth rate in the State of Vermont since the Civil war, how that will look in 15 years, that there are going to have to be difficult conversations, that what has been learned was exciting sometimes and concerning other times, and the need to dive deeper and look at equity and excellence. She asked if the Board agrees with the positions taken and the path that the Board was taking and that was laid out in the plan and that now is the time for a motion to adopt this order. Mathis said that he did not intend to say that people were not working well – that instead people worked very hard, but the timelines put into law made this work almost impossible. He continued that he cares very much about small schools, and that it was great to visit so many schools in the state, and that he was struck by how some are doing great and others not so well and that we need to deal with the question of the schools that are not doing well.

Olsen made a motion that the Board adopt the Final Report and Decisions and Order as presented to this meeting, November 28, 2018, with all edits made during the course of the meeting, including (i) each and every decision therein affecting any school district in the state, (ii) the Default Articles of Agreement contained therein, and (iii) the Order therein issued pursuant to Act 46, Section 10(b). Perrin seconded.

Carroll asked a procedural question about a motion to adopt the order. Chair Huling called Little to the table. Little shared that the four motions were a menu of options and what was offered was a consolidated version and that the Default Articles could be removed since they were already voted on. Olsen stood by his motion. Carroll asked about what would happen with further edits since they didn't finish their review. Chair Huling said there could be another motion to give the Chair the ability to make technical corrections/edits to the document. O'Keefe asked for a roll call vote; Huling agreed. Huling suggested continuing to go through

the report, picking up with pages 12-15. Weinberger, asked to have “passionately” removed from the top of page 15. Little directed the Board to page 18, 5th paragraph, and the “larger systems” comment. Carroll suggested removing the parenthetical comment; Olsen concurred. Carroll asked to have “compelling” removed from page 15. Olsen talked about not using the pronoun “her” and keeping reference to the Secretary gender-neutral. Peltz asked to have “unfortunately” removed from the top of page 19.

Olsen said that on page 23, he wanted to offer a motion to amend the report with respect to the Elmore-Morristown-Stowe districts Secretary’s proposal #26 to affirm the Secretary’s original recommendation, rationale and decisions the June 1 proposed statewide plan. Carroll seconded the motion and suggested to add necessary editorial corrections. Huling opened it up for discussion. Mathis asked why this motion was offered. Olsen spoke about feeling like the Morristown and Stowe districts made a compelling case to remain distinct districts, have sufficient scale, have demonstrated that they are meeting the goals of the law and that their current structure allows them to meet those goals, of all the feedback received across the state this one was found to be the most compelling, they had a very clear Section 9 proposal, and that Morristown is almost at 900 and at a scale to be an SU, and concern about the capital needs of the districts and these putting them in an adversarial relationship. There was further discussion that if they are working well together that merger makes good sense, that capital needs could be improved upon with a merger, graduation requirements and EQS, and a large amount of support for this decision. Beck weighed in that she found their testimony compelling and that they are meeting the goals of Act 46. Carroll advised to not make perfect the enemy of the good, but that it is important to recognize the subtleties. Huling spoke about this decision being disconnected from other decisions and that she did not see a clear vision of how the separate structure will help them to meet the goals of Act 46. Olsen spoke to having a greater concern for Elmore and that a shift in structure could shift a financial imbalance. There was more discussion about debt disparity existing in other places and it was suggested that this be given back to the Legislature. O’Keefe asked to call the vote. Chair Huling called a roll call vote. Yay: Beck, Carroll, Olsen, O’Keefe. Nay: Mathis, Peltz, Perrin, Weinberger. The vote was tied at 4:4. Chair Huling broke the vote with a nay. The motion failed. Peltz offered that he represented Elmore and Morristown and is familiar with Lamoille South and that they are very strong and there is quality of leadership in central office and that he is confident that things will work out.

Little redirected the Board to a highlighted section at the top of page 24 and asked if there was anything about the content of the November 28th discussions that should be included. Carroll asked about page 26 and a reference to page 101. Olsen suggested indenting this citation. O’Keefe asked to have November 30 replaced with November 28 on page 28. Little spoke to the bottom of page 28 and a comment in the margin specifying/referencing the early report and that he would clean up this section with Russo-Savage.

Huling moved on to page 29 and “Next Steps.” Mathis suggested making declarative statements instead of questions and calling it out to the Legislature that there is a problem and suggesting that they should take a look at it. There was discussion on making definitive statements, putting this in a separate document, making statements instead of questions, and hesitancy with raising these as questions. Weinberger suggested listing the issues that the Board wrestled with: indebtedness, timeline, resources – the same bullets already used, only

rephrased. Carroll expressed uneasiness with leading paragraph in this section and that it was presumptuous of the Board to tell the Legislature what authorities it has. Olsen disagreed and thought it was important to leave it in there as several Legislators have come forward and questioned the Board's authority with this law. There was discussion on eliminating the middle sentence in the first paragraph and adding "the things that we wrestled with," saying this in a cover letter or earlier on in the plan, the one-minute version of this document, needing to convene a meeting of the legislative subcommittee to advise the Legislature. O'Keefe added that we should list Bellows Free Academy on the last page, (page 35) to name the school, not just the city. Carroll referenced page 28 and asked if there was a list of districts dissolved. He continued that there should be an announcement of the dissolution of school board – that there needs to be enumeration on dissolution/recreation of districts. Russo-Savage spoke about having this data and using some of this data in the appendix at the end. Carroll wanted a list, not a summary. Russo-Savage confirmed that it was a list and that she could share that. There was discussion on ghost districts, having language that lists disbanded districts, notice being addressed in the articles, adding this to follow the creation of the new entity, the need to keep them active until date of dissolution due to pending responsibilities and disbandment of the old district(s).

Huling reminded the Board that there was a motion on the table and asked if there was further discussion. Olsen asked for confirmation that in the conclusion, the second sentence had been struck and the questions had been converted. Chair Huling read Olen's original motion: that the Board adopt the Final Report and Decisions and Order as presented to this meeting, November 28, 2018, with all edits made during the course of the meeting, including (i) each and every decision therein affecting any school district in the state, (ii) the Default Articles of Agreement contained therein, and (iii) the Order therein issued pursuant to Act 46, Section 10(b).

She called a roll call vote. The vote passed. Yay votes: Beck, O'Keefe, Olsen, Peltz, Perrin, Weinberger. Nay votes: Carroll, Mathis. For the record, Chair Huling voted yay.

Olsen moved that the Board authorize its Chair, Krista Huling, acting on advice of the Board's legal counsel, Thomas A. Little, Esq., to make non-substantive edits to the Board's Final Report of Decision and Order prior to the close of business on November 30, 2018. Peltz seconded this motion. There was no further discussion. The vote passed unanimously.

Chair Huling said that if anything substantive comes up, then that will be addressed at the Friday meeting. Olsen asked for a deadline for any issues raised by Board members. Chair Huling said the deadline would be November 29, 2018 at 5:00 p.m. She added that two Board members could come forward and request a meeting, per the Board's rules.

Item G: Other Motions

Item H: Maple Run Chorus

Chair Huling shared that Superintendent Dirth had arranged for the Maple Run Speak Chorus to perform. Dirth asked that Board members clear the stage and move to the audience and said that he would speak further about this student-directed creation/performance once the chorus members took the stage.

There was a motion to adjourn. It was noted that the consent agenda had not yet been discussed.

Item C: Consent Agenda

Mathis moved to accept the consent agenda; O'Keefe seconded the motion. Chair Huling noted that it was brought up that a correction was needed to the minutes to edit "EMU" to "EMUU." There was no discussion. The motion passed unanimously.

Adjourn

Carroll moved to adjourn; Weinberger seconded. The vote to adjourn was unanimous. The meeting adjourned at 12:55 p.m.

Minutes recorded and prepared by Maureen Gaidys.
